
SENATE BILL 5989

State of Washington

66th Legislature

2019 Regular Session

By Senators Palumbo, Zeiger, and Keiser

1 AN ACT Relating to providing a tax preference for rural and
2 nonrural data centers; amending RCW 82.08.986; adding a new section
3 to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW;
4 creating new sections; and providing expiration dates.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that data centers
7 are a cornerstone for strong internet infrastructure that is critical
8 to the continuing prosperity of Washington's vibrant digital economy.
9 Under current law, data center incentives are restricted to rural
10 counties and have improved the economies of rural counties. The
11 legislature recognizes that rural county data center investments are
12 necessary but insufficient for the state's total economy and
13 competitiveness. Washington is the only state that restricts
14 incentives geographically. As a result, data centers serving urban
15 counties requiring higher performance and that offer colocation
16 services for multiple tenants that foster technology ecosystems are
17 lost to other states, particularly neighboring Oregon. The
18 legislature further finds that despite the need, the lack of data
19 center usage growth in Washington urban counties is primarily due to
20 the sales tax, which can add as much as ten percent to the total cost
21 of ownership and often runs into the millions of dollars for even

1 mid-level users. Therefore, the legislature authorizes sales tax
2 abatement for tenants in as many as eight data centers in
3 Washington's urban counties.

4 NEW SECTION. **Sec. 2.** (1) This section is the tax preference
5 performance statement for the tax preferences in sections 3, 4, and
6 5, chapter . . . , Laws of 2019 (sections 3, 4, and 5 of this act).
7 This performance statement is only intended to be used for subsequent
8 evaluation of the tax preferences. It is not intended to create a
9 private right of action by any party or be used to determine
10 eligibility for preferential tax treatment.

11 (2) The legislature categorizes these tax preferences as ones
12 intended to improve industry competitiveness, as indicated in RCW
13 82.32.808(2)(b) and as one intended to create or retain jobs as
14 indicated in RCW 82.32.808(2)(c).

15 (3) It is the legislature's specific public policy objective to
16 improve industry competitiveness and to increase, create, or retain
17 jobs in computer data centers in Washington state, thereby increasing
18 family wage jobs. It is the legislature's intent to provide a sales
19 and use tax exemption on eligible server equipment and power
20 infrastructure installed in eligible computer data centers, charges
21 made for labor and services rendered in respect to installing
22 eligible server equipment, and for construction, installation,
23 repair, alteration, or improvement of eligible power infrastructures
24 in order to increase investment in data center construction, leasing,
25 and other investment throughout the state of Washington, thereby
26 growing employment in the technology industry in the state while
27 adding real and personal property to state and local property tax
28 rolls, thereby increasing the county tax base.

29 (4) The legislature intends to extend the expiration date of the
30 tax preferences in this act and expand the applicability of the tax
31 preferences to the entire state of Washington if a review finds that:

32 (a) As a proxy for overall technology industry growth, the amount
33 of electrical capacity deployed attributable to these projects
34 increased by at least ten percent over the capacity deployed in the
35 nonrural data centers in the state since 2016; or

36 (b) The county tax base increased as a result of the
37 construction, leasing, and other investment of computer data centers
38 eligible for the tax preferences.

1 (5) In order to obtain the data necessary to perform the review
2 in subsection (4) of this section, the joint legislative audit and
3 review committee may refer to data available from the department of
4 revenue regarding county property tax assessments and data provided
5 to the department of revenue pursuant to the annual tax performance
6 report required under RCW 82.32.534.

7 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.08
8 RCW to read as follows:

9 (1) An exemption from the tax imposed by RCW 82.08.020 is
10 provided for sales to qualifying businesses and to qualifying tenants
11 of eligible server equipment to be installed, without intervening
12 use, in an eligible computer data center, and to charges made for
13 labor and services rendered in respect to installing eligible server
14 equipment. The exemption also applies to sales to qualifying
15 businesses and to qualifying tenants of eligible power
16 infrastructure, including labor and services rendered in respect to
17 constructing, installing, repairing, altering, or improving eligible
18 power infrastructure.

19 (2)(a)(i) In order to qualify for the exemption, a qualifying
20 business must be located in a nonrural county, demonstrate that it
21 possesses sufficient capacity to meet the minimum tenant take down
22 requirement no less than ten times and in the twelve months prior to
23 applying, and must be in the business of servicing this scale and
24 type of data center tenant.

