

Chapter 378

H.B. No. 4038

AN ACT

1
2 relating to the definition of "qualifying job" for purposes of
3 certification by the comptroller of public accounts as a qualifying
4 data center.

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

6 SECTION 1. Section 151.359(a)(5), Tax Code, is amended to
7 read as follows:

8 (5) "Qualifying job" means a full-time, permanent job
9 that pays at least 120 percent of the county average weekly wage in
10 the county in which the job is based. The term includes a new
11 employment position staffed by a third-party employer if a written
12 contract exists between the third-party employer and a qualifying
13 owner, qualifying operator, or qualifying occupant that provides
14 that the employment position is permanently assigned to an
15 associated qualifying data center.

16 SECTION 2. The change in law made by this Act applies to a
17 data center certified as a qualifying data center by the
18 comptroller of public accounts, regardless of whether the
19 certification occurred before, on, or after the effective date of
20 this Act.

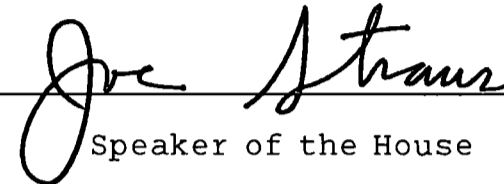
21 SECTION 3. This Act takes effect immediately if it receives
22 a vote of two-thirds of all the members elected to each house, as
23 provided by Section 39, Article III, Texas Constitution. If this
24 Act does not receive the vote necessary for immediate effect, this

H.B. No. 4038

1 Act takes effect September 1, 2017.

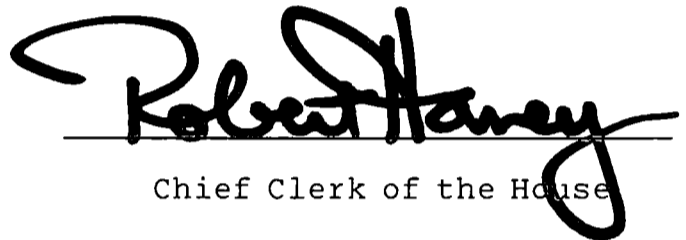


President of the Senate



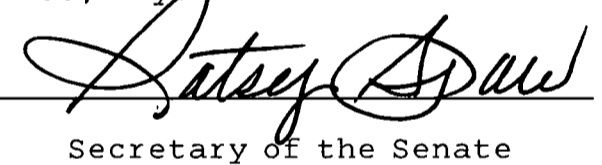
Speaker of the House

I certify that H.B. No. 4038 was passed by the House on April 20, 2017, by the following vote: Yeas 144, Nays 0, 2 present, not voting.



Chief Clerk of the House

I certify that H.B. No. 4038 was passed by the Senate on May 19, 2017, by the following vote: Yeas 30, Nays 1.



Secretary of the Senate


APPROVED: 5-31-2017

Date



Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
11:00 AM O'CLOCK

JUN 01 2017


Secretary of State

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 12, 2017

TO: Honorable Jane Nelson, Chair, Senate Committee on Finance

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB4038 by Bohac (Relating to the definition of "qualifying job" for purposes of certification by the comptroller of public accounts as a qualifying data center.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend Section 151.359 of the Tax Code, regarding sales and use taxation of property used by certain qualifying data centers.

The definition of "qualifying job" in Subsection (a)(5) of Section 151.359 would be amended to include a new employment position staffed by a third-party employer if a written contract exists between the employer and a qualifying owner, operator, or occupant that provides that the employment position is permanently assigned to the qualifying data center.

The amended definition would apply regardless of when a data center was certified as qualifying, including with respect to jobs at data centers certified as qualifying before the effective date of the bill.

Section 151.359 provides that data centers that meet specified criteria qualify for exemption from sales tax on most tangible personal property and taxable services. One of the criteria for qualification is creation of at least 20 qualifying jobs in the county in which the data center is located. This bill provides that the employer for a qualifying job may be a third-party employer, but does not otherwise alter the definition of qualifying job or the number of such jobs that must be created. This change in employer status for a qualifying job is not expected to materially affect the probability that data centers will be established that qualify for sales tax exemption under the section; accordingly, the bill would not be expected to have any significant fiscal implications.

This bill would take effect immediately upon enactment, assuming it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2017.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: UP, LBO, SD, KK

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 7, 2017

TO: Honorable Gary Elkins, Chair, House Committee on Government Transparency & Operation

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB4038 by Bohac (Relating to the definition of "qualifying job" for purposes of certification by the comptroller of public accounts as a qualifying data center.), **As Introduced**

<p>No significant fiscal implication to the State is anticipated.</p>
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The definition of "qualifying job" in Subsection (a)(5) of Section 151.359 would be amended to include a new employment position staffed by a third-party employer if a written contract exists between the employer and a qualifying owner, operator, or occupant that provides that the employment position is permanently assigned to the qualifying data center.

The amended definition would apply regardless of when a data center was certified as qualifying, including with respect to jobs at data centers certified as qualifying before the effective date of the bill.

Section 151.359 provides that data centers that meet specified criteria qualify for exemption from sales tax on most tangible personal property and taxable services. One of the criteria for qualification is creation of at least 20 qualifying jobs in the county in which the data center is located. This bill provides that the employer for a qualifying job may be a third-party employer, but does not otherwise alter the definition of qualifying job or the number of such jobs that must be created. This change in employer status for a qualifying job is not expected to materially affect the probability that data centers will be established that qualify for sales tax exemption under the section; accordingly, the bill would not be expected to have any significant fiscal implications.

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