

STATE OF NEW YORK

11560

IN ASSEMBLY

June 1, 2026

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Barrett, Kelles, Tapia, Glick) -- read once and referred to the Committee on Ways and Means

AN ACT to amend the environmental conservation law, the public service law, the public authorities law, the energy law and the labor law, in relation to enacting the responsible data center development 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 "responsible data center development act".

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

ARTICLE 31

MORATORIUM ON DATA CENTER PERMIT ISSUANCE

Section 31-0101. Definitions.

8 31-0103. Moratorium on large data center permit issuance.

9 31-0105. Hearing requirement.

10 31-0107. Environmental impact report.

§ 31-0101. Definitions.

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

14 1. a. "Data center" shall mean all facilities, or combination of
15 facilities under common ownership or control at the same site, that:

16 i. Receive electric, gas, or water service from an electric corpo-
17 ration, gas corporation, water-works corporation, or municipality, have
18 applied or requested to receive such service, or have otherwise caused
19 an electric corporation, gas corporation, water-works corporation, or
20 municipality to incur an expense in relation to the provision of service
21 pursuant to the public service law; and

22 ii. Have a peak demand of one megawatt or more that is used for:

23 (1) Computing infrastructure, not including manufacturing;

24 (2) Data processing services;

25 (3) Web hosting services, not including software publishing;

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

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1 (4) Streaming support services, not including streaming distribution;
2 and
3 (5) Other related services and functions as defined by the public
4 service commission.

5 b. The term "data center" shall not include facilities majority-owned,
6 operated, or otherwise controlled by a public research institution and
7 used for research purposes.

8 2. "Control", including the terms "controlled by" and "under common
9 control with", means the possession, direct or indirect, of the power to
10 direct or cause the direction of the management and policies of an enti-
11 ty, whether through the ownership of voting securities, by contract, or
12 otherwise.

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

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

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

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

22 7. "Large data center" shall mean a data center that has a peak demand
23 of twenty megawatts or more.

24 § 31-0103. Moratorium on large data center permit issuance.

25 1. No permit, certificate, registration, license, or other form of
26 approval may be issued by the department to a large data center prior to
27 one year after the effective date of this section.

28 2. This section shall not apply to:

29 a. the modification, renewal, reissuance, or recertification of any
30 previously issued permit, certificate, registration, license, or other
31 form of approval; or

32 b. large data centers commencing construction on or before the effec-
33 tive date of this section.

34 § 31-0105. Hearing requirement.

35 1. The department shall not issue any permit, certificate, registra-
36 tion, license, or other form of approval for a large data center unless,
37 not less than three months before the issuance of such permit, certif-
38 icate, registration, license, or other form of approval, the data
39 center, in coordination with the public service commission and the
40 department, and subject to such requirements as the public service
41 commission and the department shall stipulate, has held at least one
42 in-person public hearing in at least one host community where the
43 proposed large data center is to be constructed.

44 2. The data center operator shall provide at least thirty days advance
45 notice to residents of host communities of any planned public hearing.
46 Notice of public hearings shall include the time, place, and location of
47 the public hearing, a summary of the large data center project, the
48 specific location of the large data center, a detailed explanation of
49 the projected energy use and energy system impacts, a detailed explana-
50 tion of the projected water use and wastewater impacts, and a detailed
51 explanation of the state and local economic incentives the large data
52 center is applying for and those it has already been awarded. Methods of
53 providing notice to a host community shall include, but shall not be
54 limited to, coverage in print or digital publications of general circu-
55 lation in the community, and such other publications as the department
56 may require. The hearing shall be held at a reasonable time and place,

1 and meaningful opportunity for public comment shall be provided at such
2 hearing.

3 3. At the hearing, the large data center shall address the efforts it
4 will make to reduce any negative impacts to the host community and its
5 environment that the large data center may cause.

6 4. The large data center shall pay all expenses for such hearing
7 including the costs of the department and the department of public
8 service.

9 § 31-0107. Environmental impact report.

10 1. The department of environmental conservation, in consultation with
11 the department of public service, department of health, environmental
12 facilities corporation, and the federally designated bulk system opera-
13 tor, shall prepare an environmental impact report on data center devel-
14 opment in this state.

