SENATE BILL No. 359

DIGEST OF SB 359 (Updated February 17, 2015 2:16 pm - DI 120)

Citations Affected: IC 6-2.5.

Synopsis: Sales tax exemption for data warehouse equipment. Provides a state sales tax exemption for the sale or lease of certain enterprise information technology equipment. Requires that the investment in the equipment must be at least $100,000,000. Specifies that the investment must be in a high technology district area established by a municipality or county fiscal body. Requires that the application for exemption must be reviewed by the Indiana economic development corporation (IEDC). Provides that the IEDC may approve or deny an application by an eligible business for a sales tax exemption, or the IEDC may approve the application, but reduce the allowable exemption amount. Limits applicability of the sales tax exemption to two years beginning after June 30, 2015, and before July 1, 2017. Provides that the IEDC may only approve four applications for the sales tax exemption during the two year period. Limits an applicant to one sales tax exemption.

Effective: July 1, 2015.

Messmer, Charbonneau, Broden,
Randolph

January 8, 2015, read first time and referred to Committee on Tax & Fiscal Policy.
February 19, 2015, amended, reported favorably — Do Pass.

SENATE BILL No. 359

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1   SECTION 1. IC 6-2.5-5-47 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2015]: **Sec. 47. (a) As used in this section, "eligible business"**
4 **means an entity that meets all the following requirements:**
5   **(1) The entity is engaged in a business that:**
6   **(A) operates; or**
7   **(B) leases;**
8   **enterprise information technology equipment for use in a data**
9   **center that is dedicated to computing, networking, or data**
10   **storage activities.**
11   **(2) The entity's enterprise information technology equipment**
12   **is located in a high technology district area designated under**
13   **IC 6-1.1-10-44, and the designating body has entered into an**
14   **agreement under IC 6-1.1-10-44(i) with the entity.**
15   **(3) The entity, the lessor of enterprise information technology**
16   **equipment (if the entity is a lessee), and all other lessees of**

1   **enterprise information technology equipment propose to**
2   **invest in the aggregate at least one hundred million dollars**
3   **($100,000,000) in enterprise information technology**
4   **equipment that will be located at one (1) or more data centers**
5   **that are located in Indiana.**
6   **(b) As used in this section, "enterprise information technology**
7 **equipment" means any of the following:**
8   **(1) Hardware that supports computing, networking, or data**
9   **storage functions, including servers and routers.**
10   **(2) Networking systems that have an industry designation as**
11   **equipment within the "enterprise" or "data center" class of**
12   **networking systems that support the computing, networking,**
13   **or data storage functions.**
14   **(3) Generators and other equipment that are used to ensure**
15   **an uninterrupted power supply to equipment described in**
16   **subdivision (1) or (2).**
17   **(4) Other eligible equipment as determined by the Indiana**
18   **economic development corporation.**
19 **The term does not include computer hardware designed for single**
20 **user, workstation, or departmental level use.**
21   **(c) As used in this section, "exemption amount" means the**
22 **amount of an exemption from state gross retail tax that is approved**
23 **by the Indiana economic development corporation under**
24 **subsection (d).**
25   **(d) An entity that proposes to purchase or lease enterprise**
26 **information technology equipment and desires to be an eligible**
27 **business under this section must file with the Indiana economic**
28 **development corporation an application for exemption from the**
29 **state gross retail tax under this section. Upon receipt of an**
30 **application under this subsection, the Indiana economic**
31 **development corporation:**
32   **(1) shall review the application to determine if the applicant**
33   **otherwise qualifies as an eligible business under this section;**
34   **and**
35   **(2) may:**
36   **(A) approve the application for exemption;**
37   **(B) approve the application for exemption, but reduce the**
38   **exemption amount allowable for the transaction; or**
39   **(C) deny the application for exemption.**
40 **The Indiana economic development corporation shall notify the**
41 **applicant of its determination. In addition, if the Indiana economic**
42 **development corporation approves the application for exemption**

1   **under this section, it shall provide its determination to the**
2   **department with certification of the exemption amount.**
3   **(e) A transaction involving enterprise information technology**
4   **equipment is exempt from the state gross retail tax to the extent**
5   **approved by the Indiana economic development corporation if the**
6   **department has received, before the date of the transaction:**
7   **(1) a determination of the Indiana economic development**
8   **corporation under subsection (d) that:**
9   **(A) the transaction is by an eligible business; and**
10   **(B) the application for exemption is approved; and**
11   **(2) a certification of the exemption amount for the transaction**
12   **by the Indiana economic development corporation under**
13   **subsection (d).**
14   **(f) The following limitations apply to approval by the Indiana**
15   **economic development corporation of an application for exemption**
16   **from the state gross retail tax under this section:**
17   **(1) Not more than four (4) applications may be approved by**
18   **the Indiana economic development corporation.**
19   **(2) The Indiana economic development corporation may not**
20   **approve an applicant for more than one (1) proposed**
21   **transaction.**
22   **(g) The exemption from the state gross retail tax provided by**
23   **this section may be obtained by issuing the eligible business a**
24   **specific transaction exemption certificate or by the eligible business**
25   **applying for a refund after paying the state gross retail tax on the**
26   **transaction.**
27   **(h) This section applies to transactions that occur after June 30,**
28   **2015, and before July 1, 2017.**

COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 359, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 1, after "equipment" insert "**propose to**".

Page 2, line 4, after "centers" delete "." and insert "**that are located in Indiana.**".

Page 2, between lines 15 and 16, begin a new line block indented and insert:

"**(4) Other eligible equipment as determined by the Indiana economic development corporation.**".

Page 2, delete lines 18 through 31, begin a new paragraph and insert:

"**(c) As used in this section, "exemption amount" means the amount of an exemption from state gross retail tax that is approved by the Indiana economic development corporation under subsection (d).**

(d) An entity that proposes to purchase or lease enterprise information technology equipment and desires to be an eligible business under this section must file with the Indiana economic development corporation an application for exemption from the state gross retail tax under this section. Upon receipt of an application under this subsection, the Indiana economic development corporation:

(1) shall review the application to determine if the applicant otherwise qualifies as an eligible business under this section; and

(2) may:

(A) approve the application for exemption;

(B) approve the application for exemption, but reduce the exemption amount allowable for the transaction; or

(C) deny the application for exemption.

The Indiana economic development corporation shall notify the applicant of its determination. In addition, if the Indiana economic development corporation approves the application for exemption under this section, it shall provide its determination to the department with certification of the exemption amount.

(e) A transaction involving enterprise information technology equipment is exempt from the state gross retail tax to the extent approved by the Indiana economic development corporation if the department has received, before the date of the transaction:

SB 359—LS 6493/DI 120

(1) a determination of the Indiana economic development corporation under subsection (d) that:

(A) the transaction is by an eligible business; and

(B) the application for exemption is approved; and

(2) a certification of the exemption amount for the transaction by the Indiana economic development corporation under subsection (d).

(f) The following limitations apply to approval by the Indiana economic development corporation of an application for exemption from the state gross retail tax under this section:

(1) Not more than four (4) applications may be approved by the Indiana economic development corporation.

(2) The Indiana economic development corporation may not approve an applicant for more than one (1) proposed transaction.".

Page 2, line 32, delete "(e)" and insert "**(g)**".

Page 2, line 37, delete "(f)" and insert "**(h)**".

Page 2, line 38, delete "2020." and insert "**2017.**".

and when so amended that said bill do pass.

(Reference is to SB 359 as introduced.)

HERSHMAN, Chairperson

Committee Vote: Yeas 8, Nays 1.