

2024 Regular Session

HOUSE BILL NO. 827

BY REPRESENTATIVE TURNER

TAX/TAX REBATES: Provides relative to sales and use tax rebates on the sale of certain communications and data center equipment

1 AN ACT

2 To amend and reenact R.S. 47:305.73 and to enact R.S. 47:303.1(B)(5), relative to sales and
3 use tax rebates; to provide relative to a state and local sales and use tax rebate on the
4 sale of certain communications service equipment and data center equipment; to
5 provide for definitions; to provide for issuance of direct payment numbers to certain
6 taxpayers; to provide for other limitations and conditions; to provide an effective
7 date; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:305.73 is hereby amended and reenacted and R.S. 47:303.1(B)(5)
10 is hereby enacted to read as follows:

11 §303.1. Direct Payment Numbers

12 * * *

13 B.

14 * * *

15 (5) A DP Number shall be issued to a taxpayer who has entered into an
16 agreement with the state pursuant to the provisions of R.S. 47:305.73 and who
17 obtains the required approvals and meets all of the qualifications provided in
18 Paragraph (1) of this Subsection. The taxpayer may possess the DP Number for the
19 entire term of the agreement that the taxpayer enters into pursuant to R.S. 47:305.73.

20 * * *

1 §305.73. Rebates; sales and use tax for fiber-optic cable equipment and data center
2 facility equipment

3 A. As used in this Section, the following terms shall have the meanings
4 ascribed to them in this Subsection unless the context clearly indicates otherwise:

5 (1) "Approved data center facility" means a data center facility that is located
6 in Louisiana and certified by the Department of Economic Development.

7 (2) "Data center" and "data center facility" mean a facility, campus of
8 facilities, or interconnected facilities located within Louisiana which has a primary
9 business purpose of processing, storage, retrieval, or communication of data, and was
10 developed to power, cool, secure, or connect its own equipment or the equipment of
11 its customers.

12 (3)(a) "Data center equipment" means equipment or software purchased or
13 leased for the processing, storage, retrieval, or communication of data including all
14 of the following:

15 (i) Servers, routers, connections, and other enabling machinery, equipment,
16 software, and hardware, regardless of whether the property is affixed to or
17 incorporated into immovable property used in the processing, storage, retrieval, or
18 communication of data.

19 (ii) Equipment used in the operation of computer equipment or software,
20 including component parts, refreshments, replacements, and upgrades, regardless of
21 whether the property is affixed to or incorporated into immovable property.

22 (iii) Equipment necessary for the transformation, generation, distribution, or
23 management of electricity required to operate computer server equipment, including
24 substations, generators, uninterruptible energy equipment, fuel piping and storage,
25 cabling, duct banks, switches, switchboards, batteries, testing equipment, and backup
26 generators.

27 (iv) Equipment necessary to cool and maintain a controlled environment for
28 the operation of computer servers and the data center, including chillers, refrigerant
29 piping, fuel piping and storage, adiabatic and free cooling systems, cooling towers,

1 water softeners, air handling units, indoor direct exchange units, fans, ducting, and
2 filters.

3 (v) Water conservation systems, including facilities or equipment designed
4 to collect, conserve, and reuse water.

5 (vi) Computer server equipment, including chassis, networking equipment,
6 switches, racks, fiber optic and copper cabling, trays, and conduit.

7 (vii) Monitoring equipment and security systems.

8 (viii) Conduits, ducting, and fiber-optic and copper cabling, including any
9 such items that are located outside the data center but within Louisiana, directly
10 related to connecting one or more distributed approved data center locations.

11 (ix) Equipment, materials, and services necessary for the development,
12 acquisition, construction, expansion, and renovation of a qualified data center,
13 including but not limited to construction and building materials, site characterization
14 and assessment services, engineering services, and design services used directly and
15 exclusively in a qualified data center.

16 (x) Modular data centers and pre-assembled components used in the
17 manufacturing of such centers.

18 (xi) Pre-assembled components of any item listed in this Subparagraph.

19 (b) The term "data center equipment" shall not mean office equipment or
20 supplies, equipment or supplies used primarily in sales activities or transportation
21 activities, tangible personal property not listed in Subparagraph (a) of this Paragraph
22 that is incorporated into immovable property, and tangible personal property that is
23 rented or leased for a term of one year or less.

