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BILL



ANALYSIS

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Senate Bill 616 (Substitute S-1 as reported)
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Sponsor: Senator Tonya Schuitmaker (S.B. 616)
Senator Peter MacGregor (S.B. 617)
Committee: Michigan Competitiveness

CONTENT

Senate Bills 616 (S-1) and 617 (S-1) would amend the General Sales Tax Act and the Use Tax Act, respectively, to provide for a 15-year exemption from the sales tax and the use tax at the rate of 4% for the sale of data center equipment to, or the storage, use, or consumption of data center equipment sold to, the owner or operator of an internet data center or a colocated business for use or consumption in the operations of the data center. The exemption would apply beginning January 1, 2016, through December 31, 2030.

The bills would define "internet data center" as a facility that: 1) physically houses networked computer servers assembled for the purpose of centralizing the storage, processing, management, or dissemination of data owned or controlled by the customers of the data center; 2) is specifically designed and constructed to provide a high-security environment for the location of servers and similar equipment; and 3) is owned or operated by an entity whose primary business, or whose parent company's primary business, is that of an internet data center, and that generates 75% or more of its revenue from the operation and business of an internet data center.

"Data center equipment" would mean high-technology equipment consumed or used physically within an internet data center, including computers, servers, routers, switches, peripheral computer devices, and their associated tools, racks, shelving, cabling, and wiring. The term also would include any construction materials used to construct the internet data center, as well as storage batteries, back-up generators, uninterrupted power supply units, and other redundant power supply equipment. The term would not include any equipment owned by a third party that is used to supply the data center's primary power or any third-party communication nodes used to connect an internet data center to the exogenous internet environment. "High technology" would mean technology used in the creation, storage, processing, or manipulation of digital data.

"Colocated business" would mean a person that has entered into a contract with the owner or operator of an internet data center to deploy and use data center equipment physically located within the data center for one or more years.

MCL 205.62 et al. (S.B. 616)
205.104b et al. (S.B. 617)

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

Between FY 2015-16 and FY 2030-31, the bills would reduce General Fund revenue as well as local unit revenue by an unknown, although potentially significant, amount that would depend on the number of affected taxpayers and their specific characteristics, but likely would total

at least \$7.2 million per year, assuming all eligible taxpayers claimed the exemptions, and could be more if the bills resulted in additional economic activity occurring in Michigan. The bills would apply to existing taxpayers, of which at least 43 firms would be expected to qualify, although the sector that includes data centers includes approximately 331 firms. Another 1,253 smaller nonemployer businesses would potentially qualify under the bills, although there is insufficient information regarding these firms to include them in the fiscal impact, and any impact from these firms would likely be minimal.

To the extent that the bills would attract additional firms to the State, the revenue loss under the bills would be greater. One firm identified in the media as considering expansion into Michigan could increase the revenue loss under the bills by a significant amount depending on the specific characteristics of the firm. Several media reports have indicated the expansion could total \$5.0 billion, but would take approximately a decade to complete. However, any revenue loss would depend on whether the investment would occur absent the bills. To the extent the investment would not occur without the bills, the revenue loss would represent the revenue foregone as a result of the bills' exemptions. If the expansions involved \$100.0 million of investment each year during the 10-year construction period, 75% of which would be subject to sales and/or use tax, the revenue loss under the bills would increase by approximately \$3.1 million per year. In total, assuming more than \$5.0 billion investment of which 75% would otherwise be subject to sales and use taxes, the bills would reduce revenue by \$150.0 million if the investment were completed by December 31, 2030.

The relative impact across funds would depend on the portion of revenue loss under the sales tax compared to the use tax. Use tax revenue is split between the General Fund and the School Aid Fund. Use tax revenue at a rate of 2% is deposited into the School Aid Fund, while the General Fund receives any remaining use tax after the local community stabilization share is subtracted to fund personal property tax reimbursements to local units of government. Approximately 73.3% of sales tax revenue is directed to the School Aid Fund, 10% is directed to constitutional revenue sharing, and the remainder goes to the General Fund. Under the bills, only the General Fund portion of any use tax would be affected; from the sales tax provisions, 60% of the reduction would lower School Aid Fund revenue, 15% would reduce constitutional revenue sharing to local units, and the remainder would reduce General Fund revenue.

Date Completed: 12-3-15

Fiscal Analyst: David Zin

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.