

# STATE OF NEW YORK

10852--A

## IN ASSEMBLY

April 8, 2026

Introduced by M. of A. KELLES, SHIMSKY, GLICK, SIMON, STIRPE -- 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 public authorities law, the economic development law, the general municipal law and the environmental conservation law, in relation to enacting the "stop subsidizing data centers act"

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 "stop subsidizing data centers act".

3 § 2. Section 2 of the public authorities law is amended by adding a  
4 new subdivision 7 to read as follows:

5 7. "data center" shall mean a facility primarily housing computer  
6 systems of the kind typically associated with telecommunications and/or  
7 data storage infrastructure.

8 § 3. Section 187 of the economic development law is amended by adding  
9 a new subdivision (h) to read as follows:

10 (h) Notwithstanding any other provision of law, no application for  
11 economic power allocation shall be approved under this section where  
12 such allocation would be for the operation of a data center, as defined  
13 by section two of the public authorities law.

14 § 4. Paragraph (a) of subdivision 13-a of section 1005 of the public  
15 authorities law, as added by section 3 of part CC of chapter 60 of the  
16 laws of 2011, is amended to read as follows:

17 (a) Notwithstanding any other provision of law to the contrary, but  
18 subject to the terms and conditions of federal energy regulatory commis-  
19 sion licenses, to allocate, reallocate or extend, directly or by sale  
20 for resale, up to nine hundred ten megawatts of recharge New York power  
21 to eligible applicants located within the state of New York upon the  
22 recommendation of the New York state economic development power allo-  
23 cation board pursuant to section one hundred eighty-eight-a of the  
24 economic development law; provided, however, that no such allocation

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

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1 shall be approved where such allocation would be for the operation of a  
2 data center.

3 § 5. The opening paragraph of paragraph (a) of subdivision 13 of  
4 section 1005 of the public authorities law, as amended by chapter 645 of  
5 the laws of 2006, is amended to read as follows:

6 Criteria for eligibility for expansion, replacement and preservation  
7 power. Each application for an allocation for expansion, replacement or  
8 preservation power shall be evaluated by the trustees under the criteria  
9 [~~which~~] provided under this paragraph; provided, however, that no appli-  
10 cation for allocation for expansion, replacement or preservation power  
11 shall be approved where such allocation would be for the operation of a  
12 data center. The criteria to be evaluated by the trustees for applica-  
13 tions for allocation for expansion, replacement or preservation power  
14 shall include but need not be limited to:

15 § 6. Section 874 of the general municipal law is amended by adding a  
16 new subdivision 13 to read as follows:

17 (13) (a) Any agreement executed by an agency providing financial  
18 assistance to a data center project shall include provisions requiring  
19 the return of all or part of such financial assistance, including all or  
20 part of the amount of any tax exemptions, where the recipient fails to  
21 create or maintain the number of full-time jobs identified in the  
22 project application or agreement within five years of project  
23 completion. Such agreement shall provide for mandatory claw back of  
24 financial assistance upon a material shortfall in job creation or  
25 retention, as determined by the agency pursuant to written standards  
26 adopted by such agency.

27 (b) Any recipient of financial assistance for a data center project  
28 shall submit an annual certification of compliance with the applicable  
29 job creation and retention requirements established pursuant to para-  
30 graph (a) of this subdivision for a period of five years following  
31 project completion.

32 (c) Financial assistance shall not be awarded for any data center  
33 project in an amount exceeding twenty-five thousand dollars for each  
34 full-time job anticipated to be created by such project, as indicated in  
35 the project application.

36 (d) Financial assistance shall not be awarded for any data center  
37 project that, upon completion, is capable of consuming more than twenty  
38 megawatts during normal operations.

39 (e) For the purposes of this subdivision:

40 (i) the term "financial assistance" shall include, but not be limited  
41 to, sales tax exemptions, mortgage recording tax exemptions, and real  
42 property tax exemptions; and

43 (ii) the term "data center" shall have the same meaning as defined by  
44 section two of the public authorities law.

45 § 7. Subdivision 6 of section 8-0111 of the environmental conservation  
46 law, as added by chapter 612 of the laws of 1975, is amended to read as  
47 follows:

48 6. Lead Agency. When an action is to be carried out or approved by two  
49 or more agencies, the determination of whether the action may have a  
50 significant effect on the environment shall be made by the lead agency  
51 having principal responsibility for carrying out or approving such  
52 action and such agency shall prepare, or cause to be prepared by  
53 contract or otherwise, the environmental impact statement for the action  
54 if such a statement is required by this article. In the event that there  
55 is a question as to which is the lead agency, any agency may submit the  
56 question to the commissioner and the commissioner shall designate the

1 lead agency, giving due consideration to the capacity of such agency to  
2 fulfill adequately the requirements of this article. The department  
3 shall be the mandatory lead agency for any action capable of consuming  
4 over fifty megawatts during normal operations.

5 § 8. Section 8-0109 of the environmental conservation law is amended  
6 by adding a new subdivision 10 to read as follows:

7 10. An environmental impact statement shall be prepared for any action  
8 found to be located within ten miles of a federally recognized Indian  
9 nation's territory. Prior to the preparation of such environmental  
10 impact statement, the applicant shall consult with such Indian nation,  
11 and include any comments submitted by such Indian nation pursuant to  
12 such consultation in its environmental impact statement.

13 § 9. This act shall take effect on the one hundred eightieth day after  
14 it shall have become a law. Effective immediately, the addition, amend-  
15 ment and/or repeal of any rule or regulation necessary for the implemen-  
16 tation of this act on its effective date are authorized to be made and  
17 completed on or before such effective date.