LEGISLATIVE FISCAL OFFICE
Fiscal Note

Louisiana Legislative Fiscal Office — Fiscal Notes

Fiscal Note On: **HB 827** HLS 24RS 2070
Bill Text Version: **ENROLLED**
Opp. Chamb. Action:
Proposed Amd.:
Sub. Bill For.:

Date:	May 28, 2024 8:38 AM	**Author:**	TURNER
Dept./Agy.:	Department of Revenue & Uniform Local Sales Tax Board		
Subject:	Sales and Use Tax Rebate for Data Centers	**Analyst:**	Noah O'Dell

TAX/TAX REBATES EN DECREASE GF RV See Note

Provides relative to the sales and use tax rebate on the sale of certain fiber-optic cable equipment

Current law establishes a rebate of 50% of state and local sales and use tax paid by the winning bidders in the Federal Communications Commission's (FCC) Rural Digital Opportunity Fund Auction on fiber-optic cable equipment used to distribute broadband networks to eligible rural unserved areas. Current law defines terms in connection with the rebate.

Proposed law retains current law and creates an unlimited state and local sales and use tax rebate for taxes paid on the lease or purchase of eligible data center equipment and the development, acquisition, construction, lease, repair, refurbishment, expansion, and renovation of a qualified data center. The data center must be certified by the Dept. of Economic Development (LED), create at least 50 new direct, permanent jobs, and **intend to** expend at least $200 M in new capital investment in LA between July 1, 2024 - July 1, 2029. Capital investment is not defined but claw-back provisions are provided for. The rebate obligation is in place for 20 years with an option for LED to extend the agreement for an additional 10 years for a total of 30 years. The Department of Revenue (LDR) and the LA Uniform Local Sales Tax Board (LULSTB) may promulgate rules. Recipients are automatically issued a direct payment number for the duration of the contract.

EXPENDITURES	**2024-25**	**2025-26**	**2026-27**	**2027-28**	**2028-29**	**5 -YEAR TOTAL**
State Gen. Fd.	**SEE BELOW**	**SEE BELOW**	**SEE BELOW**	**SEE BELOW**	**SEE BELOW**	
Agy. Self-Gen.	**INCREASE**	**INCREASE**	**INCREASE**	**INCREASE**	**INCREASE**	
Ded./Other	$0	$0	$0	$0	$0	**$0**
Federal Funds	$0	$0	$0	$0	$0	**$0**
Local Funds	**SEE BELOW**	**SEE BELOW**	**SEE BELOW**	**SEE BELOW**	**SEE BELOW**	
Annual Total						

REVENUES	**2024-25**	**2025-26**	**2026-27**	**2027-28**	**2028-29**	**5 -YEAR TOTAL**
State Gen. Fd.	**DECREASE**	**DECREASE**	**DECREASE**	**DECREASE**	**DECREASE**	
Agy. Self-Gen.	$0	$0	$0	$0	$0	**$0**
Ded./Other	$0	$0	$0	$0	$0	**$0**
Federal Funds	$0	$0	$0	$0	$0	**$0**
Local Funds	**DECREASE**	**DECREASE**	**DECREASE**	**DECREASE**	**DECREASE**	
Annual Total						

EXPENDITURE EXPLANATION

LDR reports that the increased workload can be absorbed with existing staff. However with the extensive exemption list, direct pay number assignment and the open ended 20-30 year costs, the proposed law is anticipated by LFO to increase SGR expenditures/activities within LDR beginning in FY 25 by an amount expected to exceed $100,000 annually. Administration may require substantial oversight which presumably would fall to LDR to be certain that all submitted expenses are eligible for the rebate and related only to the certified data center without including expenses of associated and possibly similar entities. Over the 20-30 years of the rebate, the LFO can envision an effort similar to the administration of the film credit program with a high degree of scrutiny over eligible expenses in order to keep program expenses within the intended parameters. LDR reports that existing staff will be utilized. LED reports that existing staff are available to certify the data centers and execute any contracts. It is assumed that the contract will include the timing and complexity of benchmark status checks and clawback provisions to be administered by LED. Local governments with data centers locating in their jurisdictions are also expected to incur expenses in unknown amounts in administering the rebate.