25 (ii) For the purposes of demonstrating that the requirements of
26 this subsection (2)(a) are met, a qualifying business must submit
27 records of available power for customers at the time of the
28 application for the exemption under this section. The qualifying
29 business must demonstrate that it has 1.5 megawatt of available power
30 and that in the prior twelve months such qualifying business was in
31 the business of contracts utilizing capacity of at least one hundred
32 fifty kilowatts each. The qualifying business must provide requests
33 for proposals, pricing offered, and marketing materials associated
34 with the requirements of this subsection, as required by the
35 department, as supporting documentation that the requirements of this
36 subsection (2)(a) have been met.

37 (b) In order to qualify for the exemption, a qualifying tenant
38 must contract for a minimum electrical capacity of one hundred fifty
39 kilowatts for server and computer equipment in a qualifying business.

1 Tenants that previously qualified under RCW 82.08.986 or 82.12.986
2 must reapply if they intend to expand into a qualifying business.

3 (c) (i) The exemptions provided in this section are limited to
4 qualifying businesses or tenants in no more than eight computer data
5 centers. Each computer data center must be predefined at the time of
6 application. Expansions beyond the initial perimeter and new computer
7 data centers within the state must apply separately.

8 (ii) For the purposes of this subsection (2) (c):

9 (A) "Predefined" means that at the time of application, the
10 qualifying business must indicate the data center's location and the
11 boundaries where the incentives will apply, which may include new
12 buildings for expansion in a campus. The exemption application of the
13 qualifying business cannot be used in another location, as that
14 location must apply separately; and

15 (B) "Expansions beyond the initial perimeter" means if a
16 qualifying business purchases, after their initial application for an
17 exemption under this section, a lot adjacent to the initial perimeter
18 or a lot in a different location from the data center in their
19 initial application, the qualifying business must amend their initial
20 application for an exemption under this section or submit a new
21 application, as required by the department, to include the expansion
22 beyond the initial perimeter in order to notify the department of
23 additional capacity that may qualify for an exemption under this
24 section.

25 (3) Qualification for this section may be found in statements
26 related to the amount of power contracted for at the site and what is
27 available to sell, as well as the capacity of the backup power
28 infrastructure.

29 (4) The pro rata portion of previously exempted sales and use
30 taxes are immediately due and payable for a qualifying business or
31 qualifying tenant that does not meet the minimum electrical capacity
32 requirements in subsection (2) (b) of this section for a period of at
33 least three years from the date of installation of the server
34 equipment.

35 (5) Qualifying businesses and tenants must claim an exemption
36 under this section in the current tax year when the taxes would have
37 been due unless an extension is filed with the department.

38 (6) (a) A qualifying business or a qualifying tenant claiming an
39 exemption under this section must complete an annual tax performance
40 report as required in RCW 82.32.534. The tax performance report of a

1 qualifying business or a qualifying tenant must include the amount of
2 electrical capacity, measured by kilowatts deployed within their
3 nonrural data center.

4 (b) For the purposes of this subsection, kilowatts are measured
5 by the amount of power for which the qualifying business or
6 qualifying tenant contracted during the applicable tax year for which
7 an exemption is claimed under this section. A qualifying business or
8 qualifying tenant must maintain a contracted minimum of one hundred
9 fifty kilowatts during the tax year for which the qualifying business
10 or qualifying tenant is claiming an exemption under this section. The
11 information required under this subsection must be reported to the
12 department within thirty days after the last day of the exemption
13 applicant's tax year.

14 (c) Information submitted on the tax performance report is not
15 subject to the confidentiality provisions of RCW 82.32.330 and may be
16 disclosed to the public upon request, except as provided otherwise in
17 RCW 82.32.330.

18 (7) (a) The exemption provided in this section does not apply to:

19 (i) Any person who has received the benefit of the deferral
20 program under chapter 82.60 RCW on the construction, renovation, or
21 expansion of a structure or structures used as a computer data
22 center; and

23 (ii) Any person affiliated with a person within the scope of
24 (a) (i) of this subsection (7).

