

STATE OF NEW YORK

9086

2025-2026 Regular Sessions

IN ASSEMBLY

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Introduced by M. of A. KELLES -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public service law, the public authorities law and the energy law, in relation to regulation of energy consumption by data centers

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "New York state sustainable data centers act".

3 § 2. Legislative intent and findings. The legislature finds that data
4 centers are significant energy and water consumers and contribute to air
5 and water pollution. The expansion and operation of data centers across
6 the state impairs New York state's ability to achieve the benchmarks set
7 out in the state's climate goals due to their significant use of energy
8 and water and significant emissions of greenhouse gases generated
9 through the power needs of their operation. Given the growing demand for
10 the construction of data centers, there is a critical need to improve
11 the energy efficiency of data centers and reduce their energy consump-
12 tion, water consumption, and reliance on fossil fuels. Additionally,
13 where renewable energy is used to power data centers, this act will
14 ensure that such energy is being used responsibly, with the interests
15 and health of the public in mind, especially concerning power purchase
16 agreements between utility companies and data center operators as they
17 may not directly reduce emissions tied to the data center.

18 § 3. The public service law is amended by adding a new article 12 to
19 read as follows:

ARTICLE 12

REGULATION OF DATA CENTER ENERGY CONSUMPTION

Section 240. Definitions.

241. Data center disclosure reports.

242. Public engagement.

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

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1 243. Annual data center disclosure report updates.

2 § 240. Definitions. For the purposes of this article:

3 1. "Customer" shall mean a homeowner or tenant receiving electricity
4 or natural gas as a retail customer.

5 2. "Data center" shall mean: (a) a structure, group of structures, or
6 infrastructure within an existing structure for the central housing,
7 interconnection and operation of information technology and network
8 telecommunications equipment for the provision of data storage, data
9 processing, or data transport services; and (b) all related facilities
10 and infrastructure for power distribution, environmental control, cool-
11 ing and security required to deliver the desired service with respect to
12 the specific data center.

13 3. "Data center operator" shall mean whoever is either the owner of
14 the data center or has comparable rights of use over a data center,
15 including any person or entity responsible for allocating space for
16 external use of information technology and network telecommunications
17 equipment within a data center.

18 4. "Data center disclosure report" shall mean that report which data
19 center operators must submit to the commission prior to construction of
20 a data center, as required by section two hundred forty-one of this
21 article.

22 5. "Disadvantaged communities" shall mean: (a) areas burdened by cumu-
23 lative environmental pollution and other hazards that can lead to nega-
24 tive public health effects; (b) areas with concentrations of people that
25 are of low income, high unemployment, high rent burden, low levels of
26 home ownership, low levels of educational attainment, or members of
27 groups that have historically experienced discrimination on the basis of
28 race or ethnicity; and (c) areas vulnerable to the impacts of climate
29 change such as flooding, storm surges, and urban heat island effects.

30 6. "Employee" shall mean an individual who performs services for and
31 under the control and direction of an employer for wages or other remun-
32 eration, or natural persons employed as independent contractors to carry
33 out work in furtherance of an employer's business enterprise who are not
34 themselves employers.

35 7. "Greenhouse gas" shall mean carbon dioxide, carbon monoxide, meth-
36 ane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexaf-
37 luoride, and any other substance emitted into the air that may be
38 reasonably anticipated to cause or contribute to anthropogenic climate
39 change.

40 8. "Host community" shall mean any municipality within which a data
41 center, or any portion thereof, has been developed or proposed for
42 development.

43 9. "Negative impact" shall mean any increase in greenhouse gas emis-
44 sions, noise pollution, concentration of particulates being introduced
45 into air, natural and drinking water, or any other form of pollution
46 that would decrease the quality of life in a host community.

47 10. "Power purchase agreement" shall mean the agreements between data
48 center operators and a utility provider where data center operators buy
49 an amount of either renewable or non-renewable energy output from that
50 power plant.

51 11. "Renewable energy" shall have the same meaning as "renewable ener-
52 gy systems" as defined in section sixty-six-p of this chapter.

53 12. "Utility provider" shall have the same meaning as "utility compa-
54 ny" as defined in section two of this chapter.

55 13. "Bill credit" means a monthly monetary credit which is funded by a
56 data center operator as further determined by the commission and appears

1 on the utility bill of a low income or moderate income customer located
2 in this state.

3 § 241. Data center disclosure reports. Where a planned data center is
4 projected to have the capacity to consume five or more megawatts at any
5 given moment, a data center operator shall submit a data center disclo-
6 sure report to the commission prior to commencing any construction
7 activities related to a data center. The report shall be made publicly
8 available via the commission's website and contain data including:

9 1. Basic information

10 (a) The host community or communities in which the data center shall
11 be located; and

12 (b) The organization of the planned data center as a single operator
13 enterprise or managed data center, colocation facility, hyperscale data
14 center, micro data center, or a container or modular data center.