15 2. The environmental impact report shall address matters including,
16 but not limited to:

17 a. The number, size in acreage, average and peak electric load, and
18 location of current data centers in the state, active proposals for new
19 data centers, and projections for future growth of data centers.

20 b. Electricity consumption by data centers, including:

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

22 ii. identification of the generation sources for such electricity;

23 iii. projections for the changes to the amount under subparagraph i of
24 this paragraph for both the proposed and projected growth of data
25 centers in the state; and

26 iv. the amount of discounted or subsidized electricity used by data
27 centers within the state and the amounts of such discounts and subsi-
28 dies.

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

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

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

33 iii. the amount of water withdrawn and discharged from data centers
34 back into the state's water resources, the temperature of the water both
35 at point of withdrawal and discharge, locations of withdrawal and
36 discharge points, and the local impacts of the discharge;

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

39 v. projections for the changes to the amounts under subparagraphs i,
40 ii, iii, and iv of this paragraph for both the proposed and projected
41 growth of data centers in the state; and

42 vi. the impact of data center development on the management of the
43 state's water resources, including any impacts related to capital plan-
44 ning, spending, and maintenance needs of water-works corporations or
45 municipal water systems and of any water authorities, water boards, or
46 sewer authorities established under article five of the public authori-
47 ties law, including billing impacts.

48 d. Land use for data centers, including:

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

50 ii. projections for the changes to the amounts under subparagraph i of
51 this paragraph for both the proposed and projected growth of data
52 centers in the state;

53 iii. impacts on farmland, including an analysis of impacts on prime
54 farmland mineral soil types 1-4; and

55 iv. whether data centers are locating on and redeveloping existing
56 previously-developed and under-utilized publicly-owned lands, facili-

1 ties, and other infrastructure that may be available for repurposing,
2 redevelopment, or adaptive reuse, and the availability thereof.
3 e. Pollution from data centers, including, but not limited to:
4 i. the amount of greenhouse gases emitted by each existing data center
5 and the cumulative total for the state emitted or projected to be emit-
6 ted by existing, proposed, and projected data centers, expressed in
7 metric tons of carbon dioxide equivalent, as defined in section 75-0101
8 of this chapter;
9 ii. the types and quantity of air pollutants emitted by each data
10 center and the cumulative total for the state emitted by existing,
11 proposed, and projected data centers;
12 iii. the types and quantity of water pollution produced by each data
13 center, including thermal pollution from water discharges, and the cumu-
14 lative total for the state produced by existing, proposed, and projected
15 data centers;
16 iv. potential public health impacts, if any, due to reduced air and
17 water quality in communities near data centers; and
18 v. the level of noise pollution produced by each data center, with
19 projections for proposed and projected data centers, at regular inter-
20 vals beginning at the property line of the data center and extending
21 half a mile.
22 f. Electronic waste from data centers, including:
23 i. the current volume of electronic waste produced by data centers, by
24 waste type;
25 ii. the current methods being used to dispose of or recycle electronic
26 waste produced by data centers; and
27 iii. projections for the changes to the amounts under subparagraph i
28 of this paragraph for both the proposed and projected growth of data
29 centers in the state.
30 g. The impacts, including health impacts and air, water, and noise
31 pollution impacts, of current, proposed, and projected data centers on
32 disadvantaged communities and federally or state recognized indigenous
33 nations located within a ten-mile radius of such data centers.
34 h. A review of current statutes and regulations addressing the envi-
35 ronmental impact of data centers.
36 i. In consultation with the empire state development corporation and
37 the authorities budget office, the amount of public funds received by
38 data centers, including in the form of state and local tax incentives,
39 including but not limited to payments in lieu of tax arrangements, sales
40 and use tax incentives, property tax incentives, mortgage recording tax
41 incentives, and real estate transfer tax incentives.
42 3. The environmental impact report shall recommend new legislation and
43 regulations as appropriate to mitigate the impacts of data centers iden-
44 tified by the environmental impact report including, but not limited to:
45 a. minimize air, water, soil, and noise pollution;
46 b. minimize water consumption; and
47 c. avoid new burdens on disadvantaged communities and avoid contribut-
48 ing to existing burdens on disadvantaged communities.
49 4. A draft environmental impact report shall be posted on the depart-
50 ment's website and shall be subject to at least one hundred twenty days
51 of public comment from the date of posting. The department shall conduct
52 at least one in-person public hearing in at least five of the following
53 regions of the state: western New York, the Finger Lakes, the southern
54 tier, central New York, the Mohawk valley, the north country, the capi-
55 tal region/Hudson valley, the city of New York, and Long Island, as

1 defined by the empire state development corporation, and provide mean-
2 ingful opportunity for comment at such hearings.