25 (b) If a person claims an exemption under this section and
26 subsequently receives the benefit of the deferral program under
27 chapter 82.60 RCW on either the construction, renovation, or
28 expansion of a structure or structures used as a computer data center
29 or machinery or equipment used in a computer data center, the person
30 must repay the amount of taxes exempted under this section. Interest
31 as provided in chapter 82.32 RCW applies to amounts due under this
32 section until paid in full.

33 (8) (a) From the effective date of this section, the exemption
34 provided in this section only applies for use by a qualifying
35 business or qualifying tenant if they certify to the department that
36 the project is developed under a community workforce agreement or
37 project labor agreement, which must include payment of area standard
38 prevailing wages and apprenticeship utilization, provided the
39 following apply:

1 (i) The owner and the prime contractor and all of its
2 subcontractors regardless of tier have the absolute right to select
3 any qualified and responsible bidder for the award of contracts on a
4 specified project without reference to the existence or nonexistence
5 of any agreements between such bidder and any party to such project
6 labor agreement, and only when such bidder is willing, ready, and
7 able to become a party to, signs a letter of assent, and complies
8 with such project labor agreement, should it be designated the
9 successful bidder; and

10 (ii) It is understood that this is a self-contained, stand-alone
11 agreement, and that by virtue of having become bound to such project
12 labor agreement, neither the project contractor nor the
13 subcontractors are obligated to sign any other local, area, or
14 national agreement.

15 (b) For the purposes of this subsection, the terms "project labor
16 agreement" and "community workforce agreement" mean a prehire
17 collective bargaining agreement with one or more labor organizations
18 that establishes the terms and conditions of employment for a
19 specific construction project and is an agreement described in Title
20 29 U.S.C. Sec. 158(f).

21 (9) The definitions in this subsection apply throughout this
22 section unless the context clearly requires otherwise.

23 (a) "Affiliated" means that one person has a direct or indirect
24 ownership interest of at least twenty percent in another person.

25 (b) "Building" means a fully enclosed structure with a weather
26 resistant exterior wall envelope or concrete or masonry walls
27 designed in accordance with the requirements for structures under
28 chapter 19.27 RCW.

29 (c) (i) "Computer data center" means a facility comprised of one
30 or more buildings, which may be comprised of multiple businesses,
31 constructed or refurbished specifically, and used primarily, to house
32 working servers, where the facility has the following
33 characteristics: (A) Uninterruptible power supplies, generator backup
34 power, or both; (B) sophisticated fire suppression and prevention
35 systems; and (C) enhanced physical security, such as: Restricted
36 access to the facility to selected personnel; permanent security
37 guards; video camera surveillance; an electronic system requiring
38 passcodes, keycards, or biometric scans, such as hand scans and
39 retinal or fingerprint recognition; or similar security features.

1 (ii) For a computer data center comprised of multiple buildings,
2 each separate building constructed or refurbished specifically, and
3 used primarily, to house working servers is considered a computer
4 data center if it has all of the characteristics listed in (c)(i)(A)
5 through (C) of this subsection (9).

6 (iii) A facility comprised of one building or more than one
7 building must have a combined square footage of at least one hundred
8 thousand square feet.

9 (d) "Eligible computer data center" means a computer data center
10 having at least twenty thousand square feet dedicated to housing
11 working servers.

12 (e) "Eligible power infrastructure" means all fixtures and
13 equipment owned by a qualifying business or qualifying tenant and
14 necessary for the transformation, distribution, or management of
15 electricity that is required to operate eligible server equipment
16 within an eligible computer data center. The term includes
17 generators; wiring; cogeneration equipment; and associated fixtures
18 and equipment, such as electrical switches, batteries, and
19 distribution, testing, and monitoring equipment. The term does not
20 include substations.

21 (f)(i) "Eligible server equipment" means for a qualifying
22 business whose computer data center qualifies as an eligible computer
23 data center, the original server equipment installed in an eligible
24 computer data center on or after the effective date of this section,
25 and replacement server equipment.

26 (ii) For purposes of this subsection (9)(f), "replacement server
27 equipment" means server equipment that:

28 (A) Replaces existing server equipment, if the sale or use of the
29 server equipment to be replaced qualified for an exemption under this
30 section or RCW 82.12.986; and

31 (B) Is installed and put into regular use ten years after the
32 effective date of this section.