15 2. Labor

16 The number of full-time and part-time employees the data center opera-
17 tor intends to employ at the planned data center and relevant demograph-
18 ic information including but not limited to:

19 (a) The education levels of the employees intended to be employed at
20 the planned data center, with percentages included for highest education
21 achieved including high school diploma, associate's degree, bachelor's
22 degree, and higher level of education; and

23 (b) The projected percentage of employees residing in the host commu-
24 nity or communities.

25 3. Projected energy usages

26 (a) The projected mean energy usage of the planned data center per day
27 measured in kilowatt-hours and related information including but not
28 limited to:

29 (i) the projected type of energy being used that is neither fossil
30 fuel nor renewable energy, where applicable;

31 (ii) the forms of renewable energy expected to be utilized; and

32 (iii) the projected percentage of energy usage that is fossil fuel,
33 renewable energy, and neither renewable energy nor fossil fuel where the
34 data center is operating at peak;

35 (b) The projected mean amount of energy usage per hour of the planned
36 data center during peak load measured in kilowatt-hours and anticipated
37 frequency of peak load per week;

38 (c) The projected annual amount of carbon emissions equivalents
39 produced to power the facility, including off-site emissions, measured
40 in metric tons;

41 (d) The projected annual amount of waste heat produced on-site meas-
42 ured in British thermal units;

43 (e) The projected percentage of the annual amount of recovered waste
44 heat that was transformed into energy to power the data center; and

45 (f) The intended use for recovered waste heat to include but not be
46 limited to general building heating, cooling systems, coolant system
47 specifically for the capture of waste heat from processors.

48 4. Projected water intake and water usage

49 Only where a planned data center is required to obtain and hold a
50 water withdrawal permit, the data center operator shall report:

51 (a) Amount of water projected to be used annually measured in gallons
52 and how that water shall be used in the planned data center; and

53 (b) Mean amount of water expected to be used daily measured in
54 gallons.

55 5. Projected water pollution

1 Where a planned data center is required to obtain and hold a water
2 withdrawal permit, the data center operator shall report:

3 (a) Annual projected amount of water being deposited into the environ-
4 ment measured in gallons; and

5 (b) How water being reintroduced into the environment will be treated,
6 if at all, to remove pollutants and/or to what extent water temperature
7 will be adjusted, if at all, before being reintroduced into the environ-
8 ment.

9 6. Additional disclosures

10 The commission may promulgate rules requiring additional points of
11 disclosure, as appropriate.

12 § 242. Public engagement. The commission shall publicize the data
13 disclosure report on its website within ten days of receiving such
14 report. The data center operator shall hold at least two public hearings
15 within sixty days after submitting its data center disclosure report to
16 the commission. At least one of the two public hearings must be held
17 within the host community where the data center operator plans to create
18 its data center. The data center operator shall provide advance notice
19 to residents of such host community of such public hearings. Such notice
20 shall include the time, place, and location of such public hearings, a
21 summary of the proposed data center project, and the specific location
22 of the planned data center. Methods of providing notice to a host commu-
23 nity shall include, but shall not be limited to, coverage in any print
24 or digital publication produced by local, community, and ethnic media.
25 During a public hearing conducted pursuant to this section, the data
26 center operator must explicitly disclose and present its finding under
27 section two hundred forty-three of this article in clear and concise
28 language comprehensible for members of the public in general. It shall
29 also address the efforts it will make to reduce any negative impacts to
30 the host community and its environment that the planned data center may
31 cause.

32 § 243. Annual data center disclosure report updates. 1. Data center
33 operators shall submit an annual data disclosure report to the commis-
34 sion, which the commission shall post on its website. Data center opera-
35 tors shall include all changes to the disclosures required pursuant to
36 section two hundred forty-one of this article from year-to-year. Addi-
37 tionally, annual reports shall include but not be limited to information
38 regarding the data center operator's efforts toward greater energy effi-
39 ciency and overall sustainability that year. Such findings shall be
40 drafted in clear and concise language readily comprehensible for members
41 of the general public. The commission shall publicly post the report on
42 the commission's website within fifteen days of receipt.

43 2. Specifically, data center operators shall report:

44 (a) Efforts made to reduce energy consumption within the past year;

45 (b) A comparison of the year's energy consumption to the initial
46 projected amounts outlined in subdivision three of section two hundred
47 forty-one of this article, and, following the first year, a comparison
48 to the year before, expressed in British thermal units;

49 (c) A projection for energy usage for the next year, disclosing the
50 same information as required by subdivision three of section two hundred
51 forty-one of this article;

52 (d) Efforts made to reduce fossil fuel consumption and increase the
53 percentage of energy use from renewable energy within the past year,
54 with a comparison of the year's fossil fuel consumption to the projected
55 amount, and, following the first year, a comparison to the year before,
56 expressed in terawatt-hours;

1 (e) Efforts made to reduce water consumption within the past year;
 2 (f) For data centers that are required to have a water withdrawal
 3 permit, a comparison of the year's water usage to the projected amount,
 4 and, following the first year, a comparison to the year before,
 5 expressed in gallons;

6 (g) For data centers that are required to have a water withdrawal
 7 permit, a projection for water usage for the next year, disclosing the
 8 same information as required by subdivision four of section two hundred
 9 forty-one of this article;

10 (h) Efforts made to protect the environment and public from polluted
 11 water in the past year accompanied by measurements of actual water
 12 pollution expressed in milligrams per liter;

13 (i) Efforts made to reduce waste heat and utilize waste heat to power
 14 the data center accompanied by measurements of actual heat waste expul-
 15 sion and reuse, measured in British thermal units; and

16 (j) Percentage of data center employees that live within the host
 17 community.

