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**SB-58 Sales and Use Tax Law: exemptions: certified data center facilities.** (2025-2026)

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Date Published: 03/04/2025 09:00 PM

AMENDED IN SENATE MARCH 04, 2025

CALIFORNIA LEGISLATURE— 2025–2026 REGULAR SESSION

**SENATE BILL**

**NO. 58**

Introduced by Senator Padilla

January 08, 2025

An act to add Section 6372 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 58, as amended, Padilla. Sales and Use Tax Law: exemptions: certified data center facilities.

Existing sales and use tax laws impose taxes on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state, and provide various exemptions from the taxes imposed by those laws.

This bill would, on and after January 1, ~~2025~~, 2026, provide a partial exemption from those taxes with respect to the gross receipts from the sale, storage, use, installation, assembly, repair, maintenance, or other consumption of data center equipment, as defined, used at or for the benefit of a certified data center facility, as defined. The bill would require a data center facility to meet specified requirements in order to receive certification from the California Department of Tax and Fee Administration, including requirements relating to job creation, investment, and renewable energy procurement requirements. The bill would require the department to revoke certification where a data center facility obtains certification and subsequently fails to meet these requirements after reasonable opportunity for the data center facility to cure noncompliance, as provided.

The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose local sales and use taxes in conformity with the Sales and Use Tax Law, and existing laws authorize districts, as specified, to impose transactions and use taxes in accordance with the Transactions and Use Tax Law, which generally conforms to the Sales and Use Tax Law. Amendments to the Sales and Use Tax Law are automatically incorporated into the local tax laws.

This bill would provide that the partial exemption created by the bill does not apply to local sales and use taxes or transactions and use taxes.

Existing law imposes or dedicates certain state sales and use tax rates for local funding, including through the Local Revenue Fund 2011.

This bill would provide that the exemption created by the bill does not apply to those state sales and use tax rates imposed or dedicated for local government funding, including those rates for which revenues are deposited into the Local Revenue Fund 2011.

Existing law requires any bill authorizing a new tax expenditure to contain, among other things, specific goals that the tax expenditure will achieve, detailed performance indicators, and data collection requirements.

This bill would include additional information required for any bill authorizing a new tax expenditure.

This bill would take effect immediately as a tax levy.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

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## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Section 6372 is added to the Revenue and Taxation Code, to read:

**6372.** (a) On and after January 1, ~~2025~~, 2026, the taxes imposed by this part on the gross receipts from the sale, storage, use, installation, assembly, repair, maintenance, or other consumption of data center equipment used at or for the benefit of a certified data center facility shall not exceed 2 percent.

(b) For purposes of the section, the following definitions shall apply:

(1) "Applicable percentage" means the renewables portfolio standard procurement target set for the applicable calendar year as provided by the California Renewables Portfolio Standard Program in accordance with Section 399.11 of the Public Utilities Code.

(2) "Behind-the-meter electricity" or "behind-the-meter energy" means electricity or energy that can be used on site without passing through a utility-owned meter. Activities that may qualify as behind-the-meter energy sources include energy generation, storage, demand response, and efficiency measures.

(3) "Carbon-free energy" means energy that is produced by a resource that produces zero carbon emissions, consistent with the requirements of the California Renewables Portfolio Standard Program, or generates zero greenhouse emissions onsite.

(4) "Certification effective date" means the date on which the application for certification was submitted to the office.

(5) "Certified data center facility" means a data center facility certified pursuant to subdivision (c).

(6) "County average weekly wage" means the average weekly wage in a county for all jobs during the most recent quarterly report published by the United States Bureau of Labor Statistics at the time a qualifying data center facility creates a job used to qualify under this section.

(7) (A) "Data center equipment" means equipment that is used to outfit, operate, or benefit a certified data center facility and component parts, installations, refreshments, replacements, and upgrades to this equipment, regardless of whether it is affixed to or incorporated into real property, and whether it is owned, leased, or used by the qualifying owner, qualifying operator, or qualifying tenant pursuant to a contract for the right to use the equipment. The equipment may include, but is not limited to, the following:

(i) All equipment necessary for the transformation, generation, distribution, or management of electricity that is required to operate computer server equipment, including generators, uninterrupted power supply, supplies, conduits, gaseous fuel piping, cabling, duct banks, switches, switchboards, batteries, and testing equipment.

(ii) All equipment necessary to cool and maintain a controlled environment for the operation of the computer server and other components of the qualifying data center facility, including mechanical equipment, refrigerant piping, gaseous fuel piping, adiabatic and free cooling systems, cooling towers, water softeners, air handling units, indoor direct exchange units, fans, ducting, and filters.