33 (iii) For a qualifying tenant who leases space within an eligible
34 computer data center, "eligible server equipment" means the original
35 server equipment installed within the space it leases from an
36 eligible computer data center on or after ten years after the
37 effective date of this section, and replacement server equipment. For
38 purposes of this subsection (9)(f)(iii), "replacement server
39 equipment" means server equipment that:

1 (A) Replaces existing server equipment, if the sale or use of the
2 server equipment to be replaced qualified for an exemption under this
3 section or RCW 82.12.986; and

4 (B) Is installed and put into regular use ten years after the
5 effective date of this section.

6 (g) "Nonrural county" means a county that does not meet the
7 definition of "rural county" under RCW 82.14.370.

8 (h) "Qualifying business" means a business entity that exists for
9 the primary purpose of engaging in commercial activity for profit and
10 that is the owner of an eligible computer data center. The term does
11 not include the state or federal government or any of their
12 departments, agencies, and institutions; tribal governments;
13 political subdivisions of this state; or any municipal, quasi-
14 municipal, public, or other corporation created by the state or
15 federal government, tribal government, municipality, or political
16 subdivision of the state.

17 (i) "Qualifying tenant" means a business entity that exists for
18 the primary purpose of engaging in commercial activity for profit and
19 that leases space from a qualifying business within an eligible
20 computer data center. The term does not include the state or federal
21 government or any of their departments, agencies, and institutions;
22 tribal governments; political subdivisions of this state; or any
23 municipal, quasi-municipal, public, or other corporation created by
24 the state or federal government, tribal government, municipality, or
25 political subdivision of the state.

26 (j) "Server equipment" means the computer hardware located in an
27 eligible computer data center and used exclusively to provide
28 electronic data storage and data management services for internal use
29 by the owner or lessee of the computer data center, for clients of
30 the owner. For the purposes of this subsection, "electronic data
31 storage and data management services" include, but are not limited
32 to: Providing data storage and backup services, providing computer
33 processing power, hosting enterprise software applications, and
34 hosting web sites. The term also includes providing services such as
35 email, web browsing and searching, media applications, and other
36 online services, regardless of whether a charge is made for such
37 services. "Server equipment" also includes computer software
38 necessary to operate the computer hardware. "Server equipment" does
39 not include personal computers, the racks upon which the server

1 equipment is installed, and computer peripherals such as keyboards,
2 monitors, printers, and mice.

3 (10) This section expires January 1, 2030.

4 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.12
5 RCW to read as follows:

6 (1) An exemption from the tax imposed by RCW 82.12.020 is
7 provided for the use by qualifying businesses or qualifying tenants
8 of eligible server equipment to be installed, without intervening
9 use, in an eligible computer data center, and to the use of labor and
10 services rendered in respect to installing such server equipment. The
11 exemption also applies to the use by a qualifying business or
12 qualifying tenant of eligible power infrastructure, including labor
13 and services rendered in respect to installing, repairing, altering,
14 or improving such infrastructure.

15 (2) The exemption provided in this section does not apply to any
16 person for whom the exemption under section 3 of this act does not
17 apply.

18 (3) The definitions and requirements in section 3 of this act
19 apply to this section.

20 (4) This section expires January 1, 2030.

21 **Sec. 5.** RCW 82.08.986 and 2017 c 135 s 26 are each amended to
22 read as follows:

23 (1) An exemption from the tax imposed by RCW 82.08.020 is
24 provided for sales to qualifying businesses and to qualifying tenants
25 of eligible server equipment to be installed, without intervening
26 use, in an eligible computer data center, and to charges made for
27 labor and services rendered in respect to installing eligible server
28 equipment. Until January 1, 2026, the exemption also applies to sales
29 to qualifying businesses and to qualifying tenants of eligible power
30 infrastructure, including labor and services rendered in respect to
31 constructing, installing, repairing, altering, or improving eligible
32 power infrastructure.

33 (2)(a) In order to claim the exemption under this section, a
34 qualifying business or a qualifying tenant must submit an application
35 to the department for an exemption certificate. The application must
36 include the information necessary, as required by the department, to
37 determine that a business or tenant qualifies for the exemption under
38 this section. The department must issue exemption certificates to

1 qualifying businesses and qualifying tenants. The department may
2 assign a unique identification number to each exemption certificate
3 issued under this section.