24 (4) "Department" means the Department of Revenue.

25 (5) "Fiber-optic cable equipment" means:

26 (a) Telecommunications fiber.

27 (b) Wires.

28 (c) Poles.

29 (d) Supports.

1 (e) Lashing cable.

2 (f) Conduit.

3 (g) Communication handholes.

4 (h) Customer premise equipment.

5 (6) "Unserved area" means an area that has service levels below the
6 minimum acceptable level of fixed broadband service as defined in 7 U.S.C.
7 950bb(e)(1).

8 B.(1) A winning bidder that is awarded a census block by the Federal
9 Communications Commission in the Rural Digital Opportunity Fund Auction; shall
10 be eligible for a rebate of state and local sales and use taxes paid by the winning
11 bidder on fiber-optic cable equipment used to distribute fixed and mobile broadband
12 networks to eligible rural unserved areas in Louisiana. The amount of the rebate
13 shall equal fifty percent of the sales and use tax paid by the winning bidder on
14 fiber-optic cable equipment.

15 ~~(2) The following words shall have the following meanings unless the~~
16 ~~context clearly indicates otherwise:~~

17 ~~(a) "Fiber-optic cable equipment" means:~~

18 ~~(i) Telecommunications fiber.~~

19 ~~(ii) Wires.~~

20 ~~(iii) Poles.~~

21 ~~(iv) Supports.~~

22 ~~(v) Lashing cable.~~

23 ~~(vi) Conduit.~~

24 ~~(vii) Communication handholes.~~

25 ~~(viii) Customer premise equipment.~~

26 ~~(b) "Unserved area" means an area that has service levels below the minimum~~
27 ~~acceptable level of fixed broadband service as defined in 7 U.S.C. 950bb(e)(1).~~

28 ~~(3)~~ (2) Each item of fiber-optic cable equipment shall be eligible for only a
29 single rebate pursuant to this Section. Subsequent transactions involving the sale or

1 resale of the same item of fiber-optic cable equipment shall not be eligible for ~~this~~
2 ~~rebate~~ any rebate authorized pursuant to this Section.

3 ~~(4)~~ (3) The rebate authorized pursuant to this Section shall not be allowed
4 for the purchases of fiber-optic cable equipment that are paid for with state or federal
5 funds, unless the state or federal funds are reported as taxable income or are
6 structured as repayable loans.

7 C.(1)(a) Subject to the limitation provided in Subparagraph (b) of this
8 Paragraph, an approved data center facility shall be eligible for a rebate, to be paid
9 annually, of Louisiana state and local sales and use taxes paid for the purchase of
10 eligible data center equipment and for sales tax paid on expenditures for the
11 development, acquisition, construction, lease, repair, refurbishment, expansion, and
12 renovation of a qualified data center, including but not limited to costs of
13 construction and building materials, site characterization and assessment,
14 engineering, design, and labor and installation services used directly and exclusively
15 in a qualified data center.

16 (b) Only purchases made on or after July 1, 2024, shall be eligible for the
17 rebate authorized in this Subsection.

18 (2) To be certified as an approved data center by the Department of
19 Economic Development, the data center facility operator shall provide a sworn
20 attestation that the project will create a minimum of fifty new direct, permanent jobs
21 in Louisiana and intends to expend at least two hundred million dollars in new
22 capital investment in Louisiana on or after July 1, 2024, and before July 1, 2029. An
23 approved data center shall be issued a Direct Payment Number in accordance with
24 the applicable provisions of R.S. 47:303.1.

25 (3)(a) A facility that has been certified as an approved data center facility
26 shall enter into an agreement with the Department of Economic Development that
27 comports with the requirements of this Paragraph.

28 (b) The agreement shall provide a term of rebate eligibility, an initial term
29 of twenty years, a list of all eligible recipients of the rebate, and language that

1 authorizes the state to terminate the agreement and recapture any rebates if the data
2 center facility fails to fulfill, or the Department of Economic Development
3 determines that the facility will be unable to fulfill, its statutory and contractual
4 obligations.

5 (c) Upon the expiration of the initial term of the agreement, the Department
6 of Economic Development may renew the agreement for an additional ten years.

7 (d) The Department of Economic Development may include in the
8 agreement any additional conditions it deems appropriate.

