

Introduction:

Last week, New York became the first U.S. state to enact a statewide moratorium on major data center development. On July 14, 2026, Governor Kathy Hochul issued an Executive Order (EO #62), which, effective immediately, imposes a one-year moratorium on discretionary environmental permits for data centers of 50-megawatts or more, in addition to other directives to New York State agencies to study and provide future guidelines for such “hyperscale” data center projects.

The Executive Order follows a broader trend of state and local governments stepping in to dictate where and how data centers – the supercomputer backbones of the artificial intelligence (AI) revolution – are sited, constructed and integrated into their locations. In the absence of meaningful federal regulations over AI proliferation and their big tech developers, further state and local regulations and moratoria are expected.

This alert is written for practitioners and property owners navigating the Executive Order's immediate effects. Its focus is practical and prognostic, as opposed to a commentary on the underlying policy debates.

The Executive Order vs. the Act:

Executive Order No. 62 adopts a narrower interim approach than the *Responsible Data Center Development Act* (S.10642/A.11560) (the Act), which passed both houses of the Legislature in June 2026 but has not been enacted. The Act, had it been signed by the Governor, would have placed a one-year moratorium on “large” data center projects at just 40% of the demand (20 MW or more) of 50-MW “hyperscale” data centers.

Governor Hochul's modified roll-out of the Legislature's data center moratorium draws comparisons to her office's conditional support of New York's Congestion Pricing in late 2024, a similarly controversial and ground-breaking regulation. The Governor's tweak to Congestion Pricing, which finally allowed it to take effect in January 2025, reduced the initially proposed \$15 toll to \$9 (a 40% reduction). As the Legislature's Act is still pending, further negotiations on a potentially revised version of the Act are still ongoing.

Compared to the Act, the Executive Order:

- **Allows 20-50MW Larger Data Center Projects to Proceed:** It allows for projects of up to 2.5x greater electrical demand (50-MW cap vs. 20-MW cap).
- **Exempts Pending Applications:** Permit applications that were already deemed complete by the Department of Environmental Conservation (DEC) before July 14, 2026 can proceed.
- **Avoids Strict Labor Mandates:** Does not impose the Act's rigid statutory requirements for prevailing wages, apprenticeship utilization, and domestic steel sourcing on facilities with a peak load over 5 MW.
- **Takes a Flexible Approach to Utility Costs:** Instead of legislatively mandating the creation of a separate and distinct electric and water utility rate class to shift infrastructure costs, the Executive Order directs the Department of Public Service to evaluate potential regulatory mechanisms (such as capital contributions) to protect existing ratepayers from stranded assets.
- **Omits Renewable Energy Quotas:** Foregoes the Act's aggressive energy efficiency goals, which would have required data centers to phase in a 90% renewable energy sourcing target by 2040 and utilize on-site renewable generation where feasible.
- **Shifts Community Benefits to Agency Rulemaking:** Rather than establishing a rigid host community benefits program by statute, the Executive Order tasks Empire State Development (ESD) with crafting a Community Investment Framework policy, with initial public feedback due within 30 days.
- **Defines Data Center Differently:** Under the Executive Order, a "data center" is defined as: "a facility or group of facilities located on the same site or contiguous sites used to house computer servers, associated components, or computing or telecommunications equipment for the storage, processing, distribution, and/or management of data" ... which:
 - (1) are in facilities containing uninterruptible power supply systems, specialized cooling systems designed for high-density computing loads, and/or contain cybersecurity systems designed for secure digital infrastructure operations;
 - (2) provide data storage, cloud computing, and/or content delivery to customers, internal operations, and/or affiliated business operations, oftentimes on a continuous twenty-four-hour cycle; and

- (3) consume or can consume 50 megawatts of energy or more.”

Impact on NY State Agencies:

Governor Hochul’s Executive Order may be less strict than the Act, but it is clearly just an opening salvo, creating breathing room for State agencies to carefully consider the structure of a more permanent regulatory framework. In her announcement, the Governor asserted that the days of blanket tax breaks and public incentives (including sales tax exemptions) for data centers may be over in New York, highlighting the ways in which State agencies will be urged under the moratorium to craft frameworks and programs that derive community benefits and public goods from data center projects.

Most immediately, the Executive Order halts the DEC from issuing any new, discretionary permits for hyperscale data centers for up to one year; however, projects already possessing deemed-complete permits may proceed. During this one-year pause, the Department of Public Service (DPS) is tasked with developing a Generic Environmental Impact Statement (GEIS)[1] to examine the various environmental, infrastructure, and community impacts of hyperscale data centers, and to outline a new Grid Acceleration Fund to establish new exactions and financial baselines for how data centers interact with the grid. Furthermore, developers will soon be subject to a Community Investment Framework (CIF), currently in design by ESD.