4 (b) A qualifying business or a qualifying tenant claiming the
5 exemption under this section must present the seller with an
6 exemption certificate in a form and manner prescribed by the
7 department. The seller must retain a copy of the certificate for the
8 seller's files.

9 (c) With respect to computer data centers for which the
10 commencement of construction occurs after July 1, 2015, but before
11 July 1, 2019, the exemption provided in this section is limited to no
12 more than eight computer data centers, with total eligible data
13 centers provided under this section limited to twelve from July 1,
14 2015, through July 1, 2025. Tenants of qualified data centers do not
15 constitute additional data centers under the limit. The exemption is
16 available on a first-in-time basis based on the date the application
17 required under this section is received by the department. Exemption
18 certificates expire two years after the date of issuance, unless
19 construction has been commenced.

20 (3)(a) Within six years of the date that the department issued an
21 exemption certificate under this section to a qualifying business or
22 a qualifying tenant with respect to an eligible computer data center,
23 the qualifying business or qualifying tenant must establish that net
24 employment at the eligible computer data center has increased by a
25 minimum of:

26 (i) Thirty-five family wage employment positions; or

27 (ii) Three family wage employment positions for each twenty
28 thousand square feet of space or less that is newly dedicated to
29 housing working servers at the eligible computer data center. For
30 qualifying tenants, the number of family wage employment positions
31 that must be increased under this subsection (3)(a)(ii) is based only
32 on the space occupied by the qualifying tenant in the eligible
33 computer data center.

34 (b) In calculating the net increase in family wage employment
35 positions:

36 (i) The owner of an eligible computer data center, in addition to
37 its own net increase in family wage employment positions, may
38 include:

39 (A) The net increase in family wage employment positions employed
40 by qualifying tenants; and

1 (B) The net increase in family wage employment positions
2 described in (c)(ii)(B) of this subsection (3).

3 (ii)(A) Qualifying tenants, in addition to their own net increase
4 in family wage employment positions, may include:

5 (I) A portion of the net increase in family wage employment
6 positions employed by the owner; and

7 (II) A portion of the net increase in family wage employment
8 positions described in (c)(ii)(B) of this subsection (3).

9 (B) The portion of the net increase in family wage employment
10 positions to be counted under this subsection (3)(b)(ii) by each
11 qualifying tenant must be in proportion to the amount of space in the
12 eligible computer data center occupied by the qualifying tenant
13 compared to the total amount of space in the eligible computer data
14 center occupied by all qualifying tenants.

15 (c)(i) For purposes of this subsection, family wage employment
16 positions are new permanent employment positions requiring forty
17 hours of weekly work, or their equivalent, on a full-time basis at
18 the eligible computer data center and receiving a wage equivalent to
19 or greater than one hundred fifty percent of the per capita personal
20 income of the county in which the qualified project is located. An
21 employment position may not be counted as a family wage employment
22 position unless the employment position is entitled to health
23 insurance coverage provided by the employer of the employment
24 position. For purposes of this subsection (3)(c), "new permanent
25 employment position" means an employment position that did not exist
26 or that had not previously been filled as of the date that the
27 department issued an exemption certificate to the owner or qualifying
28 tenant of an eligible computer data center, as the case may be.

29 (ii)(A) Family wage employment positions include positions filled
30 by employees of the owner of the eligible computer data center and by
31 employees of qualifying tenants.

32 (B) Family wage employment positions also include individuals
33 performing work at an eligible computer data center as an independent
34 contractor hired by the owner of the eligible computer data center or
35 as an employee of an independent contractor hired by the owner of the
36 eligible computer data center, if the work is necessary for the
37 operation of the computer data center, such as security and building
38 maintenance, and provided that all of the requirements in (c)(i) of
39 this subsection (3) are met.

1 (d) All previously exempted sales and use taxes are immediately
2 due and payable for a qualifying business or qualifying tenant that
3 does not meet the requirements of this subsection.

4 (4) A qualifying business or a qualifying tenant claiming an
5 exemption under this section or RCW 82.12.986 must complete an annual
6 tax performance report with the department as required under RCW
7 82.32.534.