3 5. The department shall issue a final environmental impact report
4 after the public comment and public hearing period and no later than
5 eighteen months after this article shall have become a law.

6 § 3. Subdivision 5 of section 65 of the public service law, as amended
7 by chapter 134 of the laws of 1921, is amended to read as follows:

8 5. (a) Nothing in this chapter shall be taken to prohibit a gas corpo-
9 ration or [~~electrical~~] electric corporation from establishing classi-
10 fications of service based upon the quantity used, the time when used,
11 the purpose for which used, the duration of use or upon any other
12 reasonable consideration, and providing schedules of just and reasonable
13 graduated rates applicable thereto. No such classification, schedule,
14 rate or charge shall be lawful unless it shall be filed with and
15 approved by the commission, and every such classification, rate or
16 charge shall be subject to change, alteration and modification by the
17 commission.

18 (b) (i) The commission shall require each electric corporation, gas
19 corporation, and municipality to establish, and file with the commission
20 for approval or modification, an independent classification of service
21 for large data centers that is separate and distinct from other classi-
22 fications of service. The commission shall also require each electric
23 corporation, gas corporation, and municipality to file updates, if
24 applicable, to existing classifications of service to exclude large data
25 centers and to update any other filings, documents, or components there-
26 of necessary to effectuate the reclassification of large data centers.
27 Each such service classification for large data centers shall at a mini-
28 imum, in a manner that is just and reasonable, establish a rate, charge,
29 or schedule of rates, and additional terms of service, to:

30 (A) assign the costs incurred by the electric corporation, gas corpo-
31 ration, or municipality to serve large data centers, including, but not
32 limited to, the costs of any infrastructure upgrades, administrative
33 expenses, improvements, or additions and operational costs, necessary to
34 facilitate and maintain service to such facilities, entirely among such
35 classification;

36 (B) assign all costs related to the recovery of any rate of return
37 attributable to large data centers entirely among such classification;

38 (C) assign all costs of the department, the commission, and affected
39 municipalities related to the requirements of this paragraph entirely
40 among such classification;

41 (D) assign all costs of the department and the commission for the
42 implementation of the requirements of section eight of the chapter of
43 the laws of two thousand twenty-six that added this paragraph entirely
44 among such classification; and

45 (E) mitigate risks and impacts to other service classifications from
46 large data centers, including ensuring there are no increases to
47 surcharges, basic service or other fixed charges not directly related to
48 actual energy usage;

49 (ii) The commission, in coordination with the federally designated
50 bulk system operator, shall establish, implement, and annually update an
51 adjustment mechanism to ensure that all costs from any increases in
52 commodity prices after the effective date of the chapter of the laws of
53 two thousand twenty-six that amended this subdivision, including, but
54 not limited to, transmission service fees, attributable to large data
55 centers are borne by such facilities.

1 (iii) The department may promulgate regulations regarding financial
2 surety requirements, between an electric corporation, gas corporation,
3 or municipality and a large data center, for the provision of service to
4 large data centers which may include one, or any combination, of the
5 following: insurance, guarantee, surety bond, letter of credit, or
6 qualification as a self-insurer. In promulgating requirements under this
7 section, the commission shall be authorized to specify policy or other
8 contractual terms, conditions, or defenses which are necessary or are
9 unacceptable in establishing such evidence of financial surety.

10 (iv) For purposes of this paragraph, "large data center" shall have
11 the meaning given to such term by section 31-0101 of the environmental
12 conservation law.