(iii) Water conservation systems necessary for the operation of the data center facility, including facilities or mechanisms that are designed to collect, conserve, and reuse water.

(iv) Software, computer server equipment, chassis, networking equipment, switches, racks, cabling, trays, and conduits necessary for the operation of the data center.

(v) Monitoring equipment and security systems.

(vi) Modular data centers and preassembled components of any equipment described in this paragraph, including components used in the manufacturing of modular data centers.

(vii) Building materials physically incorporated into a certified data center facility, including, but not limited to, common building materials, plumbing system components, heating and air conditioning system components, built-in cabinets, built-in appliances, and floor coverings that are permanently affixed to real property.

(viii) Tools, machinery, and similar items used to construct the certified data center facility.

(B) "Data center equipment" does not include any of the following:

(i) Office equipment or supplies.

(ii) Maintenance or janitorial supplies or equipment.

(iii) Equipment or supplies if the majority of their use is in sales or transportation activities.

(iv) Tangible personal property that is rented or leased for a term of one year or less.

(8) (A) "Data center facility" means one or more buildings owned or leased by a qualifying owner or qualifying operator that satisfies all of the following:

~~(A)~~

(i) Is located at one or more physical locations on contiguous or noncontiguous parcels that shall not be located in more than one county in this state.

~~(B)~~

(ii) More than 50 percent of the facility is used to house servers and related data center equipment, software, and support staff for the processing, storage, and distribution of data.

~~(C)~~

(iii) Has uninterruptible power sources, a sophisticated fire suppression and prevention system, and enhanced physical security that includes restricted access, video surveillance, and electronic systems.

*(B) A data center may, but is not required to, include the following:*

~~(D)~~

(i) Backup power.

~~(E)~~

(ii) Modular data centers or preassembled components, including components used in the manufacturing of modular data centers.

~~(F)~~

(iii) Associated telecommunications and storage systems.

~~(G)~~

(iv) Network or connection between the buildings or physical locations, as applicable.

(9) "Incentive termination date" means December 31, 2045, unless otherwise extended by law.

(10) "Investment" means all moneys spent to acquire or construct a certified data center facility, including, but not limited to, costs of land, buildings, improvements, and modular data centers, and costs incurred for procurement of data center equipment on or after the date 60 days before the certification effective date.

(11) "Generated on site" means, for the purposes of water generation for landscaping, generated using atmospheric water generation systems, storm water capture systems, or other systems that provide water without drawing water from offsite

sources.

(12) "Load-serving entity" means local publicly owned electric utilities and retail sellers such as investor-owned utilities, electricity service providers, and community choice aggregators.

(13) "Modular data center" means a portable system of information technology, climate control, energy supply and distribution machinery, equipment, and related tangible personal property contained in an intermodal freight container or similar structure.

(14) "Office" means the Governor's Office of Business and Economic Development (GO-Biz).

(15) "Other sources of energy" means energy that is provided by a load-serving entity with authority to serve the site seeking to use it.

(16) "Permanent job" means an employment position that will exist for at least five years after the date the job is created.

(17) "Placed in service" means a state or condition of readiness and availability for the operation of the certified data center.

(18) "Qualification period" means:

(A) With respect to a qualifying owner or qualifying operator, the period of time beginning on the certification effective date and ending on the incentive termination date, but in no case shall the qualification period exceed 20 years.

(B) With respect to the qualifying tenant, a period of time beginning on the date that the qualifying tenant enters into an agreement concerning the use or occupancy of the certified data center facility and expiring at the earlier of the expiration of the term of the agreement, as extended, or the incentive termination date.

(19) (A) "Qualifying job" means a full-time, permanent job that pays at least 120 percent of the county average weekly wage in the county in which the job is based. The term includes a new employment position staffed by a third-party employer if a written contract exists between the third-party employer and a qualifying owner, qualifying operator, or qualifying tenant that provides that the employment position is permanently assigned to a certified data center facility.

(B) "Qualifying job" shall not include any job that is moved from one county in this state to another.

(20) "Qualifying operator" means a person or entity, or an affiliate of that person or entity, that controls access to a certified data center facility, regardless of whether that person or entity owns each item of tangible personal property located at the certified data center facility. A qualifying operator may also be the qualifying owner.

(21) "Qualifying owner" means a person or entity, or an affiliate of that person or entity, who owns the building or buildings in which a certified data center is located. A qualifying owner may also be the qualifying operator.

(22) "Qualifying tenant" means one or more persons or entities, or an affiliate of those persons or entities, that contract with the qualifying owner, the qualifying operator, or another qualifying tenant of a certified data center facility to use or occupy all or part of the certified data center facility for a period of two or more years.

