

STATE OF NEW YORK

10642

IN SENATE

June 1, 2026

Introduced by Sen. GONZALEZ -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

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;

26 (4) Streaming support services, not including streaming distribution;

27 and

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

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1 (5) Other related services and functions as defined by the public
2 service commission.

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

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

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

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

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

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

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

22 § 31-0103. Moratorium on large data center permit issuance.

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

26 2. This section shall not apply to:

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

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

32 § 31-0105. Hearing requirement.

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

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

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

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

7 § 31-0107. Environmental impact report.

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

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

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

18 b. Electricity consumption by data centers, including:

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

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

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

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

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

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

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

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

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

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

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

46 d. Land use for data centers, including:

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

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

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

53 iv. whether data centers are locating on and redeveloping existing
54 previously-developed and under-utilized publicly-owned lands, facili-
55 ties, and other infrastructure that may be available for repurposing,
56 redevelopment, or adaptive reuse, and the availability thereof.

e. Pollution from data centers, including, but not limited to:

- i. the amount of greenhouse gases emitted by each existing data center and the cumulative total for the state emitted or projected to be 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;
- 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;
- iv. potential public health impacts, if any, due to reduced air and water quality in communities near data centers; and
- v. 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; and
- iii. projections for the changes to the amounts under subparagraph i of this paragraph for both the proposed and projected growth of data centers in the state.

g. The impacts, including health impacts and air, water, and noise pollution impacts, of current, proposed, and projected data centers on disadvantaged communities and federally or state recognized indigenous nations located within a ten-mile radius of such data centers.

h. A review of current statutes and regulations addressing the environmental impact of data centers.

- i. In consultation with the empire state development corporation and the authorities budget office, the amount of public funds received by data centers, including in the form of state and local tax incentives, including but not limited to payments in lieu of tax arrangements, sales and use tax incentives, property tax incentives, mortgage recording tax incentives, and real estate transfer tax incentives.

3. The environmental impact report shall recommend new legislation and regulations as appropriate to mitigate the impacts of data centers identified by the environmental impact report including, but not limited to:

- a. minimize air, water, soil, and noise pollution;
- b. minimize water consumption; and
- c. avoid new burdens on disadvantaged communities and avoid contributing to existing burdens on disadvantaged communities.

4. A draft environmental impact report shall be posted on the department's website and shall be subject to at least one hundred twenty days of public comment from the date of posting. The department shall conduct at least one in-person public hearing in at least five 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.

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

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

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

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

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

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

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

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

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

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

54 (iii) The department may promulgate regulations regarding financial
55 surety requirements, between an electric corporation, gas corporation,
56 or municipality and a large data center, for the provision of service to

large data centers which may include one, or any combination, of the following: insurance, guarantee, surety bond, letter of credit, or qualification as a self-insurer. In promulgating requirements under this section, the commission shall be authorized to specify policy or other contractual terms, conditions, or defenses which are necessary or are unacceptable in establishing such evidence of financial surety.

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

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

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

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

(A) assign the costs incurred by the water-works corporation or municipal water system to serve large data centers, including, but not limited to, the costs of any infrastructure upgrades, administrative expenses, improvements, or additions and operational costs, necessary to facilitate and maintain service to such large data center facilities, entirely among such classification;

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

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

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

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

(iii) The department may promulgate regulations regarding financial surety requirements, between a water-works corporation or municipal water system and a large data center, for the provision of service to

large data centers which may include one, or any combination, of the following: insurance, guarantee, surety bond, letter of credit, or qualification as a self-insurer. In promulgating requirements under this section, the commission shall be authorized to specify policy or other contractual terms, conditions, or defenses which are necessary or are unacceptable in establishing such evidence of financial surety.

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

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

§ 114-b. Service classification for large data centers. 1. The commission shall:

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

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

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

§ 6. 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 section 31-0101 of the environmental conservation 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.

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

ARTICLE 19 DATA CENTERS

Section 19-101. Definitions.

19-103. Renewable energy use standards.

1 19-105. Renewable energy production standards.

2 § 19-101. Definitions. For purposes of this article, the following
3 terms shall have the following meanings:

4 1. "Data center" shall have the meaning given to such term in section
5 31-0101 of the environmental conservation law.

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

8 § 19-103. Renewable energy use standards. Every data center with a
9 peak load of five megawatts or more shall demonstrate through annual
10 third-party independent verification acceptable to the public service
11 commission that it is procuring, whether through contract or on-site
12 generation, that:

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

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

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

21 § 19-105. Renewable energy production standards. Every data center
22 with a peak load of five megawatts or more shall demonstrate through
23 annual third-party independent verification acceptable to the public
24 service commission that it is deriving as much of its energy needs as is
25 technologically, environmentally, and practically feasible from on-site
26 generation from renewable energy systems.

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

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

32 (b) "Eligible residential technologies" means:

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

36 (ii) heat pump water heaters;

37 (iii) distributed solar photovoltaic systems; and

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

39 (c) "Community infrastructure" means:

40 (i) local broadband infrastructure;

41 (ii) large data center noise mitigation measures;

42 (iii) municipal drinking water infrastructure;

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

45 (v) energy transmission infrastructure; and

46 (vi) large data center pollution mitigation.

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

49 (e) "Waters" shall have the meaning given to such term by subdivision
50 4 of section 15-0107 of the environmental conservation law.

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

54 2. Each new large data center, or any existing large data center
55 undergoing a major expansion that will meet or exceed 20 megawatts of

1 additional load, shall, pursuant to subdivision 3 of this section, fund
2 a program to:

3 (a) install eligible residential technologies for host community resi-
4 dents;

5 (b) develop community infrastructure in the host community or communi-
6 ties; and

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

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

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

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

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

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

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

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

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

(c) construction work performed on a multiple residence and/or ancillary amenities or installations that is wholly privately owned in any of the following circumstances:

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

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

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

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

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

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

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

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

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

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

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

34 5. The fiscal officer may issue rules and regulations governing the
35 provisions of this section. Violations of this section shall be grounds
36 for determinations and orders pursuant to section two hundred twenty-b
37 of this article.

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

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

49 § 11. Severability. If any clause, sentence, paragraph, section or
50 part of this article shall be adjudged by any court of competent juris-
51 isdiction to be invalid and after exhaustion of all further judicial
52 review, the judgment shall not affect, impair or invalidate the remain-
53 der thereof, but shall be confined in its operation to the clause,
54 sentence, paragraph, section or part of this article directly involved
55 in the controversy in which the judgment shall have been rendered.

56 § 12. This act shall take effect immediately.