13 § 4. Subdivision 5 of section 89-b of the public service law, as added
14 by chapter 715 of the laws of 1931, is amended to read as follows:

15 5. (a) Nothing in this chapter shall be taken to prohibit a water-
16 works corporation from establishing classifications of service based
17 upon the quantity of water used, times when used, purpose for which
18 used, duration of use, or upon any other reasonable consideration, and
19 providing schedules of just and reasonable graduated rates applicable
20 thereto. No such classification, schedule, rate or charge shall be
21 lawful unless it shall be filed with and approved by the commission, and
22 every such classification, rate or charge shall be subject to change,
23 alteration and modification by the commission.

24 (b) (i) The commission shall require each water-works corporation or
25 municipal water system to establish, and file with the commission for
26 approval or modification, an independent classification of service for
27 large data centers that is separate and distinct from other classifica-
28 tions of service. The commission shall also require each water-works
29 corporation to file updates, if applicable, to existing classifications
30 of service to exclude large data centers and to update any other
31 filings, documents, or components thereof necessary to effectuate the
32 reclassification of large data centers. Each such service classifica-
33 tion for large data centers shall at a minimum, in a manner that is just
34 and reasonable, establish a rate, charge, or schedule of rates, and
35 additional terms of service, to:

36 (A) assign the costs incurred by the water-works corporation or munic-
37 ipal water system to serve large data centers, including, but not limit-
38 ed to, the costs of any infrastructure upgrades, administrative
39 expenses, improvements, or additions and operational costs, necessary to
40 facilitate and maintain service to such large data center facilities,
41 entirely among such classification;

42 (B) assign all costs related to the recovery of any rate of return
43 attributable to large data centers entirely among such classification;

44 (C) assign all costs of the department, the commission, and munici-
45 pality related to the requirements of this paragraph entirely among
46 such classification; and

47 (D) mitigate risks and impacts to other service classifications from
48 data centers, including ensuring there are no increases to surcharges,
49 basic service or other fixed charges not directly related to actual
50 water usage.

51 (ii) The commission shall establish, implement, and annually update an
52 adjustment mechanism to ensure that all costs from any increases in
53 commodity prices after the effective date of the chapter of the laws of
54 two thousand twenty-six that amended this subdivision, including, but
55 not limited to, water service fees, attributable to large data centers
56 are borne by such facilities.

1 (iii) The department may promulgate regulations regarding financial
2 surety requirements, between a water-works corporation or municipal
3 water system and a large data center, for the provision of service to
4 large data centers which may include one, or any combination, of the
5 following: insurance, guarantee, surety bond, letter of credit, or
6 qualification as a self-insurer. In promulgating requirements under this
7 section, the commission shall be authorized to specify policy or other
8 contractual terms, conditions, or defenses which are necessary or are
9 unacceptable in establishing such evidence of financial surety.

10 (iv) For purposes of this paragraph, "large data center" shall have
11 the meaning given to such term by section 31-0101 of the environmental
12 conservation law.

13 § 5. The public service law is amended by adding a new section 114-b
14 to read as follows:

15 § 114-b. Service classification for large data centers. 1. The commis-
16 sion shall:

17 a. not approve any change of rates or related updates to a tariff
18 requested by an electric corporation, gas corporation, water-works
19 corporation, or municipality after the effective date of this section
20 unless such proposal includes a service classification for large data
21 centers and an adjustment mechanism in compliance with the provisions of
22 paragraph (b) of subdivision five of section sixty-five or paragraph (b)
23 of subdivision five of section eighty-nine-b of this chapter, as appli-
24 cable; and

25 b. ensure that all new or modified service classifications and adjust-
26 ment mechanisms required by paragraph (b) of subdivision five of section
27 sixty-five or paragraph (b) of subdivision five of section eighty-nine-b
28 of this chapter are fully implemented by electric corporations, gas
29 corporations, water-works corporations, or municipalities no later than
30 June first, two thousand thirty.

31 2. For purposes of this section, "large data center" shall have the
32 meaning given to such term by section 31-0101 of the environmental
33 conservation law.