(23) "Recycled water cooling system" means a cooling system that can be filled with water during commissioning but operates on a system that, postcommissioning, is designed not to consume incremental water.

(24) "Renewable-powered atmospheric water generation equipment" means a device that is powered by renewable energy sources and extracts water from ambient air.

(25) "Skilled and trained workforce" has the same meaning as defined in Section 2601 of the Public Contract Code.

(26) "Waterless landscaping" means landscaping processes and systems that draw de minimis volumes of water from offsite sources.

(c) A data center facility may be certified by the office for purposes of this section if all of the following apply:

(1) The data center facility commits to achieving, and subsequently achieves by no later than the date five years after the certification effective date, the following:

(A) Create a minimum of at least 20 qualifying jobs in the county in which the data center facility is located, but not including jobs moved from one county in this state to another county in this state.

(B) Make an investment, on or after January 1, ~~2025~~, 2026, of at least two hundred million dollars (\$200,000,000).

(2) For the duration of the qualification period, the qualifying owner, qualifying operator, qualifying tenant, or their contractors use a skilled and trained workforce for construction work during the construction phase for the data center facility.

(3) In the year the data center facility is placed in service, at least 70 percent of the energy consumed by the qualifying data center will be carbon-free energy. For each subsequent year, the annual percentage of carbon-free energy consumed by the data center will meet or exceed the applicable percentage. Except for the first two years of operation, the carbon-free energy percentage will be based on the average of the annual carbon-free energy percentage for the applicable year and the annual carbon-free energy percentage for the two years immediately preceding the applicable year. For the first two years of operation, the carbon-free energy percentage will be based on the annual carbon-free energy percentage for the applicable year and the annual carbon-free energy percentage for the two years immediately following the applicable year. The annual carbon-free energy percentage will be determined by adding the carbon-free energy percentage derived from behind-the-meter sources plus the carbon-free energy percentage derived from other sources. For purposes of this provision, the percentage of carbon-free energy from other sources consumed by a qualifying data center is determined by multiplying the total energy consumed by the qualifying data center from other sources by the applicable percentage for the relevant year.

(4) For the duration of the qualification period, at least 50 percent of the energy supply to operate the data center facility is provided from behind-the-meter sources.

(5) For the duration of the qualification period, the data center facility uses recycled water cooling systems and waterless landscaping. If water for landscaping is required, the water must be generated on site using renewable-powered atmospheric water generation equipment.

(6) For the duration of the qualification period, the data center facility shall not use power generation systems for backup power redundancy that use diesel fuel.

*(7) For the duration of the qualification period, the data center has onsite battery storage.*

~~(7)~~

(8) The data center facility was placed in service on or after January 1, ~~2025~~. 2026.

(d) A certified data center facility that meets or will meet the eligibility requirements of subdivision (c) may apply to the office for certification. The application must be made in the form and manner prescribed by the office. At a minimum, the application shall require the following:

(1) The name and contact information for the qualifying owner, qualifying operator, and any qualifying tenant who will claim the exemption authorized under this section.

(2) A signed statement by an authorized representative of the qualifying owner or qualifying operator, as applicable, that the qualifying owner or qualifying operator will make a good faith effort to ensure the data center facility is expected to satisfy the requirements prescribed in subdivision (c).

(e) Within a reasonable period of time after receiving a completed application, the office shall review the application. If the office determines that all requirements of subdivisions (c) and (d) are satisfied, it shall certify the data center facility and issue certification documentation to the qualifying owner, qualifying operator, or qualifying tenant, as applicable. Otherwise, the office shall provide notice to the qualifying owner, qualifying operator, or qualifying tenant of the conditions of subdivision (c) or (d) that were not satisfied. The office shall notify the department of the issuance of a certification to the data center facility and the certification effective date.

(f) The exemption provided by this section shall be for the duration of the qualification period.

(g) Each qualifying owner, qualifying operator, or qualifying tenant eligible to claim an exemption authorized by this section must hold certification documentation issued by the office. A contractor or subcontractor of a qualifying owner, qualifying operator, or qualifying tenant or a repairer may use the certification documentation issued to the qualifying owner, qualifying operator, or qualifying tenant to make exempt purchases of data center equipment qualified for the exemption under this section. The purchaser must present the certification documentation to the seller of data center equipment eligible for the exemption.

(h) If, after submitting the application for certification and before receiving certification documentation from the office, a qualifying owner, qualifying operator, or qualifying tenant pays an amount of sales tax for data center equipment qualified for an exemption under this section, the qualifying owner, qualifying operator, or qualifying tenant may apply to the department for a refund of the sales and use taxes paid that would have been exempt under this section.

