STATE OF NEW YORK

10141--A

IN ASSEMBLY

February 9, 2026

Introduced by M. of A. KELLES, SHRESTHA, GALLAGHER, SHIMSKY, LASHER, SIMON, LEVENBERG, GONZALEZ-ROJAS, ROSENTHAL, LEE, SCHIAVONI, MORENO, MITAYNES, FORREST, GALLAHAN, SEAWRIGHT, RAGA, McMAHON, BURDICK, VALDEZ, DINOWITZ, STECK, BICHOTTE HERMELYN, KASSAY, R. CARROLL, REYES, COLTON, KAY, CASHMAN, HUNTER -- read once and referred to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to imposing a moratorium on data center permit issuance; to amend the public service law, in relation to data center rate impacts; and to amend the public authorities law, in relation to applicability of certain provisions to the Long Island power authority

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Legislative findings. The legislature hereby finds and declares the following:

1. It is the policy of the State of New York to conserve, improve and protect its natural resources and environment and to prevent, abate and control water, land and air pollution, in order to enhance the health, safety and welfare of the people of the state and their overall economic and social well-being.

2. The projected tripling of data centers across the nation in the next five years would result in data centers consuming more electricity than 28 million households.

3. Data center electricity usage in New York has been projected to increase by more than 9,000 MW, which is approximately double the electricity use of all New York households combined.

4. 56 percent of the electricity used to power data centers comes from fossil fuels. Data centers disproportionately use fossil fuels, with an average carbon intensity that is 48 percent higher than the national average.

5. Even when data centers use renewable energy, they often capture new renewable generation development that would otherwise have allowed for

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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the closure or reduced reliance on fossil fuel power plants, thereby resulting in continued use of fossil fuel-based energy generation beyond current expectations.

6. The growth of data centers is inconsistent with New York's climate commitments.

7. A Bloomberg analysis of wholesale electricity prices found that 70 percent of locations with year-on-year price increases were within 50 miles of significant data center activity. Nationally, household electricity rates increased 13 percent in 2025, largely driven by the development of data centers.

8. A tripling of data centers nationwide would require the equivalent water usage of 18.5 million households just for cooling the servers.

9. Data centers convert agricultural and other non-industrial land to industrial usage, removing farmland, woodland, and other resources while driving up land values and property taxes.

10. The computing hardware used to run artificial intelligence (AI), including microchips and processing, memory, and storage components has a lifespan of 2-5 years and is regularly replaced with updated versions. As a result, the current AI boom will be responsible for generating up to 5 million tons of e-waste annually by 2030.

§ 2. The environmental conservation law is amended by adding a new article 31 to read as follows:

ARTICLE 31

MORATORIUM ON DATA CENTER PERMIT ISSUANCE

§ 31-0101. Definitions.

For the purposes of this article, the following terms shall have the following meanings:

1. "Data center" shall mean all buildings, equipment, structures, infrastructure within an existing structure, and other stationary items, such as server racks, that are located on a single site or on contiguous, adjacent, or otherwise connected sites, and that are owned or operated by the same entity or by any entity who controls, is controlled by, or is under common control by such entity, regardless of whether the data center is a single-occupant site or multi-occupant site, that is capable of using twenty megawatts of electricity or more and is designed or intended to be primarily engaged in data processing, data storage, data transport, web hosting, web streaming support, or other services described under code 518210 of the 2022 North American Industry Classification System.

2. "Control" (including the terms "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an entity, whether through the ownership of voting securities, by contract, or otherwise.

3. "Electric corporation" shall have the same meaning given to such term in subdivision thirteen of section two of the public service law.

4. "Gas corporation" shall have the same meaning given to such term in subdivision eleven of section two of the public service law.

5. "Water-works corporation" shall have the same meaning given to such term in subdivision twenty-seven of section two of the public service law.

6. "Disadvantaged communities" shall have the same meaning given to such term in section 75-0101 of this chapter.

§ 31-0103. Moratorium on data center permit issuance.