34 § 6. The public authorities law is amended by adding a new section
35 1854-e to read as follows:

36 § 1854-e. Energy consumption efficiency goals. 1. No later than one
37 year after the effective date of this section, the authority, in
38 conjunction with the federally designed bulk system operator, the public
39 service commission, and the New York state climate action council shall
40 determine reasonable energy consumption efficiency goals for the design
41 and operation of data centers as defined in section 31-0101 of the envi-
42 ronmental conservation law, including, but not limited to, recycling of
43 waste heat emitted from data centers into an energy source. Such goals
44 shall align with the benchmarks set forth in the climate leadership and
45 community protection act enacted by chapter one hundred six of the laws
46 of two thousand nineteen and shall be reviewed and updated accordingly,
47 annually.

48 2. A data center operator that has commenced operation prior to the
49 effective date of this section shall have two years to comply with the
50 energy consumption efficiency goals developed pursuant to this section.
51 A data center operator that has commenced operation within one year of
52 the effective date of this section shall have one year to comply with
53 such energy consumption efficiency goals.

54 § 7. The energy law is amended by adding a new article 19 to read as
55 follows:

ARTICLE 19
DATA CENTERS

Section 19-101. Definitions.

19-103. Renewable energy use standards.

19-105. Renewable energy production standards.

§ 19-101. Definitions. For purposes of this article, the following terms shall have the following meanings:

1. "Data center" shall have the meaning given to such term in section 31-0101 of the environmental conservation law.

2. "Renewable energy systems" shall have the meaning given to such term in section sixty-six-p of the public service law.

§ 19-103. Renewable energy use standards. Every data center with a peak load of five megawatts or more shall demonstrate through annual third-party independent verification acceptable to the public service commission that it is procuring, whether through contract or on-site generation, that:

1. at least one third of its electricity consumption is derived from renewable energy systems for the years two thousand thirty through two thousand thirty-four,

2. at least two-thirds of its electricity consumption is derived from renewable energy systems for the years two thousand thirty-five through two thousand thirty-nine, and

3. at least ninety percent of its electricity consumption is derived from renewable energy systems in two thousand forty and thereafter.

§ 19-105. Renewable energy production standards. Every data center with a peak load of five megawatts or more shall demonstrate through annual third-party independent verification acceptable to the public service commission that it is deriving as much of its energy needs as is technologically, environmentally, and practically feasible from on-site generation from renewable energy systems.

§ 8. Host community benefits. 1. For the purposes of this section, the following terms shall have the following meanings:

(a) "Host community" shall mean any city, town or village within which a large data center, or any portion thereof, has been proposed for development.

(b) "Eligible residential technologies" means:

(i) cold-climate air-source heat pumps and ground-source heat pumps for space heating and cooling, including but not limited to geothermal ground source heat pumps and thermal energy networks;

(ii) heat pump water heaters;

(iii) distributed solar photovoltaic systems; and

(iv) behind-the-meter battery storage systems.

(c) "Community infrastructure" means:

(i) local broadband infrastructure;

(ii) large data center noise mitigation measures;

(iii) municipal drinking water infrastructure;

(iv) municipal- and community-owned renewable energy systems, as defined in section 66-p of the public service law;

(v) energy transmission infrastructure; and

(vi) large data center pollution mitigation.

(d) "Large data center" shall have the meaning given to such term by section 31-0101 of the environmental conservation law.

(e) "Waters" shall have the meaning given to such term by subdivision 4 of section 15-0107 of the environmental conservation law.

1 (f) "Closed-loop cooling system" means a system in which the same
2 water or other coolant is recirculated, with only make-up and blow-down
3 losses, and minimal fresh water intake.

4 2. Each new large data center, or any existing large data center
5 undergoing a major expansion that will meet or exceed 20 megawatts of
6 additional load, shall, pursuant to subdivision 3 of this section, fund
7 a program to:

8 (a) install eligible residential technologies for host community resi-
9 dents;

10 (b) develop community infrastructure in the host community or communi-
11 ties; and

12 (c) implement measures to prevent increased levels of water pollution,
13 strains on wastewater infrastructure, water scarcity, and other adverse
14 impacts to waters in the host community or communities, which may
15 include but shall not be limited to the adoption of efficient large data
16 center cooling technology, such as closed-loop cooling systems;
17 provided, however, such measures shall not be required with respect to
18 adverse impacts which are addressed pursuant to paragraph (b) of subdivi-
19 sion 5 of section 89-b of the public service law.

