

HB 497 -- TAX INCENTIVES FOR DATA STORAGE CENTERS

SPONSOR: Austin

This bill allows a county or any municipality to carry out technology business facility projects for economic development; accept grants from the federal and state governments for technology business facility project purposes and may enter into an agreement that is not contrary to the laws of this state and which may be required as a condition of a grant by the federal government or its agencies; and receive gifts and donations from private sources to be used for technology business facility project purposes.

The governing body of the municipality may enter into loan agreements or sell, lease, or mortgage to private persons, partnerships, or corporations any one or more of the components of a facility of the municipality for the development of a technology business facility project. If, in the judgment of the governing body of the municipality, the project will result in economic benefits to the municipality, the governing body may lawfully enter into an agreement that includes nominal monetary consideration to the municipality in exchange for the use of one or more components of the facility.

Transactions involving the lease or rental of any components of a project under these provisions must be specifically exempted from specified state and local sales taxes, and any leasehold interests held or granted must not be subject to property taxes. Any payments in lieu of taxes expected to be made by any lessee of the project must be applied as specified in the bill. The lessee may reimburse the municipality for its actual costs of administering the plan. All amounts paid in excess of the actual costs must be disbursed to each affected taxing entity in proportion to the current ad valorem tax levy of each affected taxing entity.

The county assessor must include the current assessed value of all property within the affected taxing entities in the aggregate valuation of assessed property entered upon the assessor's book and the value must be used for the purpose of the debt limitation on local government under the Missouri Constitution.

The governing body of any municipality may sell or otherwise dispose of the property or buildings acquired under these provisions to private persons or corporations for technology business facility project purposed upon approval by the governing body. Any private person or corporation that initially transfers property to the municipality at no cost for purposes of a technology business facility project must retain the right, upon request to the municipality, to have the municipality retransfer

the donated property back at no cost.

These provisions must not be construed to allow a political subdivision to provide telecommunications services or telecommunications facilities to the extent that they are prohibited under Section 392.410, RSMo.

Beginning August 28, 2015, the bill authorizes a state and local sales and use tax exemption on items related to a new data storage center, limited to the net fiscal benefit of the state calculated over a 10-year period on:

- (1) All electrical energy, gas, water, and other utilities including telecommunications and Internet services used in a new data storage center;
- (2) All machinery, equipment, and computers used in any new center; and
- (3) All retail sales of tangible personal property and materials for the purposes of constructing a new data storage center.

Any new data storage center facility project seeking a tax exemption must submit a notice of intent and a project plan to the Department of Economic Development that identifies each known constructing and operating taxpayer for the project and any additional information that the department may require. The department must determine whether the project is eligible for exemption by verifying that a new facility will invest at least \$25 million within 36 consecutive months and results in the creation of at least 10 new jobs during a period of up to 36 consecutive months from the date of conditional approval if the average wage of the new jobs equals or exceeds 150% of the county average wage. Upon approval by the department, project taxpayers for expanding data center projects may, beginning August 28, 2015, and for a period of up to 10 years, be exempted from state and local sales and use taxes exemption on:

- (1) All electrical energy, gas, water, and other utilities including telecommunication and Internet services which, on an annual basis, exceed the amount used in the existing or the replaced facility prior to the expansion;
- (2) All machinery, equipment, and computers used in any expanding center, the cost of which, on an annual basis, exceeds the average of the previous three years' expenditures at the existing facility or the replaced facility prior to the expansion. Existing facilities or replaced facilities in existence for less than three years must have the average expenditures based upon the applicable

time of existence; and

(3) All retail sales of tangible personal property and materials for the purpose of constructing, repairing, or remodeling an expanding data storage center.

The amount of any exemption must not exceed the projected net fiscal benefit to the state over a period of 10 years as determined by the department using specified data.

Any expanding data storage center wishing to utilize these exemptions must submit a notice of intent and a project plan to the department that identifies each known constructing and operating taxpayer and any additional information that the department may reasonably require to determine eligibility for the exemption. The department must determine whether the project is eligible for exemption by verifying that an expanding facility will invest at least \$5 million within 12 consecutive months and results in the creation of at least five new jobs within 24 consecutive months if the average wage of the new jobs equals or exceeds 150% of the county average wage.

The departments of Economic Development and Revenue must conduct random audits to ensure that the intent of these provisions is followed. A recipient of an exemption cannot be eligible for benefits under any business recruitment tax credit under Section 135.800, RSMo.