

STATE OF NEW YORK

10141

IN ASSEMBLY

February 9, 2026

Introduced by M. of A. KELLES -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to imposing a moratorium on data center permit issuance; and to amend the public service law, in relation to data center rate impacts

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

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

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

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

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

14 4. 56 percent of the electricity used to power data centers comes from
15 fossil fuels. Data centers disproportionately use fossil fuels, with an
16 average carbon intensity that is 48 percent higher than the national
17 average.

18 5. Even when data centers use renewable energy, they often capture new
19 renewable generation development that would otherwise have allowed for
20 the closure or reduced reliance on fossil fuel power plants, thereby
21 resulting in continued use of fossil fuel-based energy generation beyond
22 current expectations.

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

25 7. A Bloomberg analysis of wholesale electricity prices found that 70
26 percent of locations with year-on-year price increases were within 50
27 miles of significant data center activity. Nationally, household elec-

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

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1 tricity rates increased 13 percent in 2025, largely driven by the devel-
2 opment of data centers.

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

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

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

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

15 ARTICLE 31

16 MORATORIUM ON DATA CENTER PERMIT ISSUANCE

17 Section 31-0101. Definitions.

18 31-0103. Moratorium on data center permit issuance.

19 31-0105. Generic environmental impact statement.

20 31-0107. Issuance of regulations.

21 § 31-0101. Definitions.

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

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

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

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

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

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

48 § 31-0103. Moratorium on data center permit issuance.

49 No new permits of any kind may be issued by the state or any govern-
50 mental agency or political subdivision or public benefit corporation of
51 the state, for the siting, construction, or commencement of operation of
52 a data center prior to ninety days after the department shall have
53 issued regulations pursuant to section 31-0107 of this article and the
54 public service commission shall have taken all actions required pursuant
55 to section sixty-six-x of the public service law.

56 § 31-0105. Generic environmental impact statement.

1 1. The department, in consultation with the department of public
2 service and the federally designated bulk system operator, shall
3 prepare, pursuant to article eight of this chapter, a generic environ-
4 mental impact statement on data center development in this state.

5 2. The generic environmental impact statement shall consist of a study
6 of, and recommended regulatory or legislative action relating to,
7 matters including, but not limited to:

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

11 b. Electricity consumption by data centers, including:

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

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

18 iii. the impact of data center development on monthly electricity and
19 gas rates for residential consumers, commercial consumers, and indus-
20 trial consumers, broken down by rate class and type, as well as projec-
21 tions for the changes to these amounts for both the proposed and
22 projected growth of data centers in the state;

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

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

28 vi. how data center development has impacted capital planning, spend-
29 ing and maintenance needs for electric corporations and gas corpo-
30 rations.

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

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

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

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

37 iv. the amount of water consumed by cooling systems, lost to evapo-
38 ration, or in anyway not returned to the waters of the state;

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

41 vi. the impact of data center development on water-works corporations'
42 capital planning, spending, and maintenance needs; and

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

48 d. Land use for data centers, including:

49 i. the total acreage used for existing data centers;

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

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

54 iv. projections for the changes to these amounts for both the proposed
55 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:

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; and

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;

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

g. 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 generic environmental impact statement 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 of environmental conservation 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 generic environmental impact statement pursuant to this section no sooner than eighteen months after this section shall have become a law.

§ 31-0107. Issuance of regulations.

No sooner than three years after the effective date of this section, the department shall issue final new or updated regulations to mitigate the environmental impact of data centers. Such regulations shall be informed by the generic environmental impact statement issued pursuant to section 31-0105 of this article, and 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;

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

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

7 § 66-x. Data center rate impacts. 1. (a) No later than eighteen months
8 after this section shall have become a law, the commission shall issue a
9 final report on data centers, as defined in section 31-0101 of the envi-
10 ronmental conservation law, including:

11 (i) the impact of data centers on electricity and gas rates for resi-
12 dential, commercial, and industrial users;

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

16 (iii) a review of current statutes and regulations designed to mini-
17 mize the impact of data centers on electricity and gas rates for resi-
18 dential, commercial, and industrial users; and

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

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

28 2. No sooner than three years after the enactment of this section, the
29 commission shall issue any additional orders necessary to minimize, to
30 the greatest possible extent, the impact of data centers, as defined in
31 section 31-0101 of the environmental conservation law, on electricity
32 and gas rates for residential, commercial, and industrial users, and to
33 ensure that all costs associated with providing and maintaining electric
34 and gas service to data centers, including, but not limited to, require-
35 ments for any new electricity generation, transmission, and distribution
36 infrastructure, costs associated with increases in electricity wholesale
37 supply and capacity market prices, peak and non-peak demand impacts on
38 generation sources and generation capacity needs, and increases in
39 natural gas and oil commodity prices, shall be borne by such data
40 center. In developing such new order or orders, the commission shall be
41 informed by the generic environmental impact statement issued pursuant
42 to section 31-0105 of the environmental conservation law as well as the
43 report issued pursuant to subdivision one of this section.

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