

STATE OF NEW YORK

9086--A

2025-2026 Regular Sessions

IN ASSEMBLY

September 12, 2025

Introduced by M. of A. KELLES -- read once and referred to the Committee on Corporations, Authorities and Commissions -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 significant
5 contributors to air and water pollution. The expansion and operation of
6 data centers across the state impairs New York state's ability to
7 achieve the renewable energy and emissions reduction benchmarks required
8 by the climate leadership and community protection act due to their
9 significant use of energy and water and significant emissions of green-
10 house gases generated through the power needs of their operation. Given
11 the growing demand for the construction of data centers, there is a
12 critical need to improve the energy efficiency of data centers and
13 reduce their energy consumption, water consumption, reliance on fossil
14 fuels, and emissions. Likewise, the large quantities of water used by
15 data centers contribute an additional threat to the health of the
16 state's waters, the ecosystems of which they are an integral part, and
17 the residents of the state who rely on them. This act will ensure that
18 economic development involving data centers is consistent with the
19 state's environmental standards and principles, and that where renewable
20 energy is used to power data centers, that such energy is being used
21 responsibly, with the interests and health of the public in mind.

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

LBD09616-07-5

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

3 ARTICLE 12

4 REGULATION OF DATA CENTER ENERGY CONSUMPTION

5 Section 240. Definitions.

6 241. Data center disclosure reports.

7 242. Public engagement.

8 243. Annual data center disclosure report updates.

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

10 1. "Carbon dioxide equivalents" shall have the meaning given to such
11 term in section 75-0101 of this chapter.

12 2. "Data center" shall mean: (a) a structure, group of structures, or
13 infrastructure within an existing structure for the central housing of
14 server racks that are used for the interconnection and operation of
15 information technology and network telecommunications equipment for the
16 provision of data storage, data processing, or data transport services;
17 and (b) all related facilities and infrastructure for power distrib-
18 ution, environmental control, cooling and security required to deliver
19 the desired service with respect to the specific data center.

20 3. "Data center operator" shall mean the owner or operator of the data
21 center, or other person who has comparable rights of use over a data
22 center, including any person or entity responsible for allocating space
23 for external use of information technology and network telecommuni-
24 cations equipment within a data center.

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

29 5. "Employee" shall have the meaning given to such term in section
30 seven hundred forty of the labor law.

31 6. "Host community" shall mean any municipality within which a data
32 center, or any portion thereof, has been developed or proposed for
33 development, or which suffers any negative impact from a data center.

34 7. "Negative impact" shall mean any increase in emissions of regulated
35 air contaminants as defined in subdivision twenty-two of section 19-0107
36 of the environmental conservation law, discharges into waters of the
37 state as described in subdivision two of section 17-0301 of the environ-
38 mental conservation law, noise pollution, or any other form of pollution
39 that affects a host community.

40 8. "Renewable energy" shall have the same meaning as "renewable energy
41 systems" as defined in section sixty-six-p of this chapter.

42 9. "Regulated data center" shall mean a data center projected to have
43 an energy usage capacity of five or more megawatts.

44 10. "Bill credit" means a monthly monetary credit which is funded by a
45 data center operator as further determined by the commission and appears
46 on the utility bill of a low income or moderate income customer located
47 in this state.

48 11. "Hyperscale data center" shall mean a data center that takes up
49 ten thousand square feet or more and uses at least five thousand serv-
50 ers.

51 12. "Micro data center" shall mean a data center that is enclosed
52 within one standard server rack and does not support critical loads of
53 more than one hundred fifty kilowatts.

54 § 241. Data center disclosure reports. For any proposed regulated data
55 center, the proposed data center operator shall submit a data center
56 disclosure report to the department and the commission at least one

1 hundred eighty days prior to commencing any construction activities
2 related to a regulated data center. The report shall contain relevant
3 information regarding the proposed regulated data center, including:

4 1. (a) the host community or communities in which the regulated data
5 center will be located; and

6 (b) the organization of the planned regulated data center as a single
7 operator enterprise or managed data center, colocated facility, hypers-
8 cale data center, micro data center, or a container or modular data
9 center.