No permit, certificate, license, or other form of approval may be issued by the state or any governmental agency or political subdivision or public benefit corporation of the state, for the siting, construction, or commencement of operation of a data center prior to ninety days after the department shall have issued regulations pursuant to section 31-0107 of this article and the public service commission shall have taken all actions required pursuant to section sixty-six-x of the public service law. This section shall not apply to the modification, renewal, reissuance, or recertification of any previously issued permit, certificate, license, or other form of approval.

§ 31-0105. Environmental impact report.

1. The department, after consulting with the department of public service, department of health, and the federally designated bulk system operator, shall prepare an environmental impact report on data center development in this state.

2. The environmental impact report shall consist of a study of, and recommended regulatory and/or legislative action relating to, matters including, but not limited to:

a. The number, size in acreage, current and maximum GW capacity, and location of current data centers in the state, active proposals for new data centers, and projections for future growth of data centers.

b. Electricity consumption by data centers, including:

i. the amount of electricity used by data centers within the state;

ii. identification of the generation sources for such electricity, including the share that comes from fossil fuel generation, nuclear generation, renewable energy systems as defined in paragraph (b) of subdivision one of section sixty-six-p of the public service law, and generation imported from outside of the state;

iii. the impact of data center development on monthly electricity and gas rates for residential consumers, commercial consumers, and industrial consumers, broken down by rate class and type, as well as projections for the changes to these amounts for both the proposed and projected growth of data centers in the state;

iv. the impact of data center development on the bulk system operator interconnection queue;

v. the impact of data center development on transmission development, transmission constraints, and other issues relating to grid reliability throughout all load zones identified by the bulk system operator; and

vi. how data center development has impacted capital planning, spending and maintenance needs for electric corporations and gas corporations, municipal electric utilities, and any power authorities established under article five of the public authorities law.

c. Water consumption and discharge by data centers, including:

i. the amount of water used by data centers for cooling, including the sources of such water;

ii. the daily rate of consumption of water from such sources;

iii. the amount of water discharged from data centers back into the state's water resources;

iv. the amount of water consumed by cooling systems, lost to evaporation, or in anyway not returned to the waters of the state;

v. projections for the changes to these amounts for both the proposed and projected growth of data centers in the state;

vi. the impact of data center development on capital planning, spending, and maintenance needs of water-works corporations and of any water authorities, water boards, or sewer authorities established under article five of the public authorities law; and

vii. the impact of data center development on monthly water rates for residential consumers, commercial consumers, and industrial consumers, broken down by rate class and type, as well as projections for the changes to these amounts for both the proposed and projected growth of data centers in the state.

d. Land use for data centers, including:

i. the total acreage used for existing data centers;

ii. the types and amount of land that have been rezoned from other zoning categories for use by data centers;

iii. the impact on land values and property taxes within a ten-mile radius of a data center;

iv. projections for the changes to these amounts for both the proposed and projected growth of data centers in the state; and

v. impacts on farmland, including an analysis of impacts on prime farmland mineral soil types 1-4.

e. Pollution from data centers, including, but not limited to:

i. the amount of greenhouse gases emitted by each existing data center and the cumulative total for the state emitted by existing, proposed, and projected data centers, expressed in metric tons of carbon dioxide equivalent, as defined in section 75-0101 of this chapter;

ii. the types and quantity of air pollutants emitted by each data center and the cumulative total for the state emitted by existing, proposed, and projected data centers;

iii. the types and quantity of water pollution produced by each data center, including thermal pollution from water discharges, and the cumulative total for the state produced by existing, proposed, and projected data centers; and

iv. the level of noise pollution produced by each data center, with projections for proposed and projected data centers, at regular intervals beginning at the property line of the data center and extending half a mile.

f. Electronic waste from data centers, including:

i. the current volume of electronic waste produced by data centers, by waste type;

ii. the current methods being used to dispose of or recycle electronic waste produced by data centers; and

iii. projections for the changes to these amounts for both the proposed and projected growth of data centers in the state.

g. the impacts, including health impacts and air, water, and noise pollution impacts, of current, proposed, and projected data centers on disadvantaged communities and federally or state recognized indigenous nations located within a ten-mile radius of such data centers.

h. A review of current statutes and regulations addressing the environmental impact of data centers.

3. Projections of future data center growth within the state may be based solely on data available as of the date on which this section shall take effect, and the department may choose to account for ongoing changes and uncertainty in growth projections.