9 (4) The department may utilize any collection remedy authorized by R.S.
10 47:1561.2 for any rebates subject to recapture based on termination of the agreement
11 with the Department of Economic Development or a determination that the purchase
12 did not qualify for the rebate. If a rebate is subject to recapture, the approved data
13 center facility shall reimburse the department or its agent for any costs incurred.

14 ~~B. D.(1)~~ Requests for the rebates of state sales and use taxes pursuant to the
15 provisions of this Section shall be processed by the ~~Department of Revenue~~
16 department. ~~A purchaser shall claim~~ taxpayer shall request a state rebate using the
17 form and in the manner prescribed by the ~~Department of Revenue~~ department.

18 ~~(2) The purchaser who claims a rebate shall submit documentation to the~~
19 ~~secretary of the Department of Revenue~~ A taxpayer who requests a rebate pursuant
20 to Subsection B of this Section shall submit documentation to the department
21 evidencing the purchase of fiber-optic cable equipment and ~~documentation~~
22 evidencing that the purchaser is a winning bidder that was awarded a census block
23 by the Federal Communications Commission in the Rural Digital Opportunity Fund
24 Auction. The secretary of the Department of Revenue may promulgate rules in
25 accordance with the Administrative Procedure Act as are necessary to implement the
26 provisions of this Section, including rules to provide for the form and manner for
27 claiming a rebate.

28 (3) A taxpayer who requests a rebate pursuant to Subsection C of this
29 Section shall do all of the following:

1 (a) Obtain certification from the Department of Economic Development that
2 the data center is an approved data center facility eligible to receive a rebate
3 provided for in Subsection C of this Section, in accordance with administrative rules.
4 A copy of the certification shall be submitted to the department with the request for
5 rebate.

6 (b) Submit documentation to the department evidencing the purchases
7 eligible for the rebate.

8 ~~C. E.(1)~~ Requests for the rebate of local sales and use taxes pursuant to the
9 provisions of this Section shall be processed by the appropriate local taxing
10 authority. A ~~purchaser~~ taxpayer shall claim a local rebate using the form and in the
11 manner required by the local taxing authority.

12 (2) ~~The purchaser who claims the~~ A taxpayer who requests a rebate pursuant
13 to Subsection B of this Section shall submit documentation to the local taxing
14 authority evidencing the purchase of fiber-optic cable equipment and documentation
15 evidencing the purchaser is a winning bidder that was awarded a census block by the
16 Federal Communications Commission in the Rural Digital Opportunity Fund
17 Auction.

18 (3) A taxpayer who requests a rebate pursuant to Subsection C of this
19 Section shall submit documentation to the applicable local taxing authority
20 evidencing the purchases eligible for the rebate.

21 F.(1) The department and the Louisiana Uniform Local Sales Tax Board,
22 respectively, may promulgate rules and regulations in accordance with the
23 Administrative Procedure Act as necessary for the implementation of this Section.

24 (2) The rules of the department may include, without limitation, the method
25 for processing and paying rebates of state sales and use taxes authorized by this
26 Section. The method may comprise a first come, first-served system, or any other
27 procedure which the department, in its discretion, may find beneficial for
28 administration of the rebate.

1 Section 2. This Act shall become effective on July 1, 2024; if vetoed by the governor
 2 and subsequently approved by the legislature, this Act shall become effective on July 1,
 3 2024, or on the day following such approval by the legislature, whichever is later.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 827 Reengrossed

2024 Regular Session

Turner

Abstract: Authorizes state and local sales and use tax rebates for purchases by, and other expenditures on, qualified data centers.

Present law provides that certain winning bidders in the Federal Communications Commission's Rural Digital Opportunity Fund Auction shall be eligible for a rebate of state and local sales and use taxes paid by those bidders on fiber-optic cable equipment used to distribute fixed and mobile broadband networks to eligible rural unserved areas in La. Establishes that the amount of the rebate is 50% of the sales and use tax paid by the bidder on fiber-optic cable equipment. Proposed law retains present law.

Proposed law institutes the terms "approved data center facility", "data center", "data center facility", and "data center equipment" and defines those terms for purposes of proposed law.