10 2. the number of full-time and part-time employees the data center
11 operator intends to employ at the planned regulated data center and
12 relevant demographic information including but not limited to:

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

17 (b) the projected percentage of employees residing in the host commu-
18 nity or communities.

19 3. (a) the projected average energy usage of the planned data center
20 per day and related information including but not limited to:

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

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

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

27 (b) the projected average amount of energy usage per hour of the
28 planned data center during peak load measured in kilowatt-hours and
29 anticipated frequency of peak load per week;

30 (c) the projected annual emissions of carbon dioxide equivalents
31 produced to power the facility which are produced off-site;

32 (d) the projected annual amount of waste heat produced on-site, meas-
33 ured in British thermal units;

34 (e) the projected percentage of the annual amount of recovered waste
35 heat, that was transformed into energy to power the data center; and

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

39 4. If a planned regulated data center is required to obtain and hold a
40 permit pursuant to title fifteen of article fifteen of the environmental
41 conservation law, the data center operator shall report:

42 (a) the amount of water projected to be used annually and how that
43 water will be used in the planned regulated data center; and

44 (b) the average amount of water expected to be used daily measured in
45 gallons.

46 5. For any regulated data center making any discharge within the mean-
47 ing of article seventeen of the environmental conservation law, the data
48 center operator shall report:

49 (a) the annual projected discharges by type and amount; and

50 (b) how discharges will be treated, if at all, to remove pollutants
51 and/or to what extent discharge temperature will be adjusted, if at all,
52 before being discharged.

53 6. The commission may promulgate rules requiring additional disclo-
54 tures, as appropriate.

55 § 242. Public engagement. The commission shall publicize the data
56 disclosure report on its website within ten days of receiving such

1 report. The data center operator shall hold at least two public hearings
2 within sixty days after submitting its data center disclosure report to
3 the commission. At least one of the two public hearings must be held
4 within the host community where the data center operator plans to locate
5 its data center. The data center operator shall provide at least thirty
6 days advance notice to residents of host communities of any planned
7 public hearings. Notice of public hearings shall include the time,
8 place, and location of each public hearing, a summary of the proposed
9 data center project, and the specific location of the planned data
10 center. Methods of providing notice to a host community shall include,
11 but shall not be limited to, coverage in any print or digital publica-
12 tion produced by local, community, and ethnic media. During a public
13 hearing conducted pursuant to this section, the data center operator
14 must explicitly disclose and present its finding under section two
15 hundred forty-three of this article in clear and concise language
16 comprehensible for members of the public in general. It shall also
17 address the efforts it will make to reduce any negative impacts to the
18 host community and its environment that the planned data center may
19 cause. A draft of the data center disclosure report shall be made
20 publicly available no later than thirty days prior to the first hearing.

21 § 243. Annual data center disclosure report updates. 1. A regulated
22 data center operator shall submit an annual data disclosure report to
23 the commission, which the commission shall post on its website within
24 fifteen days of receipt. Data center operators shall include all changes
25 to the disclosures required pursuant to section two hundred forty-one of
26 this article from year-to-year. Additionally, annual reports shall
27 include but not be limited to information regarding the data center
28 operator's efforts toward greater energy efficiency and overall sustain-
29 ability that year. Such findings shall be presented in clear and
30 concise language readily comprehensible for members of the general
31 public.

32 2. Specifically, data center operators shall report:

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

34 (b) A comparison of the year's energy consumption to the initial
35 projected amounts outlined in subdivision three of section two hundred
36 forty-one of this article, and, following the first year, a comparison
37 to the year before;

38 (c) A projection for energy usage for the next year, that includes the
39 same information as required by subdivision three of section two hundred
40 forty-one of this article;

41 (d) Efforts made to reduce fossil fuel consumption and increase the
42 percentage of energy use of, or support for renewable energy within the
43 past year, with a comparison of the year's fossil fuel consumption to
44 the projected amount, and, following the first year, a comparison to the
45 year before;

46 (e) Efforts made to reduce water consumption within the past year;

47 (f) (i) For data centers that are required to obtain and hold a permit
48 pursuant to title fifteen of article fifteen of the environmental
49 conservation law, a comparison of the year's water usage to the project-
50 ed amount, and, following the first year, a comparison to the year
51 before, expressed in gallons; and

52 (ii) For data centers that are required to have a permit pursuant to
53 title fifteen of article fifteen of the environmental conservation law,
54 a projection for water usage for the next year, disclosing the same
55 information as required by subdivision four of section two hundred
56 forty-one of this article;

(g) Efforts made to protect the environment and public from polluted water in the past year accompanied by measurements of actual water pollution in a manner to be determined by the department pursuant to regulations;

(h) Efforts made to reduce waste heat and utilize waste heat to power the data center accompanied by measurements of actual heat waste emission and reuse; and

(i) Percentage of data center employees that live within the host community.