8 ~~(5) ((a) The exemption provided in this section does not apply~~
9 ~~to:~~

10 ~~(i) Any person who has received the benefit of the deferral~~
11 ~~program under chapter 82.60 RCW on: (A) The construction, renovation,~~
12 ~~or expansion of a structure or structures used as a computer data~~
13 ~~center; or (B) machinery or equipment used in a computer data center;~~
14 ~~and~~

15 ~~(ii) Any person affiliated with a person within the scope of~~
16 ~~(a)(i) of this subsection (5).~~

17 ~~(b) If a person claims an exemption under this section and~~
18 ~~subsequently receives the benefit of the deferral program under~~
19 ~~chapter 82.60 RCW on either the construction, renovation, or~~
20 ~~expansion of a structure or structures used as a computer data center~~
21 ~~or machinery or equipment used in a computer data center, the person~~
22 ~~must repay the amount of taxes exempted under this section. Interest~~
23 ~~as provided in chapter 82.32 RCW applies to amounts due under this~~
24 ~~section until paid in full.~~

25 ~~(6))~~ The definitions in this subsection apply throughout this
26 section unless the context clearly requires otherwise.

27 (a) "Affiliated" means that one person has a direct or indirect
28 ownership interest of at least twenty percent in another person.

29 (b) "Building" means a fully enclosed structure with a weather
30 resistant exterior wall envelope or concrete or masonry walls
31 designed in accordance with the requirements for structures under
32 chapter 19.27 RCW. This definition of "building" only applies to
33 computer data centers for which commencement of construction occurs
34 on or after July 1, 2015.

35 (c) (i) "Computer data center" means a facility comprised of one
36 or more buildings, which may be comprised of multiple businesses,
37 constructed or refurbished specifically, and used primarily, to house
38 working servers, where the facility has the following
39 characteristics: (A) Uninterruptible power supplies, generator backup
40 power, or both; (B) sophisticated fire suppression and prevention

1 systems; and (C) enhanced physical security, such as: Restricted
2 access to the facility to selected personnel; permanent security
3 guards; video camera surveillance; an electronic system requiring
4 passcodes, keycards, or biometric scans, such as hand scans and
5 retinal or fingerprint recognition; or similar security features.

6 (ii) For a computer data center comprised of multiple buildings,
7 each separate building constructed or refurbished specifically, and
8 used primarily, to house working servers is considered a computer
9 data center if it has all of the characteristics listed in (c) (i) (A)
10 through (C) of this subsection (~~((+6+))~~) (5).

11 (iii) A facility comprised of one building or more than one
12 building must have a combined square footage of at least one hundred
13 thousand square feet.

14 (d) "Electronic data storage and data management services"
15 include, but are not limited to: Providing data storage and backup
16 services, providing computer processing power, hosting enterprise
17 software applications, and hosting web sites. The term also includes
18 providing services such as email, web browsing and searching, media
19 applications, and other online services, regardless of whether a
20 charge is made for such services.

21 (e) (i) "Eligible computer data center" means a computer data
22 center:

23 (A) Located in a rural county as defined in RCW 82.14.370; and

24 (B) Having at least twenty thousand square feet dedicated to
25 housing working servers(~~(, where the server space has not previously~~
26 ~~been dedicated to housing working servers; and~~

27 ~~(C) For which the commencement of construction occurs:~~

28 ~~(I) After March 31, 2010, and before July 1, 2011;~~

29 ~~(II) After March 31, 2012, and before July 1, 2015; or~~

30 ~~(III) After June 30, 2015, and before July 1, 2025)).~~

31 (ii) (~~For purposes of this section, "commencement of~~
32 ~~construction" means the date that a building permit is issued under~~
33 ~~the building code adopted under RCW 19.27.031 for construction of the~~
34 ~~computer data center. The construction of a computer data center~~
35 ~~includes the expansion, renovation, or other improvements made to~~
36 ~~existing facilities, including leased or rented space. "Commencement~~
37 ~~of construction" does not include soil testing, site clearing and~~
38 ~~grading, site preparation, or any other related activities that are~~
39 ~~initiated before the issuance of a building permit for the~~
40 ~~construction of the foundation of a computer data center.~~

