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SENATE BILL NO. 850

Offered January 13, 2027

Prefiled November 2, 2026

A BILL to amend and reenact § 56-235.2 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 11.1 of Title 10.1 an article numbered 6, consisting of sections numbered 10.1-1197.12 through 10.1-1197.15, and by adding sections numbered 40.1-29.4 and 56-235.2:1, relating to large data centers; moratorium; approval requirements; prevailing wage required; public utility independent classifications; community investment program; report.

Patron—Jones

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That § 56-235.2 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 11.1 of Title 10.1 an article numbered 6, consisting of sections numbered 10.1-1197.12 through 10.1-1197.15, and by adding sections numbered 40.1-29.4 and 56-235.2:1 as follows:

Article 6.

Moratorium on Large Data Center Approvals; Approval Requirements.

§ 10.1-1197.12. Definitions.

As used in this article, unless the context requires a different meaning:

"Approval" means any permit, certificate, registration, license, or other form of approval.

"Commission" means the State Corporation Commission.

"Data center" means the same as that term is defined in subdivision A 43 of § 58.1-3506.

"Large data center" means a data center with a peak electric demand of 20 megawatts or more.

§ 10.1-1197.13. Moratorium on large data center approvals.

A. No approval shall be issued by the Department for a large data center prior to July 1, 2028.

B. No provision of this section shall apply to:

1. The modification, renewal, reissuance, or recertification of any previously issued permit, certificate, registration, license, or other form of approval; or

2. A large data center commencing construction on or before July 1, 2027.

§ 10.1-1197.14. Hearing requirement for large data centers.

A. The Department shall not issue any approval for a large data center unless, at least three months before the issuance of such approval, the operator of such data center, in coordination with the Commission and the Department and subject to such requirements as stipulated thereby, has held at least one in-person public hearing in at least one host community where such data center is to be constructed in accordance with the provisions of this section.

B. A data center operator shall provide at least 30 days' advance notice to residents of host communities of any planned public hearing. Such notice shall include the time, place, and location of the hearing, a summary of the large data center project, the specific location of the large data center, a detailed explanation of the projected energy use and energy system impacts, a detailed explanation of the projected water use and wastewater impacts, and a detailed explanation of the state and local economic incentives the large data center is applying for and those it has already been awarded. Methods of providing such notice shall include coverage in print or digital publications of general circulation in the community and other such publications as required by the Department. Such hearing shall be held at a reasonable time and location and shall include meaningful opportunity for public comment.

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

D. The data center operator shall pay all expenses for such public hearing, including the costs of the Department and the Commission.

§ 10.1-1197.15. Community investment program requirement for large data centers.

A. As used in this section:

"Community infrastructure" means:

1. Local broadband infrastructure;

2. Large data center noise mitigation measures;

3. Municipal drinking water infrastructure;

4. Municipal-owned and community-owned renewable energy systems;

5. Energy transmission infrastructure; and

6. Large data center pollution mitigation.

"Eligible residential technologies" means:

1. Cold-climate air source heat pumps and ground source heat pumps for space heating and cooling, including geothermal ground source heat pumps and thermal energy networks;

2. Heat pump water heaters;

3. Distributed solar photovoltaic systems; and

4. Behind-the-meter battery storage systems.

"Host community" means any locality within which a large data center, or any portion thereof, has been proposed for development.

"Major expansion" means any modification of a large data center that will create an additional electric load of 20 megawatts or more.

"Water" means the same as that term is defined in § 62.1-10.

B. The Department shall not issue any approval for the construction or major expansion of a large data center unless the large data center first demonstrates compliance with the provisions of this section.

C. Each large data center shall implement and fund a program to:

1. Install eligible residential technologies for host community residents;

2. Develop community infrastructure within the host community;

3. Implement measures to fully prevent increased levels of water pollution, strains on wastewater infrastructure, water scarcity, and other adverse impacts to waters in the host community reasonably anticipated to be caused by the construction and operation of the large data center. Such measures may include the adoption of efficient large data center cooling technology, such as closed-loop cooling systems. Such measures shall not be required with respect to adverse impacts addressed pursuant to subdivision B 4 of § 56-235.2:1; and

4. Promote the recruitment and training of workers from the host community, including through partnerships with local apprenticeship programs and career and technical education centers.