Proposed law authorizes a new state and local sales and use tax rebate for all of the following for entities certified by the Dept. of Economic Development, in accordance with proposed law, as approved data center facilities:

- (1) Sales and use tax paid on purchases of eligible data center equipment.
- (2) Sales and use tax paid on expenditures for development, acquisition, construction, lease, repair, refurbishment, expansion, and renovation of a qualified data center.

Proposed law provides that the new rebate established therein shall apply exclusively to qualifying purchases made on or after July 1, 2024.

Proposed law stipulates that in order to be certified as an approved data center by the Dept. of Economic Development, the data center facility operator shall provide a sworn attestation that the project will create a minimum of 50 new direct, permanent jobs in La. and intends to expend at least \$200,000,000 in new capital investment in La. on or after July 1, 2024, and before July 1, 2029.

Proposed law requires that each approved data center be issued a direct payment number in accordance with present law, thereby allowing those entities to remit sales tax on purchases directly to the state and to political subdivisions.

Proposed law requires facilities that have been certified as approved data center facilities to enter into an agreement with the Dept. of Economic Development that comports with the following requirements:

- (1) It provides a term of rebate eligibility, with an initial term of 20 years.
- (2) It contains a list of all eligible recipients of the rebate.

- (3) It contains language that authorizes the state to terminate the agreement and recapture any rebates if the data center facility fails to fulfill, or the Dept. of Economic Development determines that the facility will be unable to fulfill, its statutory and contractual obligations.

Proposed law provides that upon the expiration of the initial term of rebate eligibility, the Dept. of Economic Development may renew the agreement for an additional ten years.

Proposed law authorizes the Dept. of Economic Development to include in agreements with approved data center facilities any additional conditions it deems appropriate.

Proposed law authorizes the Dept. of Revenue to utilize any collection remedy authorized by present law for any rebates subject to recapture based on termination of the agreement with the Dept. of Economic Development or a determination that a purchase did not qualify for a rebate. Requires that if a rebate is subject to recapture, the approved data center facility shall reimburse the Dept. of Revenue or its agent for any costs incurred.

Proposed law requires the Dept. of Revenue and the La. Uniform Local Sales Tax Board to promulgate rules for administering, respectively, the state tax rebate and the local tax rebate provided for in proposed law.

Effective July 1, 2024.

(Amends R.S. 47:305.73; Adds R.S. 47:303.1(B)(5))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Repeal present law authorizing a local sales and use tax rebate on the sale of certain communications equipment. Repeal corresponding provisions of present law relative to administration of the local sales and use tax rebate.
2. Repeal present law limiting eligibility for a sales and use tax rebate on purchases of certain communications equipment to winning bidders in the Rural Digital Opportunity Fund Auction held by the Federal Communications Commission.
3. Repeal from present law the defined term "fiber-optic cable equipment" and its corresponding definition.
4. Institute the terms "broadband communications service", "communications provider", and "equipment used to provide broadband communications service" and define those terms for purposes of proposed law.
5. Authorize a rebate of state sales and use taxes paid by communications providers on purchases of equipment used to provide broadband communications services.
6. Increase the rebate amount authorized in present law from 50% of state sales taxes paid on eligible purchases to 100% of state sales taxes paid on such purchases.
7. Revise a prohibition in present law on rebates for purchases of fiber-optic cable equipment that are paid for with state or federal funds, except in cases where the state or federal funds are reported as taxable income or are structured as repayable loans. Provide instead for a general prohibition on rebates for purchases of equipment paid for with state or federal funds.

8. Revise present law relative to administration of the state sales tax rebate by the Dept. of Revenue to require that the method for processing and paying rebate claims be established in administrative rules of the department. Authorize the department to provide for a first-come, first-served system or other method which the department, in its discretion, may find beneficial for administration of the rebate.
9. Provide that in any fiscal year, the total amount of state sales and use tax rebates paid pursuant to proposed law shall not exceed \$15,000,000.
10. Stipulate that within the \$15,000,000 per fiscal year limit on rebates established by proposed law, the amount of rebates paid for purchases of equipment used to provide broadband communications service outside of an unserved area shall not exceed \$3,000,000 in any fiscal year. Provide that the purpose of this limitation is to reserve up to 80% of the total amount of authorized rebates as incentives for communications providers to furnish broadband communications service in unserved areas.
11. Stipulate that if the total amount of rebates requested for a fiscal year exceeds the \$15,000,000 limit or \$3,000,000 limit provided in proposed law, the excess shall be treated as having been requested on the first day of the subsequent fiscal year.
12. Prohibit the payment of any rebate authorized by proposed law after June 30, 2027.
13. Provide that proposed law shall become effective on July 1, 2024.
14. Make technical changes.