REVENUE EXPLANATION

To the extent qualifying projects are certified, the bill may expose the state fisc to an unconstrained commitment of at least 20 years potentially decreasing state general fund by tens of millions of dollars or more each year, possibly through FY 2059. Local revenue will be impacted by a like amount. The rapid advancement of technology and demand for data centers in recent decades, the longevity of the program, the wide array of qualifying equipment, the absence of program or recipient cost constraints, and direct payment from the recipient potentially assigning the amount of the rebate form the basis of the opinion that the program could have significant and immutable costs to state and local coffers over many years. Though the timeframe for certifying recipients is limited to five years, each participating data center would likely incur extensive costs for construction and acquisition of equipment, as well as recurring upgrades of technology and space renovations over the life of the contract, which is a minimum of 20 years. These factors make quantifying the exact impact of the proposed law difficult to predict but could serve to restrict the state and local sales tax base for many years.

The bill allows for a rebate on state and local sales and use tax paid on a broad array of data center equipment including servers, routers, connections, machinery, hardware, software, substations, generators, uninterruptible energy equipment, fuel piping, chillers, refrigerants, cooling towers, water conservation systems, networking equipment, switches, fiber optic and copper cabling, monitoring equipment, security systems, modular data centers, and pre-assembled components among

Senate — Dual Referral Rules

- [x] 13.5.1 >= $100,000 Annual Fiscal Cost {S & H}
- [x] 13.5.2 >= $500,000 Annual Tax or Fee Change {S & H}

House

- [x] 6.8(F)(1) >= $100,000 SGF Fiscal Cost {H & S}
- [ ] 6.8(G) >= $500,000 Tax or Fee Increase or a Net Fee Decrease {S}

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CONTINUED EXPLANATION from page one:

REVENUE EXPLANATION (CONTINUED)

many others listed in the bill. The bill also allows for a rebate on state and local sales tax on expenditures related to the development, acquisition, construction, building materials, site characterization and assessment, engineering, design, labor, and installation services used directly and exclusively for the qualified data center. Business utilities remain taxable, though the tax expires in FY 26.

According to LED, there are currently 10 data centers located in the state, though there are no known data centers under construction that would meet the specifications of the bill. The extent to which existing data centers in the state may choose to expand and qualify for the rebate program cannot be determined. The bill allows eligibility for any facility, campus of facilities, or interconnected facilities but does not appear to restrict eligibility to one structure in one location. The bill does not appear to prevent qualifying firms from participating in other LED incentive programs at the same time so it is not clear which incentive, if any, may entice a qualifying entity to construct a facility that meets the capital investment and job specifications of the program.

Several other states (Alabama, Virginia, Georgia, etc.) offer tax incentive programs for data centers with various capital investment and job requirements. A report by the Carl Vinson Institute of Government in the Univ. of Georgia calculates the fiscal impact of an existing Data Center Equipment Tax Exemption points to a negative fiscal return in Georgia ranging from -$5.3 M in 2018 to an estimated -$56.7 M in 2030. The report also references the Virginia data center exemption as the state's largest incentive in terms of forgone revenue ($417.5 M from FY 10 through FY 17). These impacts are limited to the state fisc.

Though the bill does not define capital investment, it is assumed it will include construction and equipment. As an illustrative example of potential magnitude, the bill states that the minimum intention to spend $200 M which would then qualify for a sales tax rebate represents the reduced sales tax base leading to foregone state revenue of about $8.9 M (at 4.45%, lower at 4%) and a reduction of about $10.2 M in local revenue, which could occur in a small geographic area, within the first 5 years for one project. This impact does not include any subsequent upgrades, renovations, etc., to the building(s) or equipment that may occur over the 20-30 year life of the agreement.

The bill assigns program participants a direct payment number. Direct payment numbers allow a qualifying firm to bypass paying taxes at the time of a purchase but directly remit sales taxes to the state and the proper local taxing authority by the 20th of the following month. Purchases qualifying for the rebate would accrue throughout the year, but per the bill, the participant would submit documentation for the rebate only once annually. The timing of the rebate payment is not specified in law but could present cash flow and revenue forecasting challenges under certain circumstances.

Senate | Dual Referral Rules

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[x] 13.5.2 >= $500,000 Annual Tax or Fee Change {S & H}

House

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