§ 40.1-29.4. Prevailing wage required for certain employees.

A. As used in this section:

"Covered data center" means a data center with a peak demand capacity of five megawatts or more.

"Data center" means the same as that term is defined in subdivision A 43 of § 58.1-3506.

"Data center construction project" means the construction of a covered data center or the major expansion of a data center.

"Major expansion" means any modification of a data center that will create an additional electric load of 20 megawatts or more.

B. Not less than the prevailing wage rate, as determined by the Commissioner pursuant to subdivision 6 of § 40.1-6, shall be paid to a worker employed in the performance of any construction undertaken in connection with a data center construction project. An employer that fails to pay wages owed in accordance with this section shall be deemed to have violated subsection D of § 40.1-29.

§ 56-235.2. All rates, tolls, etc., to be just and reasonable to jurisdictional customers; findings and conclusions to be set forth; alternative forms of regulation for electric companies.

A. Any rate, toll, charge or schedule of any public utility operating in this Commonwealth shall be considered to be just and reasonable only if~~:~~ ~~(1)~~ *(i)* the public utility has demonstrated that such rates, tolls, charges or schedules in the aggregate provide revenues not in excess of the aggregate actual costs incurred by the public utility in serving customers within the jurisdiction of the Commission, including such normalization for nonrecurring costs and annualized adjustments for future costs as the Commission finds reasonably can be predicted to occur during the rate year, and a fair return on the public utility's rate base used to serve those jurisdictional customers, which return shall be calculated in accordance with § 56-585.1 for utilities subject to such section; ~~(1a)~~ *(ii)* the investor-owned public electric utility has demonstrated that no part of such rates, tolls, charges or schedules includes costs for advertisement, except for advertisements either required by law or rule or regulation, or for advertisements which solely promote the public interest, conservation or more efficient use of energy; and ~~(2)~~ *(iii)* the public utility has demonstrated that such rates, tolls, charges or schedules contain reasonable classifications of customers. Notwithstanding § 56-234, the Commission may approve, either in the context of or apart from a rate proceeding after notice to all affected parties and hearing, special rates, contracts or incentives to individual customers or classes of customers where it finds such measures are in the public interest. Such special charges shall not be limited by the provisions of § 56-235.4. In determining costs of service, the Commission may use the test year method of estimating revenue needs. In any Commission order establishing a fair and reasonable rate of return for an investor-owned gas, telephone or electric public utility, the Commission shall set forth the findings of fact and conclusions of law upon which such order is based.

For ratemaking purposes, the Commission shall determine the federal and state income tax costs for investor-owned water, gas, or electric utility that is part of a publicly-traded, consolidated group as follows: ~~(i)~~ *(a)* such utility's apportioned state income tax costs shall be calculated according to the applicable statutory rate, as if the utility had not filed a consolidated return with its affiliates, and ~~(ii)~~ *(b)* such utility's

federal income tax costs shall be calculated according to the applicable federal income tax rate and shall exclude any consolidated tax liability or benefit adjustments originating from any taxable income or loss of its affiliates.

In any ratemaking proceeding for an investor-owned utility authorized to furnish water or water and sewer service initiated after January 1, 2022, the Commission shall evaluate such utility on a stand-alone basis and, for purposes of establishing any revenue requirement and rates, utilize such utility's actual end-of-test period capital structure and cost of capital without regard to the cost of capital, capital structure, or investments of any other entities with which such utility may be affiliated, unless the Commission finds based on evidence in the record that the debt to equity ratio of the actual end-of-test period capital structure of such utility is unreasonable, in which case the Commission may utilize a debt to equity ratio that it finds to be reasonable. In all proceedings initiated after January 1, 2022, in which the Commission reviews the rates and associated earnings of an investor-owned utility authorized to furnish water or water and sewer service, the Commission shall conduct such review utilizing the same cost of capital and capital structure adopted in the utility's most recent rate case in which such rates were set, without regard to any later changes in the cost of capital or capital structure.