1 ~~(iii) With respect to facilities in existence on April 1, 2010,~~
2 ~~that are expanded, renovated, or otherwise improved after March 31,~~
3 ~~2010, or facilities in existence on April 1, 2012, that are expanded,~~
4 ~~renovated, or otherwise improved after March 31, 2012, or facilities~~
5 ~~in existence on July 1, 2015, that are expanded, renovated, or~~
6 ~~otherwise improved after June 30, 2015, an eligible computer data~~
7 ~~center includes only the portion of the computer data center meeting~~
8 ~~the requirements in (e)(i)(B) of this subsection (6))~~ Facilities in
9 existence before January 1, 2019, that meet the requirements of
10 (c)(i), (ii), and (iii) of this subsection and have at least twenty
11 thousand square feet dedicated to housing working servers, qualify as
12 an eligible computer data center for charges made for labor,
13 services, and material related to installations after December 31,
14 2019, for eligible power infrastructure and eligible server
15 equipment.

16 (iii) Movable or fixed stand-alone, prefabricated, or modular
17 units, including intermodal shipping containers do not qualify as
18 "eligible computer data centers".

19 (f) "Eligible power infrastructure" means all fixtures and
20 equipment owned by a qualifying business or qualifying tenant and
21 necessary for the transformation, distribution, or management of
22 electricity that is required to operate eligible server equipment
23 within an eligible computer data center. The term includes
24 generators; wiring; cogeneration equipment; and associated fixtures
25 and equipment, such as electrical switches, batteries, and
26 distribution, testing, and monitoring equipment. The term does not
27 include substations.

28 (g) "Eligible server equipment" means:

29 (i) For a qualifying business whose computer data center
30 qualifies as an eligible computer data center under (e)(i)~~((C)(I))~~
31 (B) of this subsection ((6)) (5), the ((original)) server equipment
32 installed and put into regular use in an eligible computer data
33 center on or after April 1, 2010, and before January 1, ((2026, and
34 replacement server equipment. For purposes of this subsection
35 (6)(g)(i), "replacement server equipment" means server equipment
36 that:

37 ~~(A) Replaces existing server equipment, if the sale or use of the~~
38 ~~server equipment to be replaced qualified for an exemption under this~~
39 ~~section or RCW 82.12.986; and~~

40 ~~(B) Is installed and put into regular use before April 1, 2018.~~

1 ~~(ii) For a qualifying business whose computer data center~~
2 ~~qualifies as an eligible computer data center under (e) (i) (C) (II) of~~
3 ~~this subsection (6), "eligible server equipment" means the original~~
4 ~~server equipment installed in an eligible computer data center on or~~
5 ~~after April 1, 2012, and before January 1, 2026, and replacement~~
6 ~~server equipment. For purposes of this subsection (6) (g) (ii),~~
7 ~~"replacement server equipment" means server equipment that:~~

8 ~~(A) Replaces existing server equipment, if the sale or use of the~~
9 ~~server equipment to be replaced qualified for an exemption under this~~
10 ~~section or RCW 82.12.986; and~~

11 ~~(B) Is installed and put into regular use before April 1, 2024.~~

12 ~~(iii) (A) For a qualifying business whose computer data center~~
13 ~~qualifies as an eligible computer data center under (e) (i) (C) (III) of~~
14 ~~this subsection (6), "eligible server equipment" means the original~~
15 ~~server equipment installed in a building within an eligible computer~~
16 ~~data center on or after July 1, 2015, and replacement server~~
17 ~~equipment. Server equipment installed in movable or fixed stand-~~
18 ~~alone, prefabricated, or modular units, including intermodal shipping~~
19 ~~containers, is not "directly installed in a building." For purposes~~
20 ~~of this subsection (6) (g) (iii) (A), "replacement server equipment"~~
21 ~~means server equipment that replaces existing server equipment, if~~
22 ~~the sale or use of the server equipment to be replaced qualified for~~
23 ~~an exemption under this section or RCW 82.12.986; and~~

24 ~~(B) Is installed and put into regular use no later than twelve~~
25 ~~years after the date of the certificate of occupancy.~~

