

House Bill 563

By: Representatives Jones of the 25th, Pruitt of the 149th, and Gullett of the 19th

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 1 of Article 1 of Chapter 8 of Title 48, relating to general provisions for sales
2 and use taxes, so as to provide for a sales tax exemption for certain high-technology data
3 centers; to provide for conditions and limitations; to provide for definitions; to provide for
4 an automatic repeal; to provide for related matters; to repeal conflicting laws; and for other
5 purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Part 1 of Article 1 of Chapter 8 of Title 48, relating to general provisions for sales and use
9 tax is amended in Code Section 48-8-3, relating to exemptions, by adding a new
10 subparagraph to paragraph (68.1) and by adding a new paragraph, to read as follows:

11 "(I) Any person that participated or is participating in the exemption allowed by this
12 paragraph shall not be eligible to participate in the exemption allowed by paragraph
13 (68.2) of this Code section."

14 "(68.2)(A) For the period commencing on July 1, 2021, and ending on December 31,
15 2031, high-technology data center equipment to be incorporated or used in a

16 high-technology data center that meets the high-technology data center minimum
17 investment threshold and other conditions provided in this paragraph.

18 (B) Any person making a sale or lease of high-technology data center equipment shall
19 collect the tax imposed on such sale by this article unless the purchaser furnishes such
20 seller with a certificate issued by the commissioner certifying that such sale or lease is
21 exempted pursuant to this paragraph.

22 (C)(i) The commissioner shall not issue a certificate of exemption from sales and use
23 tax to a high-technology data center or high-technology data center customer as
24 provided in this paragraph unless the commissioner makes a determination that the
25 high-technology data center will more likely than not meet the high-technology data
26 center minimum investment threshold.

27 (ii) The commissioner may require any information necessary to determine if such
28 high-technology data center is in compliance with its investment budgeting plan to
29 meet the high-technology data center minimum investment threshold.

30 (iii)(I) Within 60 days after the end of the third year following its exemption start
31 date, a high-technology data center shall file a final report with the commissioner
32 listing the expenditures incurred that count toward its minimum investment
33 threshold, the number of new quality jobs created, and any other information that
34 the commissioner may reasonably require to determine whether the high-technology
35 data center has met the minimum investment threshold.

36 (II) If the commissioner determines that a high-technology data center failed to
37 meet its high-technology data center minimum investment threshold, such
38 high-technology data center shall be required to repay all taxes exempted or
39 refunded pursuant to its certificate of exemption issued pursuant to this paragraph
40 within 90 days after notification of such failure. Interest shall be due with such
41 repayment at the rate specified in Code Section 48-2-40 computed from the date
42 such taxes would have been due but for this exemption. Such repayment shall be

43 calculated notwithstanding otherwise applicable periods of limitation for assessment
44 of taxes under Code Section 48-2-49.

45 (iv)(I) As a condition precedent to the issuance of a certificate of exemption, the
46 commissioner, at his or her discretion, may require a good and valid bond with a
47 surety company authorized to do business in this state, in an amount fixed by the
48 commissioner not to exceed \$20 million. The commissioner shall consider past
49 performance and in-state investment when determining the value of the bond, if one
50 is required.

51 (II) The bond that may be required by this division shall be forfeited and paid to the
52 general fund in an amount representing all taxes and interest required to be repaid
53 pursuant to division (iii) of this subparagraph if the high-technology data center fails
54 to meet the high-technology data center minimum investment threshold prior to the
55 expiration of the three-year period.

56 (v) The commissioner shall have the authority to revoke the certificate of exemption
57 at any time he or she believes that the high-technology data center is not likely to
58 meet its high-technology minimum investment threshold.

59 (vi) Each high-technology data center that has been issued a certificate of exemption
60 pursuant to this paragraph shall provide a list of high-technology data center
61 customers that are deploying high-technology data center equipment in its facility and
62 shall notify the commissioner within 30 days of any change to the list.

63 (D)(i) The commissioner shall require annual reporting by the high-technology data
64 center of the amount of taxes exempted under this paragraph, the number of new
65 quality jobs, and the total payroll resulting from construction, maintenance, and
66 operation in and on its facility during the preceding year.

67 (ii) The commissioner shall issue an annual report to the chairperson of the Senate
68 Finance Committee and the chairperson of the House Committee on Ways and Means
69 concerning the exemption allowed by this paragraph. Notwithstanding the

70 confidentiality provisions of Code Section 48-2-15, such report shall include, for the
71 prior calendar year for each high-technology data center issued a certificate of
72 exemption pursuant to this paragraph, the amount of tax exempted and the number of
73 new quality jobs created by each high-technology data center.

