
Wisconsin Legislative Council

AMENDMENT MEMO



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2023 Assembly Bill 302

**Assembly Substitute
Amendment 1**

2023 ASSEMBLY BILL 302

2023 Assembly Bill 302 creates a sales and use tax exemption for equipment or software used at a qualified data center. Under the bill, a “qualified data center” is a building or array of buildings that meets all of the following criteria:

- The buildings are rehabilitated or constructed to house server computers in a physical location.
- The buildings meet certain minimum qualified investments¹ comprised of eligible data center costs² incurred within the state within five years, which varies according to population of the county.³

The bill creates a general exemption from sales and use tax for any equipment and software used by a qualified data center for the processing, storage, retrieval, or communication of data. The bill specifies the equipment that would be included in this exemption in a non-exhaustive list including parts, servers, cables, cooling systems, water conservation systems, security systems, software, and all electricity used at a data center.

Under the bill, the Wisconsin Economic Development Corporation (WEDC) may also determine other tangible or intangible property that is essential to the operation of a data center to be exempt from sales and use tax. Finally, the bill authorizes WEDC to establish a manner for certifying certain data centers as Qualified Data Centers.

ASSEMBLY SUBSTITUTE AMENDMENT 1

Assembly Substitute Amendment 1 makes the following changes to the bill:

- Addresses confidentiality protections for the tax information collected by WEDC. The substitute amendment creates an exception allowing WEDC to look at tax returns for the purpose of tax credit applications from data centers seeking certification. The substitute amendment exempts these tax documents from WEDC’s public records requirements.

¹ Under the bill, a “qualified investment” means “the aggregate, non-duplicative eligible data center costs expended at a qualified data center by an owner, operator, or tenant, or an affiliate of an owner, operator, or tenant, of the qualified data center.”

² The bill specifies that “eligible data center costs” are expenditures made after the effective date of the bill, for the development, acquisition, construction, renovation, expansion, replacement, or repair and the operation of a qualified data center in this state, including costs of equipment or software, as specified under current law, land, buildings, site improvements, modular data centers, computer data center equipment acquisition and permitting, lease payments, site characterization and assessment, engineering, and design used at a qualified data center in this state.

³ If the qualified data center is located in more than one county, the center must meet the minimum qualified investment amount of the most populous county in which the buildings are located.

- Renumbers the listing of property that is tax-exempt within this bill. While reorganized, the list of tax-exempt property remains largely unchanged, with exemptions for parts, servers, cooling systems, security systems, electricity, and water conservation systems still present.
- Removes the tax exemptions for software purchases and the discretionary exemption for other essential property as determined by WEDC.
- Clarifies the definition of “Eligible data center costs” to remove software costs and add real estate and leasing costs as eligible costs.
- Clarifies the certification process for Qualified Data Centers by providing WEDC with the criteria and process it must follow to certify a data center as qualified. Under the substitute amendment, WEDC must include in the certification:
 - A certification that the data center meets the same qualifications outlined, above, for the bill.
 - A description of the geographic location of the Qualified Data Center.
 - An identification of the business entity associated with the data center.
- Directs WEDC to revoke or grant an extension of time for the certification if the data center fails to meet the minimum qualified investment requirement for the county that the center is located in. Upon revocation of the certification, the amounts of the sales and use tax exemption become due to the relevant taxing authorities.

BILL HISTORY

Assembly Substitute Amendment 1 was offered by Representative Zimmerman on June 21, 2023. On the same day, the Assembly adopted Assembly Substitute Amendment 1, and passed the bill, as amended, on subsequent voice votes.

For a full history of the bill, visit the Legislature’s [bill history page](#).

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