26 ~~(iv)) 2030.~~

27 (ii) For a qualifying tenant who leases space within an eligible
28 computer data center, "eligible server equipment" means the
29 ~~((original))~~ server equipment installed within the space it leases
30 from an eligible computer data center on or after April 1, 2010, and
31 before January 1, ~~((2026, and replacement server equipment))~~ 2030.
32 ~~((For purposes of this subsection (6) (g) (iv), "replacement server~~
33 ~~equipment" means server equipment that:~~

34 ~~(A) Replaces existing server equipment, if the sale or use of the~~
35 ~~server equipment to be replaced qualified for an exemption under this~~
36 ~~section or RCW 82.12.986;~~

37 ~~(B) Is installed and put into regular use before April 1, 2024;~~
38 ~~and~~

39 ~~(C) For tenants leasing space in an eligible computer data center~~
40 ~~built after July 1, 2015, is installed and put into regular use no~~

1 ~~later than twelve years after the date of the certificate of~~
2 ~~occupancy.)~~)

3 (h) "Qualifying business" means a business entity that exists for
4 the primary purpose of engaging in commercial activity for profit and
5 that is the owner of an eligible computer data center. The term does
6 not include the state or federal government or any of their
7 departments, agencies, and institutions; tribal governments;
8 political subdivisions of this state; or any municipal, quasi-
9 municipal, public, or other corporation created by the state or
10 federal government, tribal government, municipality, or political
11 subdivision of the state.

12 (i) "Qualifying tenant" means a business entity that exists for
13 the primary purpose of engaging in commercial activity for profit and
14 that leases space from a qualifying business within an eligible
15 computer data center. The term does not include the state or federal
16 government or any of their departments, agencies, and institutions;
17 tribal governments; political subdivisions of this state; or any
18 municipal, quasi-municipal, public, or other corporation created by
19 the state or federal government, tribal government, municipality, or
20 political subdivision of the state. The term also does not include a
21 lessee of space in an eligible computer data center under (e)(i)
22 (~~(C)(I)~~) (B) of this subsection (~~(6)~~) (5), if the lessee and
23 lessor are affiliated and:

24 (i) That space will be used by the lessee to house server
25 equipment that replaces server equipment previously installed and
26 operated in that eligible computer data center by the lessor or
27 another person affiliated with the lessee; or

28 (ii) Prior to May 2, 2012, the primary use of the server
29 equipment installed in that eligible computer data center was to
30 provide electronic data storage and data management services for the
31 business purposes of either the lessor, persons affiliated with the
32 lessor, or both.

33 (j) "Server equipment" means the computer hardware located in an
34 eligible computer data center and used exclusively to provide
35 electronic data storage and data management services for internal use
36 by the owner or lessee of the computer data center, for clients of
37 the owner or lessee of the computer data center, or both. "Server
38 equipment" also includes computer software necessary to operate the
39 computer hardware. "Server equipment" does not include personal
40 computers, the racks upon which the server equipment is installed,

1 and computer peripherals such as keyboards, monitors, printers, and
2 mice.

3 (6) (a) From the effective date of this section, the exemption
4 provided in this section only applies for use by a qualifying
5 business or qualifying tenant if they certify to the department that
6 the project is developed under a community workforce agreement or
7 project labor agreement, which must include payment of area standard
8 prevailing wages and apprenticeship utilization, provided the
9 following apply:

10 (i) The owner and the prime contractor and all of its
11 subcontractors regardless of tier have the absolute right to select
12 any qualified and responsible bidder for the award of contracts on a
13 specified project without reference to the existence or nonexistence
14 of any agreements between such bidder and any party to such project
15 labor agreement, and only when such bidder is willing, ready, and
16 able to become a party to, signs a letter of assent, and complies
17 with such project labor agreement, should it be designated the
18 successful bidder; and

19 (ii) It is understood that this is a self-contained, stand-alone
20 agreement, and that by virtue of having become bound to such project
21 labor agreement, neither the project contractor nor the
22 subcontractors are obligated to sign any other local, area, or
23 national agreement.

24 (b) For the purposes of this subsection, the terms "project labor
25 agreement" and "community workforce agreement" mean a prehire
26 collective bargaining agreement with one or more labor organizations
27 that establishes the terms and conditions of employment for a
28 specific construction project and is an agreement described in Title
29 29 U.S.C. Sec. 158(f).

30 NEW SECTION. Sec. 6. Section 5 of this act expires January 1,
31 2030.

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