20 3. (a) The public service commission shall, within ninety days from
21 the effective date of this subdivision, commence a proceeding to estab-
22 lish a program under which large data center owners would be required to
23 fund the program described in subdivision 2 of this section. Such
24 proceeding shall establish a process for large data centers to notify
25 host communities of the program and the process for implementation,
26 including meaningful community engagement.

27 (b) With respect to the program components contemplated by paragraphs
28 (a) and (b) of subdivision 2 of this section, the program shall allow
29 such communities to indicate preferences for the installation of any
30 eligible residential technologies or community infrastructure. The
31 proceeding shall further determine the amount of such eligible residen-
32 tial technologies and/or community infrastructure to be installed based
33 on community input and all other factors deemed appropriate by the
34 commission, including the expected average electric and water demand of
35 the facility, the average number of electric and water utility customers
36 within the large data center host community, and the expected aggregate
37 annual electric and water consumption within such host community or
38 communities, and shall include prioritization of low- and moderate-in-
39 come households and disadvantaged communities, and the role of utili-
40 ties, if any, in implementing any aspect of such program. The public
41 service commission shall consult with the New York state energy research
42 and development authority, the federally designated bulk system opera-
43 tor, and the empire state development corporation in fulfilling its
44 responsibilities pursuant to this paragraph, and may also consult with
45 the affected utilities in fulfilling its responsibilities.

46 (c) With respect to the program components contemplated by paragraph
47 (c) of subdivision 2 of this section, the data center shall fund all
48 appropriate measures necessary to fully prevent the adverse impacts set
49 forth in such paragraph. The proceeding shall determine what measures
50 are appropriate to satisfy such requirements based on input from the
51 host community and all other factors deemed appropriate by the commis-
52 sion in consultation with the department of environmental conservation
53 and the environmental facilities corporation, including the number of
54 wastewater customers within the large data center host community and the
55 expected aggregate annual wastewater volumes within such large data
56 center host community and the role of wastewater management entities and

1 local natural resource management entities, if any, in implementing any
2 aspect of the program. The public service commission shall consult with
3 the department of environmental conservation and the environmental
4 facilities corporation in fulfilling its responsibilities pursuant to
5 this paragraph.

6 (d) The large data center shall annually submit independently audited
7 financial reports to the public service commission for such fund.

8 4. The data center, in coordination with the public service commission
9 and the department of environmental conservation, shall hold at least
10 one hearing in at least one host community to inform the proceeding
11 contemplated by subdivision 3 of this section. Reasonable notice shall
12 be given in advance of such hearing, the hearing shall be held at a
13 reasonable time and place, and meaningful opportunity for public comment
14 shall be provided at such hearing. The data center shall pay all
15 expenses for such hearing including the costs of the department of
16 public service and the department of environmental conservation.

17 5. All community infrastructure projects as defined in subdivision 1
18 of this section with a total construction cost of not less than 1
19 million dollars shall be subject to prevailing wage requirements in
20 accordance with sections 220, 220-a, 220-b, 220-i, 223, and 224-b of the
21 labor law, provided that the requirements of this subdivision shall not
22 apply to:

23 (a) a project conducted under a pre-hire collective bargaining agree-
24 ment between an owner or developer and a bona fide building and
25 construction trades labor organization which has established itself,
26 and/or its affiliates, as the collective bargaining representative for
27 all persons who will perform work on such a project, and which provides
28 that only contractors and subcontractors who sign a pre-negotiated
29 agreement with the labor organization can perform work on such project;

30 (b) construction work on one- or two-family dwellings where the prop-
31 erty is the owner's primary residence, or construction work performed on
32 property where the owner of the property owns no more than four dwelling
33 units; or

34 (c) construction work performed on a multiple residence and/or ancil-
35 lary amenities or installations that is wholly privately owned in any of
36 the following circumstances:

37 (i) where more than twenty-five percent of the residential units are
38 affordable and shall be retained subject to an anticipated regulatory
39 agreement with a local, state, or federal governmental entity, or a
40 not-for-profit entity with an anticipated formal agreement with a local,
41 state, or federal governmental entity for purposes of providing affor-
42 dable housing in a given locality or region provided that the period of
43 affordability for a residential unit deemed affordable under the
44 provisions of this paragraph shall be for no less than fifteen years
45 from the date of construction; or

46 (ii) where no less than thirty-five percent of the residential units
47 involves the provision of supportive housing services for vulnerable
48 populations provided that such units are subject to an anticipated regu-
49 latory agreement with a local, state, or federal governmental entity.