The Committee Amendments Proposed by House Committee on Appropriations to the engrossed bill:

1. Restore present law providing for the defined terms "fiber-optic cable equipment" and "unserved area".
2. Restore present law authorizing both a state sales and use tax rebate and a local sales and use tax rebate on the sale of fiber-optic cable equipment to certain purchasers. Restore present law providing that the amount of this rebate shall equal 50% of the sales and use tax paid on the fiber-optic cable equipment.
3. Restore present law limiting eligibility for the sales and use tax rebate on purchases of fiber-optic cable equipment to winning bidders in the Rural Digital Opportunity Fund Auction held by the Federal Communications Commission. Restore present law providing other limitations and restrictions applicable to this rebate.
4. Restore present law requiring that requests for the rebate of local sales and use taxes authorized by present law and proposed law be processed by the appropriate local taxing authority.
5. Restore present law authorizing the La. Uniform Local Sales Tax Board to promulgate administrative rules as necessary for implementation of the local sales and use tax rebate on purchases of fiber-optic cable equipment.
6. Delete from proposed law the defined terms "broadband communications service", "communications provider", and "equipment used to provide broadband communications service" and their corresponding definitions.

7. Delete proposed law authorizing a rebate of state sales and use taxes paid by certain communications providers on purchases of equipment used to provide broadband communications services.
8. Institute the terms "approved data center facility", "data center", "data center facility", and "data center equipment" and define those terms for purposes of proposed law.
9. Authorize a new state and local sales and use tax rebate for all of the following for entities certified as approved data center facilities by the Dept. of Economic Development in accordance with proposed law:
 - a. Sales and use tax paid on purchases of eligible data center equipment.
 - b. Sales and use tax paid on expenditures for development, acquisition, construction, lease, repair, refurbishment, expansion, and renovation of a qualified data center.
10. Provide that the new rebate established by proposed law shall apply exclusively to qualifying purchases made on or after July 1, 2024.
11. Stipulate that in order to be certified as an approved data center by the Dept. of Economic Development, the data center facility operator shall provide a sworn attestation that the project will create a minimum of 50 new direct, permanent jobs in La. and intends to expend at least \$200,000,000 in new capital investment in La. on or after July 1, 2024, and before July 1, 2029.
12. Require that each approved data center be issued a direct payment number in accordance with present law, thereby allowing those entities to remit sales tax on purchases directly to the state and to political subdivisions.
13. Require facilities that have been certified as approved data center facilities to enter into an agreement with the Dept. of Economic Development that comports with the following requirements:
 - a. It provides a term of rebate eligibility, with an initial term of 20 years.
 - b. It contains a list of all eligible recipients of the rebate.
 - c. It contains language that authorizes the state to terminate the agreement and recapture any rebates if the data center facility fails to fulfill, or the Dept. of Economic Development determines that the facility will be unable to fulfill, its statutory and contractual obligations.
14. Provide that upon the expiration of the initial term of rebate eligibility, the Dept. of Economic Development may renew the agreement for an additional ten years.
15. Authorize the Dept. of Economic Development to include in agreements with approved data center facilities any additional conditions it deems appropriate.
16. Authorize the Dept. of Revenue to utilize any collection remedy authorized by present law for any rebates subject to recapture based on termination of the agreement with the Dept. of Economic Development or a determination that a purchase did not qualify for a rebate. Require that if a rebate is subject to recapture, the approved data center facility shall reimburse the Dept. of Revenue or its agent for any costs incurred.

17. Require the Dept. of Revenue and the La. Uniform Local Sales Tax Board to promulgate rules for administering, respectively, the state tax rebate and the local tax rebate provided for in proposed law.
18. Delete proposed law establishing a monetary cap on rebates to be paid annually pursuant to proposed law.
19. Delete proposed law requiring that a certain percentage of the overall amount of rebates be reserved annually for purchases of equipment used to provide broadband communications service in unserved areas.
20. Delete termination provisions of proposed law which would have prohibited the payment of any rebate authorized by proposed law after June 30, 2027.
21. Make technical changes.