

**COMMONWEALTH OF KENTUCKY STATE FISCAL NOTE STATEMENT
LEGISLATIVE RESEARCH COMMISSION
2016 REGULAR SESSION**

MEASURE

2016 BR NUMBER **0355**

HOUSE BILL NUMBER **237/GA**

RESOLUTION NUMBER _____

AMENDMENT NUMBER _____

SUBJECT/TITLE **AN ACT relating to local property tax exemptions for data centers.**

SPONSOR **Representative DeCesare**

NOTE SUMMARY

FISCAL ANALYSIS: IMPACT NO IMPACT INDETERMINABLE IMPACT

LEVEL(S) OF IMPACT: STATE LOCAL FEDERAL

BUDGET UNIT(S) IMPACT: _____

FUND(S) IMPACT: GENERAL ROAD FEDERAL RESTRICTED AGENCY _____ OTHER

FISCAL SUMMARY

FISCAL ESTIMATES	2015-2016	2016-2017	2017-2018	ANNUAL IMPACT AT FULL IMPLEMENTATION
REVENUES				
EXPENDITURES				
NET EFFECT				

() indicates a decrease/negative

MEASURE’S PURPOSE: HB 237/GA seeks to clarify that certain classes of data centers, as defined in the bill, constitute "manufacturing establishments" and therefore may qualify for temporary exemption from local property taxes as an inducement to their location within an applicable local government, as provided by local ordinances adopted pursuant to Kentucky Constitution section 170 and KRS 91.260 or 92.300.

PROVISIONS/MECHANICS: The bill amends KRS 91.260 and 92.300, which are enabling statutes enacted pursuant to section 170 of the Constitution, which allows all cities, urban-counties, and consolidated local governments to exempt manufacturing establishments from city taxation for up to 5 years as an inducement to their location in the given locality, to provide that certain data centers may qualify.

The term "manufacturing establishment" is neither defined nor described in the applicable constitutional or statutory provisions. Various descriptions of what may or may not qualify for this exemption have been issued by state courts over many years. The determinations have largely been based on the specific facts and circumstances of each particular case. The bill also

provides that the amendments apply prospectively only to new manufacturing establishments that locate in a given locality on or after the effective date of the Act.

The bill defines "data center" to mean a structure or portion thereof that is predominantly used to house and continuously operate computer servers and associated telecommunications, electronic data processing or storage, or similar components. To qualify for the exemption, a data center must be established by the owner as having a certain rating under the *TIA-942 Telecommunications Infrastructure Standard for Data Centers*. This is an industry standard used by design engineers to qualify and quantify aspects of infrastructure and functionality. Centers having the ratings required by the bill are among the most highly advanced, and most costly, types of data centers and are therefore relatively rare among all data centers in general.

FISCAL EXPLANATION: HB 237/GA would have no impact on state revenues. The impact it may have on the revenues of a local government is indeterminable. There currently exists no single definition or criteria to determine what constitutes a manufacturing establishment for purposes of the exemptions currently allowed by localities in the Commonwealth, and therefore staff cannot determine if any or all of these localities would approve a data center for this exemption under current law. Several local governments have adopted this exemption, including Danville, Metro Louisville, and Owensboro, however a complete list of localities providing for the manufacturing establishment exemption is not available. To the extent any locality would grant the exemption for a data center under its current ordinance, this legislation would have no impact.

Furthermore, in choosing to allow this exemption a local government may, by ordinance, more narrowly restrict what entities may qualify for this exemption as compared to the enabling statute, and may also impose various terms and conditions on an entity seeking the exemption. This is another factor preventing an estimate of the impact this bill may have on localities across the Commonwealth.

To the extent that a local government approves a data center for this exemption, either under current law or after this legislation takes effect, the revenues that would otherwise have been paid by that entity would be foregone resulting in a negative fiscal impact for the period of exemption.

DATA SOURCE(S): LRC staff

PREPARER: Eric Kennedy **NOTE NUMBER:** 97 **REVIEW:** JRS **DATE:** 2/22/2016