50 § 9. The Long Island Power Authority shall establish a program for
51 large data centers within its service territory to achieve the same
52 objectives and in the same manner as set forth and described in section
53 eight of this act.

54 § 10. The labor law is amended by adding a new section 224-g to read
55 as follows:

1 § 224-g. Labor standards for construction of data centers. 1. For the
2 purposes of this section:

3 a. "Data center" shall have the same meaning given to such term in
4 section 31-0101 of the environmental conservation law.

5 b. "Covered data center" shall mean a data center with a peak demand
6 capacity of five megawatts or more.

7 c. "Fiscal officer" shall mean the commissioner; except for projects
8 performed pursuant to a permit issued by a city with a population in
9 excess of one million, in which case the "fiscal officer" shall mean the
10 comptroller or other analogous officer of such city.

11 2. The construction of a covered data center or expansion of an exist-
12 ing data center which will be a covered data center after such expansion
13 shall be subject to prevailing wage requirements in accordance with
14 sections two hundred twenty, two hundred twenty-a, two hundred twenty-b,
15 two hundred twenty-i, two hundred twenty-three, and two hundred twenty-
16 four-b of this article, provided that such requirement shall not apply
17 to construction or expansion of a covered data center conducted under a
18 pre-hire collective bargaining agreement between an owner or developer
19 and a bona fide building and construction trades labor organization
20 which has established itself, and/or its affiliates, as the collective
21 bargaining representative for all persons who will perform work on such
22 a project, and which provides that only contractors and subcontractors
23 who sign a pre-negotiated agreement with the labor organization can
24 perform work on such project.

25 3. The owner or developer of such covered data center shall require
26 the use of apprenticeship agreements as defined by article twenty-three
27 of this chapter; or for industries without apprenticeship programs,
28 require the use of workforce training, preferably in conjunction with a
29 bona fide labor organization; and consider use of registered pre-appren-
30 ticeship direct entry programs for the recruitment of local and/or
31 disadvantaged workers.

32 4. The enforcement of any construction under this section shall be
33 subject to the requirements of sections two hundred twenty, two hundred
34 twenty-a, two hundred twenty-b, two hundred twenty-i, two hundred twen-
35 ty-three, two hundred twenty-four-b of this article, and section two
36 hundred twenty-seven of this chapter and within the jurisdiction of the
37 fiscal officer; provided, however, nothing contained in this section
38 shall be deemed to construe any project covered this section as other-
39 wise being considered public work pursuant to this article.

40 5. The fiscal officer may issue rules and regulations governing the
41 provisions of this section. Violations of this section shall be grounds
42 for determinations and orders pursuant to section two hundred twenty-b
43 of this article.

44 6. For any building service work on a project covered by this section,
45 prevailing wage shall be paid consistent with article nine of this chap-
46 ter.

47 7. The owner or developer of such covered data center shall require
48 that the iron or steel used or supplied for construction, including by
49 any contractor or subcontractor, shall be produced or made in whole or
50 substantial part in the United States, its territories or possessions.
51 In the case of an iron or steel product all manufacturing must take
52 place in the United States, from the initial melting stage through the
53 application of coatings, except metallurgical processes involving the
54 refinement of steel additives.

55 § 11. Severability. If any clause, sentence, paragraph, section or
56 part of this article shall be adjudged by any court of competent juris-

1 diction to be invalid and after exhaustion of all further judicial
2 review, the judgment shall not affect, impair or invalidate the remain-
3 der thereof, but shall be confined in its operation to the clause,
4 sentence, paragraph, section or part of this article directly involved
5 in the controversy in which the judgment shall have been rendered.
6 § 12. This act shall take effect immediately.