- **Empire State Development (ESD) / Community Investment Framework (CIF):** According to ESD, the CIF is “intended to serve as a standardized expectation for large-scale data center developments, providing local governments and developers with a consistent basis for negotiating community benefits while offering flexibility to tailor investments to local needs.” ESD currently envisions this framework extending to the following categories of exactions and community benefits:
 - **Good Neighbor Commitments:** “Structure to codify Good Neighbor Commitments, including landscaping, design, and mitigation of noise and light pollution.”
 - **Labor Commitments:** “Establishment of frameworks that prioritize prevailing wage standards and project labor agreements for data center construction, local hiring, apprenticeships, and workforce development to maximize economic benefits.”
 - **Community Investment Fund:** “Structure to include mutually agreed-upon investments by the data center operator that

advance the long-term economic vitality and quality of life of the host community.” ESD suggests these community benefits may include a wide variety of investments and public-private partnerships, specifically calling out: Public Infrastructure Improvements, Community Anchor Institutions, Housing Initiatives, Workforce Development and Training Programs, Childcare Facilities, Broadband Expansion, Public Safety Initiatives, School Facility and Educational Enhancements, Blight Remediation, and Other Locally Identified Energy Affordability and Community Development Priorities.

- **Department of Public Service (DPS) / NY Grid Acceleration Fund:** The Executive Order directs the creation of a “New York Grid Acceleration Fund,” supported by data center contributions, to help finance electric grid investments. DPS is tasked with reviewing how such a fund would be structured, how to coordinate with utilities and stakeholders to identify necessary grid improvements, and whether fund components should protect ratepayers from stranded costs caused by project delays, scope changes, or cancellations. DPS may also evaluate approaches that would require data centers to fund dedicated clean generation and/or battery storage, including customer-sited distributed energy resources, to the greatest extent feasible. Specifically, within 60 days, DPS must establish a Data Center Interconnection Working Group to examine Grid interconnection procedures, Reliability impacts, Cost allocation methodologies, and Treatment of network upgrade and resource adequacy costs associated with large new loads. Furthermore, DPS must convene the state’s transmission owners to review whether their practices for studying data center and other large-load impacts are sufficient to estimate and manage network upgrade and supply-related costs, and must report to the Commission within 90 days. Data centers may also be subject to future service classifications and requirements developed by DPS and established by the Public Service Commission.

Key Dates Under the 1-year Moratorium:

- **Now:** Property owners with pending DEC applications should confirm in writing whether their permit was “deemed complete” before July 14, 2026 — that status determines whether a project is exempt from the moratorium.
- **Within 30 days (by August 13, 2026):** ESD opens the Community Investment Framework for public comment. Municipalities and

developers should submit input now, while the framework is still being shaped.

- **Within 60 days (by September 12, 2026):** DPS must establish a Data Center Interconnection Working Group; agencies and utilities with a stake in grid planning should seek a seat at the table.
- **Within 90 days (by October 12, 2026):** DPS must report to the Public Service Commission on transmission owners' practices for studying large-load impacts.
- **Up to one year (by July 14, 2027):** The GEIS must be completed before DEC will resume issuing discretionary permits, the outer boundary for project timelines under the current pause.

National Context:

New York's moratorium may be the first statewide enactment, however, it reflects a broader and well-publicized national trend of increasing resistance toward large data center development. For example:

- **North Carolina:** The proposed *Ratepayer and Resource Protection Act* (HB 1063) sought to strip tax incentives, establish special large-load utility rates, and force data centers to maintain on-site clean generation capable of offsetting at least 25% of their peak electricity demand.
- **Maine:** Legislators successfully passed LD 307, which proposed a 20-MW moratorium remarkably similar to the Act, though Governor Janet Mills vetoed the bill, citing concerns about impacts on a specific \$550 million redevelopment project.
- **Seattle, WA:** On June 9, 2026, Seattle became the largest city in the United States to approve a one-year moratorium on data centers, covering projects of 20 MW or more.
- **Monterey Park, CA:** On June 2, 2026, 88% of voters in this municipality outside of Los Angeles passed a ballot measure to prohibit data centers citywide.

Implications for Real Estate, Land Use, and Environmental Practice:

The immediate significance extends well beyond developers of 50-MW or larger facilities.