(i) (1) The office may certify a qualifying tenant upon receiving both of the following:

(A) Notice provided by the qualifying owner or qualifying operator of the qualifying tenant.

(B) Information as required by the office to confirm the qualifying tenant's qualification status.

(2) The qualifying owner or qualifying operator must notify the office of any change in status of a qualifying tenant within 30 days. The office shall notify the department of any certification issued by it to a qualifying tenant, including the effective certification date, and of any change in a qualifying tenant's status.

(j) (1) On or before the date five years after the certification effective date, the qualifying owner or qualifying operator shall notify the department in writing as to whether the certified data center facility has satisfied the requirements prescribed in paragraph (1) of subdivision (c). The notification shall be made in the form and manner prescribed by the department.

(2) Within 60 days from receipt of the notification described in paragraph (1), the department may provide the qualifying owner or qualifying operator with notice of the department's intent to conduct an audit. The notice shall include a list of documents the qualifying owner or qualifying operator must submit to the department for the audit and provide the qualifying owner or qualifying operator with a reasonable amount of time to submit the documents to the department. Until a certified data center facility satisfies the requirements prescribed in paragraph (1) of subdivision (c), and the expiration of the 60-day deadline for the department to provide the qualifying owner or qualifying operator with an audit notice or the department's completion of its audit, if applicable, the qualifying owner or qualifying operator, as applicable, shall keep detailed records of all investments created by the certified data center facility.

(k) If the department determines the qualifying data center facility is not in compliance with the requirements prescribed in subdivision (c) during the qualification period, it shall provide the qualifying owner, qualifying operator, or qualifying tenant, as applicable, notice of the noncompliance. The qualifying owner, qualifying operator, or qualifying tenant shall have 60 days to either cure the noncompliance or to provide the department with an explanation for the noncompliance, including identifying extenuating circumstances that are the cause for the noncompliance, which may include a request for a reasonable extension of time to cure the noncompliance. If the qualifying owner, qualifying operator, or qualifying tenant fails to timely cure the noncompliance, the department finds the explanation and extenuating circumstances not satisfactory to excuse the noncompliance, or the department denies the request for an extension of time to cure the noncompliance because the department finds the noncompliance is of a nature that cannot be cured within a reasonable amount of time, the department shall revoke the certification. Each person who has their certification revoked by the department will be liable for taxes imposed under this chapter, plus penalties and interest, from the date of purchase on purchases for which the person claimed an exemption under this section, regardless of whether the purchase occurred before the certification was revoked. This requirement will apply to a qualifying owner and a qualifying operator, but will not apply to a qualifying tenant unless the revocation was the result of the qualifying tenant's failure to maintain its qualification status and not as a result of the qualifying data center facility's failure to meet the certification requirements provided in subdivision (c).

(l) The department and the office may adopt rules and prescribe forms and procedures as necessary for the purposes of this section. The office and department shall collaborate in adopting rules as necessary to avoid duplication and inconsistencies while accomplishing the purposes of this section. The office has exclusive authority over issues related to certification. The department has exclusive authority over compliance and the administration of tax relief.

(m) (1) Notwithstanding the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) and the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), the exemption established by this section shall not apply with respect to any tax levied by a county, city, or district pursuant to, or in accordance with, either of those laws.

(2) Notwithstanding subdivision (a), the exemption established by this section shall not apply with respect to any tax levied pursuant to Section 6051.2 or 6201.2, pursuant to Section 35 of Article XIII of the California Constitution, or any tax levied pursuant to Section 6051 or 6201 that is deposited in the State Treasury to the credit of the Local Revenue Fund 2011 pursuant to Section 6051.15 or 6201.15.

(n) For purposes of complying with Section 41, the Legislature finds and declares the following:

(1) The specific goal the exemption shall achieve is to ensure growth in the creation of data centers in the state to help obtain the state's climate goals.

(2) The performance indicators the Legislature may use to measure whether the exemption meets the goal described in paragraph (1) are the following:

(A) The number of taxpayers exempting the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of, data center equipment.

(B) The total dollar amount of moneys exempted under this section.

(3) (A) No later than March 1, ~~2026~~, 2027, and annually thereafter, the California Department of Tax and Fee Administration shall analyze the performance indicators in paragraph (2) and shall report its findings, in compliance with Section 9795 of the Government Code, to the Legislature.

(B) The disclosure requirements of subparagraph (A) shall be treated as an exception to Section 7056.5.

**SEC. 2.** This act provides for a tax levy within the meaning of Article IV of the California Constitution and shall go into immediate effect.