

# 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:

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

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

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

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

5 ARTICLE 12

6 REGULATION OF DATA CENTER ENERGY CONSUMPTION

7 Section 240. Definitions.

8 241. Data center disclosure reports.

9 242. Public engagement.

10 243. Annual data center disclosure report updates.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 6. The commission may promulgate rules requiring additional disclo-  
2 tures, as appropriate.

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

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

36 2. Specifically, data center operators shall report:

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

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

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

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

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

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

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

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

10 (h) Efforts made to reduce waste heat and utilize waste heat to power  
11 the data center accompanied by measurements of actual heat waste emis-  
12 sion and reuse; and

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

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

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

27 § 4. The public authorities law is amended by adding a new section  
28 1854-e to read as follows:

29 § 1854-e. Energy consumption efficiency goals. 1. No later than one  
30 year after the effective date of this section, the authority, in  
31 conjunction with the federally designed bulk system operator, the public  
32 service commission, and the New York state climate action council shall  
33 determine reasonable energy consumption efficiency goals for the design  
34 and operation of data centers as defined in article twelve of the public  
35 service law, including, but not limited to, recycling of waste heat  
36 emitted from data centers into an energy source. Such goals shall align  
37 with the benchmarks set forth in the climate leadership and community  
38 protection act enacted by chapter one hundred six of the laws of two  
39 thousand nineteen and shall be reviewed and updated accordingly, annual-  
40 ly.

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

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

49 ARTICLE 19

50 DATA CENTERS

51 Section 19-101. Fossil fuel power purchase agreements.

52 § 19-101. Fossil fuel power purchase agreements. 1. Power purchase  
53 agreements for any energy generated through the consumption of fossil  
54 fuels shall not provide economic incentives or discounts to regulated  
55 data centers, as set forth in article twelve of the public service law.

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

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

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

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

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

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

30 2. All monies collected from the regulated data center surcharge,  
31 excluding any reasonable and prudently incurred utility administrative  
32 costs associated from collecting the surcharge, shall be directed to the  
33 energy affordability program created within the department case docket  
34 14-M-0565, in the Order Adopting Low Income Program Modifications and  
35 Directing Utility Filings, Proceeding on Motion of the Commission to  
36 Examine Programs to Address Energy Affordability for Low Income Utility  
37 Customers May 20, 2016, or any successor programs.

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

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

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

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