B. The Commission shall, before approving special rates, contracts, incentives or other alternative regulatory plans under subsection A, ensure that such action (i) protects the public interest, (ii) will not unreasonably prejudice or disadvantage any customer or class of customers, and (iii) will not jeopardize the continuation of reliable electric service.

C. After notice and public hearing, the Commission shall issue guidelines for special rates adopted pursuant to subsection A that will ensure that other customers are not caused to bear increased rates as a result of such special rates.

D. The Commission shall not approve any proposed change of rates or related update to a tariff requested by a water, gas, or electric utility unless such proposal includes a service classification for large data center customers in compliance with the provisions of § 56-235.2:1.

§ 56-235.2:1. Independent classification of service for large data center customers.

A. As used in this section:

"Incumbent electric utility" means the same as that term is defined in § 56-576.

"Large data center" means a data center, as defined in subdivision A 43 of § 58.1-3506, with a peak electric demand of 20 megawatts or more.

"Public utility" means a water, gas, or electric utility regulated by the Commission.

"Regional transmission entity" means an entity to which an incumbent electric utility has transferred the management and control of its transmission assets pursuant to § 56-577.

B. The Commission shall require each public utility to establish and file with the Commission for approval an independent classification of service for customers that are large data centers by July 1, 2031. The Commission shall also require each public utility to file updates, if applicable, to existing classifications of service to exclude such customers and to update any other filings, documents, or components thereof necessary to effectuate the reclassification of such customers. Each such service classification shall, at a minimum and in a just and reasonable manner, establish a rate, charge, or schedule of rates and additional terms of service to:

1. Assign the costs incurred by the public utility to serve large data center customers, including the costs of any infrastructure upgrades, administrative expenses, additions, and operational costs necessary to facilitate and maintain service to such customers, entirely among such classification;

2. Assign all costs related to the recovery of any rate of return attributable to large data center customers entirely among such classification;

3. Assign all costs of the Commission for the implementation of this section entirely among such classification; and

4. Mitigate risks and impacts to other service classifications from large data center customers, including by ensuring that no increases occur to surcharges, rates, or other fixed charges not directly related to actual energy usage.

C. The Commission, in coordination with each regional transmission entity, shall establish, implement, and annually update an adjustment mechanism to ensure that all costs from any increases in commodity prices occurring on or after July 1, 2027, including transmission service fees and water service fees, attributable to large data center customers are born by such customers.

D. The Commission may promulgate regulations regarding financial surety requirements between a public utility and a large data center customer for the provision of service to such customer, 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 pursuant to this subsection, the Commission may specify policy or other contractual terms, conditions, or defenses which are necessary or acceptable for establishing evidence of financial surety.

2. That the Department of Environmental Quality (the Department), in consultation with the State Corporation Commission, the Department of Health, the Department of Conservation and Recreation,

and PJM Interconnection, shall prepare an environmental impact report on data center development in the Commonwealth. Such report shall address matters including:

A. The number, size in acreage, average and peak electric load, and location of current data centers, active proposals for new data centers, and projections for future growth of data centers in the Commonwealth;

B. Electricity consumption by data centers, including (i) the amount of electricity used by data centers within the Commonwealth, (ii) identification of the generation sources for such electricity, (iii) projections of changes to the amount described in clause (i) for both the proposed and projected growth of data centers within the Commonwealth, and (iv) the amount of discounted or subsidized electricity used by data centers within the Commonwealth and the amount of any such discount or subsidy;

C. Water consumption and discharge by data centers, including (i) the amount and sources of water used by data centers for cooling; (ii) the daily rate of consumption of water from such sources; (iii) the amount of water withdrawn and discharged from data centers back into the Commonwealth's water resources, the temperature of the water both at point of withdrawal and discharge, locations of withdrawal and discharge points, and the local impacts of the discharge; (iv) the amount of water consumed by cooling systems, lost to evaporation, or in any way not returned to the waters of the Commonwealth; (v) projections for changes to the amounts described in clauses (i) through (iv) for both the proposed and projected growth of data centers within the Commonwealth; and (vi) the impact of data center development on the management of the Commonwealth's water resources, including any impacts related to capital planning, spending, and maintenance needs of water utilities or municipal water systems and billing impacts;