4. A draft environmental impact report shall be posted on the department's website and be subject to at least one hundred twenty days of public comment from the date of issuance. The department shall conduct at least one in-person public hearing in each of the following regions

of the state: western New York, the Finger Lakes, the southern tier, central New York, the Mohawk valley, the north country, the capital region/Hudson valley, the city of New York, and Long Island, as defined by the empire state development corporation, and provide meaningful opportunity for comment at such hearings.

5. The department shall issue a final environmental impact report pursuant to this section no sooner than eighteen months after this section shall have become a law.

§ 31-0107. Promulgation of regulations.

After the completion of the environmental impact report pursuant to section 31-0105 of this article, and in any event, no sooner than three years after the effective date of this section, the department, in consultation with the department of public service and the department of health, shall promulgate final new or updated regulations to mitigate the environmental impacts of data centers identified by the environmental impact report. Such regulations shall be additional to existing requirements pursuant to this chapter and rules and regulations promulgated pursuant thereto, including but not limited to standards and permitting requirements under articles seventeen and nineteen of this chapter. Such regulations shall be designed, to the greatest possible extent, to:

1. Minimize energy consumption;

2. Minimize emission of greenhouse gases and production of other air, water, and soil pollution;

3. Minimize noise pollution;

4. Minimize water consumption;

5. Avoid burdens on disadvantaged communities; and

6. Require a minimum amount of electricity usage to be provided by on- and off-site renewable energy systems, as defined in paragraph (b) of subdivision one of section sixty-p of the public service law, and energy storage.

§ 3. The public service law is amended by adding a new section 66-x to read as follows:

§ 66-x. Data center rate impacts. 1. (a) No later than eighteen months after this section shall have become a law, the commission shall issue a final report on data centers, as defined in section 31-0101 of the environmental conservation law, including:

(i) the impact of data centers on electricity and gas rates for residential, commercial, and industrial users;

(ii) how data center operators can minimize the impact of data centers on electricity and gas rates for residential, commercial, and industrial users without additional government spending;

(iii) a review of current statutes and regulations designed to minimize the impact of data centers on electricity and gas rates for residential, commercial, and industrial users; and

(iv) an evaluation of actions the commission can take to minimize the impact of data centers on electricity and gas rates for residential, commercial, and industrial users, including, but not limited to, the creation of a new customer classification for data centers.

(b) A draft report shall be issued prior to the completion of the final report, with such draft report subject to at least one hundred twenty days of public comment from the date of issuance. The final report shall take into consideration feedback submitted during the public comment period.

2. No sooner than three years after the enactment of this section, the commission shall issue any additional orders necessary to minimize, to

the greatest possible extent, the impact of data centers, as defined in section 31-0101 of the environmental conservation law, on electricity and gas rates for residential, commercial, and industrial users, and to ensure that all costs associated with providing and maintaining electric and gas service to data centers, including, but not limited to, requirements for any new electricity generation, transmission, and distribution infrastructure, costs associated with increases in electricity wholesale supply and capacity market prices, peak and non-peak demand impacts on generation sources and generation capacity needs, and increases in natural gas and oil commodity prices, shall be borne by such data center. In developing such new order or orders, the commission shall be informed by the environmental impact report issued pursuant to section 31-0105 of the environmental conservation law as well as the report issued pursuant to subdivision one of this section.

§ 4. The public authorities law is amended by adding a new section 1014-a to read as follows:

§ 1014-a. Section sixty-six-x of the public service law applicable to the authority and its subsidiaries. Notwithstanding any provision of section one thousand fourteen of this title or any other provision of law to the contrary, section sixty-six-x of the public service law shall apply to the authority and all its subsidiaries.

§ 5. Section 1020-s of the public authorities law, as amended by chapter 388 of the laws of 2011, is amended by adding a new subdivision 4 to read as follows:

4. Notwithstanding any provision of this section, section one thousand twenty-zz of this title or any other provision of law to the contrary, section sixty-six-x of the public service law applies to the authority and all its subsidiaries.

§ 6. This act shall take effect on the thirtieth day after it shall have become a law, and shall apply to all permits pending or filed after such effective date.