ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO ASSEMBLY BILL 302

June 21, 2023 – Offered by Representative ZIMMERMAN.

1 AN ACT *to renumber and amend* 238.08; *to amend* 71.78 (4) (m) and 71.78 (5);

2 and *to create* 77.54 (70), 238.08 (2) and 238.40 of the statutes; **relating to:** a

3 sales and use tax exemption for data center equipment and materials and

4 information sharing between the Department of Revenue and the Wisconsin

5 Economic Development Corporation.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

6 **SECTION 1.** 71.78 (4) (m) of the statutes is amended to read:

7 71.78 **(4)** (m)   The chief executive officer of the Wisconsin Economic

8 Development Corporation and employees of the corporation to the extent necessary

9 to administer the ~~development zone program~~ tax benefit programs under ~~subch. II~~

10 ~~of~~ ch. 238, including review of tax credit applications, compliance with tax credit

11 certifications, and confirming the amount of tax credits used for purposes of revoking

12 tax credits.

1   SECTION 2. 71.78 (5) of the statutes is amended to read:

2   71.78 **(5)** AGREEMENT WITH DEPARTMENT. Copies of returns and claims specified

3 in sub. (1) and related schedules, exhibits, writings or audit reports shall not be

4 furnished to the persons listed under sub. (4), except persons under sub. (4) (e), (k),

5 (m), (n), (o) and (q) or under an agreement between the department of revenue and

6 another agency of government.

7   SECTION 3. 77.54 (70) of the statutes is created to read:

8   77.54 **(70)** (a) The sales price from the sale of and the storage, use, or other

9 consumption of tangible personal property, regardless of whether the property is

10 affixed to or incorporated into real property, and property under s. 77.52 (1) (c), used

11 exclusively for the development, construction, renovation, expansion, replacement,

12 repair, or operation of a qualified data center, as defined in s. 238.40 (1) (b), including

13 computer server equipment and the chassis for such equipment; networking

14 equipment; switches; racks; fiber-optic cabling, copper cabling, and other cabling,

15 including cabling used to connect one or more qualified data centers; trays; conduit;

16 substations; uninterruptible energy equipment; supplies; fuel piping and storage;

17 duct banks; switches; switchboards; batteries; testing equipment; backup

18 generation equipment; modular data centers and preassembled components;

19 monitoring equipment; and security systems.

20   (b) The sales price from the sales of and the storage, use, or other consumption

21 of tangible personal property or property under s. 77.52 (1) (c) used in the

22 development, construction, renovation, expansion, replacement, or repair of a water

23 cooling or conservation system used exclusively to cool or conserve water for one or

24 more qualified data centers, as defined in s. 238.40 (1) (b), including chillers,

25 mechanical equipment, refrigerant piping, fuel piping and storage, adiabatic and

1   free cooling systems, cooling towers, water softeners, air handling units, indoor

2   direct exchange units, fans, ducting, and filters.

3   (c) The sales price from the sale of and the storage, use, or other consumption

4   of tangible personal property or property under s. 77.52 (1) (c) sold to a construction

5   contractor that, in fulfillment of a real property construction activity, transfers the

6   tangible personal property or property under s. 77.52 (1) (c) to a qualified data center,

7   as defined in s. 238.40 (1) (b), if such tangible personal property or property under

8   s. 77.52 (1) (c) becomes a component of the qualified data center.

9   (d) The sales price from the sale of electricity used at a qualified data center,

10   as defined in s. 238.40 (1) (b).

11   SECTION 4. 238.08 of the statutes is renumbered 238.08 (intro.) and amended

12   to read:

13   **238.08 Records of the corporation.** (intro.) All records of the corporation

14   are open to the public as provided in s. 19.35 (1) except those records relating to

15   ~~pending~~ the following:

16   **(1)** Pending grants, loans, or economic development projects that, in the

17   opinion of the corporation, must remain confidential to protect the competitive

18   nature of the grant, loan, or project.

19   SECTION 5. 238.08 (2) of the statutes is created to read:

20   238.08 **(2)** Confidential tax information received from the department of

21   revenue under s. 71.78.

22   SECTION 6. 238.40 of the statutes is created to read:

23   **238.40 Data centers. (1)** DEFINITIONS. In this section:

24   (a) "Eligible data center costs" means expenditures made after the effective

25   date of this paragraph .... [LRB inserts date], for the development, acquisition,

1   construction, renovation, expansion, replacement, or repair and the operation of a

2   qualified data center in this state, including costs of tangible personal property and

3   property under s. 77.52 (1) (c), as specified in s. 77.54 (70), land, buildings, site

4   improvements, modular data centers, computer data center equipment acquisition

5   and permitting, lease payments, site characterization and assessment, engineering,

6   and design used at a qualified data center in this state.

7   (b)   "Qualified data center" means one or more buildings or an array of

8   connected buildings owned, leased, or operated by the same business entity, as

9   defined in s. 13.62 (5), or its affiliate and for which all of the following apply:

10   1. The buildings are rehabilitated or constructed to house a group of networked

11   server computers in one physical location or multiple locations in order to centralize

12   the processing, storage, management, retrieval, communication, or dissemination of

13   data and information.

14   2. The buildings create a minimum qualified investment in this state of any of

15   the following amounts within 5 years from the date on which the corporation certifies

16   the data center as eligible to claim the exemption under s. 77.54 (70):

17   a. For buildings located in a county having a population greater than 100,000,

18    $150,000,000.

19   b. For buildings located in a county having a population greater than 50,000

20   and not more than 100,000, $100,000,000.

21   c.   For buildings in a county having a population of not more than 50,000,

22    $50,000,000.

23   d. For buildings located in more than one county, the amount provided under

24   subd. 2. a., b., or c. for the most populous county in which the buildings are located.

1   (c) "Qualified investment" means the aggregate, non–duplicative eligible data

2   center costs expended at a qualified data center by an owner, operator, or tenant, or

3   an affiliate of an owner, operator, or tenant, of the qualified data center.

4   **(2)** CERTIFICATION. (a) The corporation shall certify a qualified data center for

5   purposes of the sales and use tax exemption under s. 77.54 (70). The certification

6   shall include a description of the geographic location or locations and buildings of the

7   qualified data center and an identification of the business entity specified in sub. (1)

8   (b). The corporation shall contract with that business entity and shall, upon request,

9   amend the certification and contract to include one or more additional locations and

10   buildings of the qualified data center.

11   (b) If the corporation certifies a qualified data center for purposes of the sales

12   and use tax exemption under s. 77.54 (70) and the data center fails to satisfy sub. (1)

13   (b) 2., the corporation shall revoke the certification. All amounts of the sales and use

14   tax exemption claimed under that certification as of the date of revocation shall

15   become due and payable to each taxing authority against whom the exemption was

16   claimed in the amounts so claimed. The corporation may grant an extension of time

17   within which the qualified data center may avoid revocation by satisfying the

18   applicable qualified investment requirement under sub. (1) (b) 2.

19   SECTION 7. **Effective date.**

20   (1) DATA CENTER EXEMPTION. This act takes effect on the first day of the 3rd

21   month beginning after publication.

22   **(END)**