STATE OF NEW YORK

6394--A

2025-2026 Regular Sessions

IN SENATE

March 13, 2025

Introduced by Sens. GONZALEZ, MAY -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications -- reported favorably from said committee and committed to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public 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:

Section 1. Short title. This act shall be known and may be cited as the "New York state sustainable data centers act".

§ 2. Legislative intent and findings. The legislature finds that data centers are significant energy and water consumers and significant contributors to air and water pollution. The expansion and operation of data centers across the state impairs New York state's ability to achieve the renewable energy and emissions reduction benchmarks required by the climate leadership and community protection act due to their significant use of energy and water and significant emissions of greenhouse gases generated through the power needs of their operation. Given the growing demand for the construction of data centers, there is a critical need to improve the energy efficiency of data centers and reduce their energy consumption, water consumption, reliance on fossil fuels, and emissions. Likewise, the large quantities of water used by data centers contribute an additional threat to the health of the state's waters, the ecosystems of which they are an integral part, and the residents of the state who rely on them. This act will ensure that economic development involving data centers is consistent with the state's environmental standards and principles, and that where renewable

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

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energy is used to power data centers, that such energy is being used responsibly, with the interests and health of the public in mind.

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

ARTICLE 12

REGULATION OF DATA CENTER ENERGY CONSUMPTION

Section 240. Definitions.
241. Data center disclosure reports.
242. Public engagement.
243. Annual data center disclosure report updates.

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

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

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

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

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

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

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

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

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

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

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

11. "Hyperscale data center" shall mean a data center that takes up ten thousand square feet or more and uses at least five thousand servers.

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

§ 241. Data center disclosure reports. For any proposed regulated data center, the proposed data center operator shall submit a data center disclosure report to the department and the commission at least one hundred eighty days prior to commencing any construction activities related to a regulated data center. The report shall contain relevant information regarding the proposed regulated data center, including:

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

(b) the organization of the planned regulated data center as a single operator enterprise or managed data center, colocated facility, hyperscale data center, micro data center, or a container or modular data center.

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

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

(b) the projected percentage of employees residing in the host community or communities.

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

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

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

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

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

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

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

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

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

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

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

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

5. For any regulated data center making any discharge within the meaning of article seventeen of the environmental conservation law, the data center operator shall report:

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

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

6. The commission may promulgate rules requiring additional disclosures, as appropriate.

§ 242. Public engagement. The commission shall publicize the data disclosure report on its website within ten days of receiving such report. The data center operator shall hold at least two public hearings within sixty days after submitting its data center disclosure report to the commission. At least one of the two public hearings must be held within the host community where the data center operator plans to locate its data center. The data center operator shall provide at least thirty days advance notice to residents of host communities of any planned public hearings. Notice of public hearings shall include the time, place, and location of each public hearing, a summary of the proposed data center project, and the specific location of the planned data center. Methods of providing notice to a host community shall include, but shall not be limited to, coverage in any print or digital publication produced by local, community, and ethnic media. During a public hearing conducted pursuant to this section, the data center operator must explicitly disclose and present its finding under section two hundred forty-three of this article in clear and concise language comprehensible for members of the public in general. It shall also address the efforts it will make to reduce any negative impacts to the host community and its environment that the planned data center may cause. A draft of the data center disclosure report shall be made publicly available no later than thirty days prior to the first hearing.

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

2. Specifically, data center operators shall report:

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

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

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

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

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

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

(ii) For data centers that are required to have a permit pursuant to title fifteen of article fifteen of the environmental conservation law, a projection for water usage for the next year, disclosing the same information as required by subdivision four of section two hundred 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 agreements exclusively for renewable energy; and (c) by two thousand forty, all energy used by regulated data centers shall be provided through power purchase agreements exclusively for renewable energy.

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

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

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

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

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

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

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

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

5. Within one year of the effective date of this section the commission shall issue an order requiring all electric corporations to implement a surcharge on regulated data centers within their service territories. The commission shall review and update this surcharge for regulated data centers once every three years.

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