D. Land use for data centers, including (i) the total acreage used for existing data centers; (ii) projections for changes to the amount described in clause (i) for both the proposed and projected growth of data centers in the Commonwealth; (iii) impacts on farmland, including an analysis of impacts on prime farmland mineral soil classes I through IV; and (iv) whether data centers are locating on and redeveloping existing previously developed and underutilized publicly owned lands, facilities, or other infrastructure that may be available for repurposing, redevelopment, or adaptive reuse, and the availability thereof;

E. Pollution from data centers, including (i) the amount of greenhouse gases emitted by each existing data center and the cumulative total for the Commonwealth emitted or projected to be emitted by existing, proposed, and projected data centers, expressed in metric tons of carbon dioxide equivalent; (ii) the types and quantity of air pollutants emitted by each data center and the cumulative total for the Commonwealth 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 one half 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 used to dispose of or recycle electronic waste produced by data centers; and (iii) projections for changes to the amounts described in clause (i) for both the proposed and projected growth of data centers in the Commonwealth;

G. The impacts, including health impacts and air, water, and noise pollution impacts, of current, proposed, and projected data centers on environmental justice communities, as defined in § 2.2-234 of the Code of Virginia, and federally recognized Tribal Nations indigenous to the Commonwealth that are located within a 10-mile radius of such data centers;

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

I. In consultation with the Virginia Economic Development Partnership, the amount of public funds received by data centers, including payments in lieu of tax arrangements, sales and use tax incentives, property tax incentives, mortgage recording tax incentives, and real estate transfer tax incentives.

Such report shall recommend new legislation and regulations as appropriate to mitigate the impacts of data centers identified therein, including recommendations to (i) minimize air, water, soil, and noise pollution; (ii) minimize water consumption; and (iii) avoid new burdens on environmental justice communities and avoid contributing to existing burdens on such communities. A draft of such report shall be posted on the Department's website and shall be subject to at least 120 days of public comment after the date of posting. The Department shall conduct at least five in-person public hearings throughout the Commonwealth and shall provide meaningful opportunity for comment at such hearings. The Department shall finalize and submit its report to the Governor and the General

Assembly after the expiration of such public comment period and no later than January 1, 2029.

3. That the Department of Environmental Quality (the Department), in consultation with the State Corporation Commission, the Virginia Economic Development Partnership, and the Department of Workforce Development and Advancement, shall commence a proceeding to establish a community investment program through which large data centers, as defined in § 56-235.2:1 of the Code of Virginia, as created by this act, may comply with the requirements of subsection C of § 10.1-1197.15 of the Code of Virginia, as created by this act. Such program shall include a process for large data centers to notify host communities of the program and the process for implementation, including meaningful community engagement. Such program shall allow host communities to indicate preferences for the installation of any eligible residential technologies or community infrastructure and shall provide for the calculation of the amount of technology or infrastructure to be installed based on community input and other factors deemed relevant by the Department, including the expected average electric and water demand of the large data center, the average number of electric and water utility customers within the host community, and the expected aggregate annual electric and water consumption within the host community.

4. That the Department of Energy, in coordination with the State Corporation Commission and PJM Interconnection, shall determine reasonable energy consumption efficiency goals for the design and operation of large data centers, as defined in § 56-235.2:1 of the Code of Virginia, as created by this act, including requiring large data centers to recycle waste heat and to demonstrate that certain percentages of electricity used by large data centers are derived from renewable energy. Such goals shall align with the Energy Policy of the Commonwealth as described in Article 3 (§ 45.2-1705 et seq.) of Chapter 17 of Title 45.2 of the Code of Virginia and shall be reviewed and updated annually.

5. That notwithstanding any other provision of law, no locality shall grant final approval on or after July 1, 2027, of any application for a rezoning, special exception, special use permit, site plan, or plan of development for the siting of a data center, as defined in subdivision A 43 of § 58.1-3506 of the Code of Virginia.

6. That the provisions of the fifth enactment of this act shall expire on July 1, 2028.