3. In the event of any noncompliance with section two hundred forty-one or two hundred forty-three of this article, the department shall notify the data center operator. The data center operator shall have sixty days to cure such violation. If such violation has not been cured after sixty days, such data center shall be subject to fines of up to ten thousand dollars based on the severity and extent of the violation and shall be assessed another ten thousand dollar fine for every day they are late in complying with such sections. All funds collected under this article shall be deposited into the environmental protection fund established by section ninety-two-s of the state finance law.

4. The department and the attorney general are authorized to enforce the provisions of this article.

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

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

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

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

ARTICLE 19
DATA CENTERS

Section 19-101. Fossil fuel power purchase agreements.

§ 19-101. Fossil fuel power purchase agreements. 1. Power purchase agreements for any energy generated through the consumption of fossil fuels shall not provide economic incentives or discounts to regulated data centers, as set forth in article twelve of the public service law.

2. In furtherance of the goals set forth in the climate leadership and community protection act: (a) by two thousand thirty, at least one-third of all energy used by regulated data centers must be provided through power purchase agreements exclusively for renewable energy; and (b) by two thousand thirty-five, at least two-thirds of all energy used by regulated data centers shall be provided through power purchase agree-

1 ments exclusively for renewable energy; and (c) by two thousand forty,
2 all energy used by regulated data centers shall be provided through
3 power purchase agreements exclusively for renewable energy.

4 3. For the purposes of this section, the following terms shall have
5 the following meanings:

6 (a) "Power purchase agreement" shall mean an agreement between a data
7 center operator, a utility, an authority, or an independent power
8 producer wherein the utility agrees to provide the data center electric-
9 ity, or an independent power producer, over a defined period of time.

10 (b) "Utility" shall have the same meaning as "utility company" as
11 defined in section two of the public service law.

12 § 6. The public service law is amended by adding a new section 76-a to
13 read as follows:

14 § 76-a. Data center surcharge and discount plan. 1. The public service
15 commission is hereby authorized and directed, to initiate a proceeding
16 within three months of this bill becoming law to establish a regulated
17 data center surcharge that will be charged to all regulated data
18 centers. The commission when determining the surcharge, shall ensure the
19 surcharge will be sufficient to cover any rate increases resulting from
20 transmission and distribution system upgrades that are required for
21 regulated data centers to interconnect to the grid and operate, along
22 with any increases in energy supply costs directly resulting from the
23 operations of data centers.

24 2. All monies collected from the regulated data center surcharge,
25 excluding any reasonable and prudently incurred utility administrative
26 costs associated from collecting the surcharge, shall be directed to the
27 energy affordability program created within the department case docket
28 14-M-0565, in the Order Adopting Low Income Program Modifications and
29 Directing Utility Filings, Proceeding on Motion of the Commission to
30 Examine Programs to Address Energy Affordability for Low Income Utility
31 Customers May 20, 2016, or any successor programs.

32 3. The commission shall authorize each electric utility corporation to
33 establish an account that is solely used for storing the proceeds of the
34 regulated utility data center surcharge, and once every year, upon
35 review and approval from the commission, shall transfer those proceeds
36 to their energy affordability program customers in the form of monthly
37 bill credits.

38 4. This proceeding shall include a public comment period of at least
39 sixty days and four public hearings in different regions of the state.

40 5. Within one year of the effective date of this section the commis-
41 sion shall issue an order requiring all electric corporations to imple-
42 ment a surcharge on regulated data centers within their service territo-
43 ries. The commission shall review and update this surcharge for
44 regulated data centers once every three years.

45 § 7. This act shall take effect one year after it shall have become a
46 law.