Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bills 616 and 617 (as introduced 11-10-15)
Sponsor: Senator Tonya Schuitmaker (S.B. 616)
Senator Peter MacGregor (S.B. 617)
Committee: Michigan Competitiveness

Date Completed: 12-1-15

CONTENT

Senate Bills 616 and 617 would amend the General Sales Tax Act and the Use Tax Act, respectively, to provide tax exemptions for transactions involving the sale of data center equipment to a data center or a colocated business.

Specifically, Senate Bill 616 would exempt from the sales tax a sale of data center equipment to the owner or operator of a data center or a colocated business for use or consumption in the operations of the data center. Under Senate Bill 617, the use tax would not apply to the storage, use, or consumption of data center equipment sold to a data center or a colocated business for use or consumption in the operations of the data center.

Under each bill, the property would be exempt only to the extent that it was used for the exempt purposes stated in the bill. The exemption would be limited to the percentage of exempt use to total use determined by a reasonable formula or method approved by the Department of Treasury.

The bills propose the same definitions of "data center", "colocated business", and "data center equipment".

"Data center" would mean one or more buildings located in this State owned or operated by an entity whose primary business is owning, operating, managing, or maintaining a group of networked computers for the purpose of centralizing the storage, processing, management, or dissemination of data, including any modular or preassembled components, associated telecommunications and storage systems, and, if a data center included more than one building or physical location, any network or connection between those buildings or locations, and the personal property used to operate, maintain, or manage the facility and its business.

"Colocated business" would mean a person that has entered into a contract with the owner or operator of a data center to use or deploy data center equipment in this State for a period of two or more years.

"Data center equipment" would mean any material used in or in support of a data center, including computers, servers, construction materials, infrastructure, machinery, wiring, cabling, devices, tools, vehicles, technology, software, hardware, equipment that would otherwise be considered a fixture, or related equipment.

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

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bills would reduce General Fund and School Aid 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 $11.4 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 331 firms with employees are expected to qualify. 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.

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 $4.6 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 $225.0 million.

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.

Fiscal Analyst: David Zin