18 3. If a data center operator is no longer in compliance with sections
 19 two hundred forty-one and two hundred forty-three of this article, the
 20 commission shall notify the data center operator. The data center opera-
 21 tor shall have sixty days to cure such violation. If such violation has
 22 not been cured after sixty days, such data center shall be subject to
 23 finest of up to ten thousand dollars based on the severity and extent of
 24 the violation and shall be assessed another ten thousand dollar fine for
 25 every day they are late in complying with such sections. All funds
 26 collected under this article shall be deposited into the environmental
 27 protection fund established by section ninety-two-s of the state finance
 28 law.

29 § 4. The public authorities law is amended by adding a new section
 30 1854-e to read as follows:

31 § 1854-e. Energy consumption efficiency goals. 1. No later than one
 32 year after the effective date of this section, the authority, in
 33 conjunction with the New York system independent operator, the public
 34 service commission, and the New York state climate action council shall
 35 determine reasonable energy consumption efficiency goals for the design
 36 and operation of data centers as defined in article twelve of the public
 37 service law, including, but not limited to, recycling of waste heat
 38 emitted from data centers into an energy source. Such goals shall align
 39 with the benchmarks laid out in the New York state climate leadership
 40 and community protection act and shall be reviewed and updated accord-
 41 ingly, annually.

42 2. A data center operator that has commenced operation prior to the
 43 effective date of this section shall have two years to comply with the
 44 energy consumption efficiency goals developed pursuant to this section.
 45 A data center operator that has commenced operation within one year of
 46 the effective date of this section shall have one year to comply with
 47 such energy consumption efficiency goals.

48 § 5. The energy law is amended by adding a new article 19 to read as
 49 follows:

50 ARTICLE 19

51 POWER PURCHASE AGREEMENTS

52 Section 19-101. Fossil fuel power purchase agreements.

53 19-103. Community discount plan.

54 § 19-101. Fossil fuel power purchase agreements. 1. Power purchase
 55 agreements for any energy generated through the consumption of fossil

1 fuels shall not provide economic incentives or discounts to data center
2 operators, as defined in article twelve of the public service law.

3 2. In furtherance of the goals set out in the New York state climate
4 leadership and community protection act: (a) by two thousand thirty, at
5 least one-third of all energy used by data centers must be provided
6 through power purchase agreements exclusively for renewable energy; and
7 (b) by two thousand thirty-five, at least two-thirds of all energy used
8 by data centers shall be provided through power purchase agreements
9 exclusively for renewable energy; and (c) by two thousand forty, all
10 energy used by data centers shall be provided through power purchase
11 agreements exclusively for renewable energy.

12 § 19-103. Community discount plan. 1. The public service commission is
13 hereby authorized and directed, to establish a program, as soon as prac-
14 ticable, to be known as the community discount plan, that will give
15 low-income and moderate-income electric utility ratepayers who reside
16 within a host community a bill credit, to protect and offset low- and
17 moderate-income residential ratepayers from costs associated with data
18 center construction and ongoing operation within such host community.
19 Such bill credits shall be in addition to any other renewable energy
20 program discounts such ratepayers are receiving.

21 2. (a) The public service commission is authorized and directed, as
22 deemed feasible, to enter into a contract for the purpose of implement-
23 ing the community discount plan, including but not limited to agreements
24 with a data center operator, to provide bill credits to host community
25 electricity ratepayers approved by the public service commission.

26 (b) The public service commission shall enter into an agreement with
27 such utility operator to ensure bill credits are reflected on low-income
28 and moderate-income ratepayers' monthly electric utility bills.

29 (c) The public service commission shall determine the bill credit
30 amount given to each host community electricity ratepayer based on the
31 commission's analysis of how much consumer rates and any other delivery
32 charges incurred will increase as a result of a data center becoming
33 online within the host community not to exceed twenty percent and this
34 information shall be provided on a residential electric utility bill of
35 an owner or tenant of a residential building for a period of five years.

36 (d) The community discount shall be implemented in the first billing
37 cycle following the opening of a data center in the host community.

38 (e) The public service commission may request from any department,
39 division, office, commission or other agency of the state or any state
40 public authority, and the same are authorized to provide, such assist-
41 ance, services and data as may be required by the authority in carrying
42 out the purposes of this subdivision.

43 (f) Within one year of the effective date of this section, the commis-
44 sion shall issue a report to the governor, the speaker of the assembly,
45 the temporary president of the senate, the minority leader of the assem-
46 bly, and the minority leader of the senate that addresses the feasibil-
47 ity and advisability of implementing the community discount plan.

48 § 6. This act shall take effect one year after it shall have become a
49 law.