74 (E) The commissioner shall promulgate such rules and regulations as are necessary to
75 implement the provisions of this paragraph.

76 (F) A high-technology data center shall not be entitled to claim the exemption allowed
77 by paragraph (68.1) of this Code section, or any credit authorized under Code Sections
78 48-7-40 through 48-7-40.33 or Code Section 36-62-5.1 on its tax return if it has
79 received a certificate of exemption from the commissioner pursuant to this paragraph.
80 If a determination is made by the commissioner pursuant to division (iii) of
81 subparagraph (C) of this paragraph that the high-technology data center must repay all
82 taxes exempted or refunded pursuant to this paragraph, such high-technology data
83 center may file amended income tax returns claiming any credit to which it would have
84 been entitled under the foregoing Code sections but for having claimed the exemption
85 under this paragraph.

86 (G) As used in this paragraph, the term:

87 (i) 'Exemption start date' means the date on or after July 1, 2021, chosen by the
88 high-technology data center and indicated on its filed application, which begins the
89 three-year period during which the minimum investment threshold must be met.

90 (ii) 'High-technology data center' means a facility, campus of facilities, or array of
91 interconnected facilities in this state that is developed to power, cool, secure, and
92 connect its own equipment or the computer equipment of high-technology data center
93 customers and that has an investment budget plan which meets the high-technology
94 data center minimum investment threshold.

95 (iii) 'High-technology data center customer' means a client, tenant, licensee, or end
96 user of a high-technology data center that signs at least a 36 month contract for
97 service with the high-technology data center.

98 (iv) 'High-technology data center equipment' means computer equipment as defined
99 in paragraph (68) of this Code section of a high-technology data center or such
100 equipment of a high-technology data center customer to be used or deployed in the
101 high-technology data center; and the materials, components, machinery, hardware,
102 software, or equipment, including, but not limited to, emergency backup generators,
103 air handling units, cooling towers, energy storage or energy efficiency technology,
104 switches, power distribution units, switching gear, peripheral computer devices,
105 routers, batteries, wiring, cabling, or conduit, which equipment or materials are used
106 to:

107 (I) Create, manage, facilitate, or maintain the physical and digital environments for
108 computer equipment;

109 (II) Protect the high-technology data center equipment from physical,
110 environmental, or digital threats; or

111 (III) Generate or provide constant delivery of power, environmental conditioning,
112 air cooling, or telecommunications services for the high-technology data center.

113 Such term shall not include real property as defined in Code Section 48-8-3.2. A
114 high-technology data center may not count high-technology data center equipment
115 that it purchases or that is purchased by the high-technology data center customer and
116 subsequently leased to another party more than once for purposes of satisfying the
117 high-technology data center minimum investment threshold.

118 (v) 'High-technology data center minimum investment threshold' means the creation
119 of 20 new quality jobs and:

120 (I) For high-technology data centers located in a county in this state having a
121 population greater than 50,000 according to the United States decennial census of

122 2010 or any future such census, \$50 million in aggregate expenditures incurred over
123 any consecutive three-year period between July 1, 2021, and December 31, 2031,
124 on the design and construction of the high-technology data center and
125 high-technology data center equipment to be used or incorporated in the
126 high-technology data center;

127 (II) For high-technology data centers located in a county in this state having a
128 population greater than 30,000 and less than 50,001 according to the United States
129 decennial census of 2010 or any future such census, \$25 million in aggregate
130 expenditures incurred over any consecutive three-year period between July 1, 2021,
131 and December 31, 2031, on the design and construction of the high-technology data
132 center and high-technology data center equipment to be used or incorporated in the
133 high-technology data center; and

134 (III) For high-technology data centers located in a county in this state having a
135 population less than 30,001 according to the United States decennial census of 2010
136 or any future such census, \$10 million in aggregate expenditures incurred over any
137 consecutive three-year period between July 1, 2021, and December 31, 2031, on the
138 design and construction of the high-technology data center and high-technology
139 data center equipment to be used or incorporated in the high-technology data center.

140 (vi) 'New quality jobs' shall have the same meaning as provided in paragraph (2) of
141 subsection (a) of Code Section 48-7-40.17.

142 (H) This paragraph shall stand repealed by operation of law on January 1, 2032.

143 (I) Any person that participated or is participating in the exemption allowed by this
144 paragraph shall not be eligible to participate in the exemption allowed by paragraph
145 (68.1) of this Code section."

146 **SECTION 2.**

147 All laws and parts of laws in conflict with this Act are repealed.