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SUPPORT: HB905 - Sales and Use Tax Exemption - Qualified Data Center Personal Property - Eligibility

Dear Chair Atterbary and Members of the Committee:

Maryland LCV supports HB905 - Sales and Use Tax Exemption-Qualified Data Center Personal Property - Eligibility, and thanks Delegate Charkoudian for her leadership on this issue.

The exponential expansion of ‘cloud’ storage for both personal and business use has led to a similar growth in the development of remote storage facilities that offers opportunities for new jobs and economic development in abandoned or underutilized industrial areas, shopping malls, and warehouses. In order to attract these businesses, the General Assembly passed legislation to create a personal property tax exemption for computers and other necessary equipment for data centers. While the majority of these facilities are smaller, the trend towards large “hyperscale” warehouses present significant challenges for Maryland as it seeks to attract this new industry while pursuing its goals towards resource sustainability and reducing climate emissions.

In 2023, Aligned Data Centers canceled its proposed project as part of the Quantum Loophole project in Frederick County, citing the decision by the Public Service Commission to deny the exemption for its 168 back-up diesel generators from its Certificates for Public Convenience or Necessity (CPCN) process. Cumulatively, these generators would have produced more than 500MW of energy, carrying a significant air pollution load.¹ This denial was based, at least in part, on a mandate established by the Maryland General Assembly in 2021 to require the Public Service Commission to consider labor conditions as well as climate impact when awarding CPCNs.² While the General Assembly is simultaneously considering proposed legislation that would create an exemption for back-up generators, including heavily polluting diesel systems, for critical infrastructure, which includes data centers, HB905 proposes to balance the administration’s proposal to ease the regulatory review for back-up generators with revisions to the 2020 tax exemption that incentivize projects with stronger labor provisions, take steps to reduce the climate impacts of diesel generators, and power data centers with clean energy where possible. Diesel exhaust emissions include

¹https://www.fredericknewspost.com/news/economy_and_business/aligned-pulls-plug-on-data-center-project-cites-objections-to-states-ruling-on-generators/article_a2f7dbaf-7ead-560b-946f-79cfbe675479.html

² https://mgaleg.maryland.gov/2021RS/chapters_noln/Ch_614_hb0298T.pdf

gasses and fine particulates that can worsen respiratory ailments including asthma, allergies, bronchitis, and lung function, as well as increased risk of heart problems, premature death, and lung cancer.³

The bill changes the tax credit to be offered for companies that:

- 1) **reduce diesel emissions** by providing at least 5% of their back-up power generation from battery storage, rather than from traditional diesel back-up'
- 2) **support grid stability** by providing energy that contribute to the efficient and reliable operation of the electric grid from battery storage;
- 3) **supports state's renewable energy goals** by, to the extent practicable, incorporating on-site solar generation and procuring at least 15% of its energy demand through long-term contracts from off-shore wind businesses when available and equivalent solar renewable energy credits if they are not; and
- 4) **ensure high-quality jobs** by guaranteeing prevailing wage for all contractors and subcontractors hired for construction and maintenance, and hiring registered apprentices to perform at least 12.5% of construction and maintenance work hours.

Proposed sites for new data centers, including the Quantum Loophole project, often offer space for multiple facilities, which would contribute significant pollution to surrounding communities. Many corporations that rely on the 'hyperscale' data storage centers are seeking to reduce emissions and are actively working towards finding alternatives to diesel as back-up power to their facilities, including fuel cells, battery storage, and microgrids.⁴ This bill serves to provide additional incentives to draw corporations to Maryland who are actively participating in meeting Maryland's climate goals by reducing their carbon footprints.

Additionally, by requiring the industries to purchase a portion of their power from off-shore wind or solar facilities, the bill ensures that these high-energy use facilities will be supporting Maryland's goals to reach 14.5% solar energy by 2030, and supports the development of off-shore wind projects to meet the goal of 8.5 gigawatts of energy from those sources.

Equally important to this legislation is requiring consistent labor standards for facilities receiving these tax credits. Members of the organized labor in the construction and electrical industries have embraced the expansion of data centers into Maryland in anticipation of significant work for their members. HB905, however, guarantees that the jobs offered by projects being built in Maryland maintain labor standards equal to those required by negotiated contracts, regardless of whether the workers hired are members of the union.

Maryland LCV strongly urges a favorable report on this important legislation.

³<https://mde.maryland.gov/programs/air/mobilesources/pages/dieselhealthandenvironmentaleffects.aspx#:~:text=Health%20studies%20show%20that%20exposure,premature%20death%2C%20and%20lung%20cancer.>

⁴ <https://www.datacenterdynamics.com/en/opinions/is-it-time-to-replace-diesel-backup-generators/>
<https://digitalinfranetwork.com/data-centres-look-for-alternatives-to-diesel-powered-back-up-power/>