- **Site Selection:** Data center developers should anticipate heightened scrutiny of electrical interconnection capacity, community impacts, water availability, and long-term utility costs.
- **Permitting and Environmental Review:** New York is moving toward cumulative-impact analysis. Future reviews will likely focus not only on an individual project's footprint but also on aggregate regional effects arising from multiple facilities competing for power, water, and transmission capacity.
- **Utility Regulation:** The push to require large data centers to bear their own infrastructure costs—either via the proposed legislative rate classes or the Governor's new grid premiums—could become a national model. Cost-allocation disputes over substations, generation resources, and water infrastructure will become primary legal battlegrounds.
- **Local Government and Land Use:** Municipalities will face increased pressure to update zoning ordinances to address data centers explicitly, rather than treating them as ordinary industrial uses. Host-community benefit agreements will shift from voluntary developer gestures to mandatory, highly negotiated regulatory requirements.

What This Means For Practitioners and Stakeholders:

Stakeholders in the NY data center space should closely consider the following:

- Whether an existing project's application was already "complete" prior to the July 14, 2026 effective date of the Executive Order.
- Whether a pending project is or may likely become covered by the moratorium.
- How financing and construction timelines may be impacted by the rollout of new data center rules and criteria under the Executive Order.
- Early engagement on ESD's Community Investment Framework (CIF) and related "community benefits" discussions with local stakeholders.
- How new environmental review, zoning, and renewable energy requirements for data centers may fundamentally change a development and its economics.
- Utility cost allocation reforms and possible further water restrictions on projects; and
- Potential environmental justice challenges to major projects.

Additionally, as new data center regulations emerge, developers of smaller-footprint and non-traditional data centers may end up benefitting from this moratorium. Specifically, a size-limit on data centers presents a major opportunity for mobile and micro-data center developers, which can bring compute power directly to end users without the same scale of grid interconnections. A trend towards small-scale data centers would evolve further, of course, if quantum computing reaches a commercial reality. Zooming out further, SpaceX and other aeronautics companies are openly promoting the near-term development of data center “constellations” in space (see SpaceX’s letter to the FCC [here](#)), which could conceivably render terrestrial data centers obsolete one day.

What’s Next:

New York’s groundbreaking data center moratorium arrives at a pivotal moment in the rapid evolution of AI technology and the economic impact it has provided for the stock market, industrial development (such as Micron’s microchip manufacturing plans in Syracuse), and commercial leasing (especially in upscale Class A office spaces). Though data centers have existed since the earliest days of computing, their increasing imposition on green spaces and consumption of energy has made them a lightning rod for criticism, especially with few full-time jobs needed for their ongoing operations. Data centers have become such a cultural touchstone that the director Ari Aster based his latest horror/thriller film – 2025’s *Eddington* – around the development of a data center in a fictional town in the Western United States.

The one-year pause has already generated real political crosscurrents that public-sector and industry clients alike should track. President Trump publicly called the moratorium damaging to New York’s economy, and industry advocates have warned that other states may follow New York’s lead, disrupting project pipelines nationally. On the other hand, the proponents of the stalled Senate Bill 2025-S10642 say the Executive Order does not go far enough. Congressional Democrats are similarly split, with some lawmakers cautioning that state-level moratoria risk ceding AI leadership to China.

Despite a variety of political discourse on this topic – the lesson from New York’s data center moratorium is clear: look to site projects in states and localities that don’t intend to regulate further, or rework data center proposals

to reduce their footprint and/or offer material benefits to their host communities and the utility grid.

We invite you to contact Carter Ledyard to discuss how these shifting regulations impact your project with our real estate and environmental law practice groups.

Resources:

- Governor Hochul's Moratorium Announcement and EO Text: [Executive Order # 62](#)
- The pending [NY State Senate Bill 2025-S10642](#)
- NY ESD's Community Investment Framework
 - esd.ny.gov/sites/default/files/media/document/CIF-Policy-Outline-071426.pdf
- Grid Fund – New York Grid Acceleration Fund
 - <https://www.rewiringamerica.org/newsroom/press-releases/new-york-data-center-moratorium-opens-door-to-investment-in-homegrown-energy>
- Urban Land Institute's Local Guidelines for Data Center Development
 - <https://knowledge.uli.org/en/reports/research-reports/2024/local-guidelines-for-data-center-development>

[1] Unlike a project-specific EIS, a GEIS evaluates the cumulative impacts of an entire class of projects, making it an especially powerful planning document for future permitting