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DATA CENTER LEGISLATION:

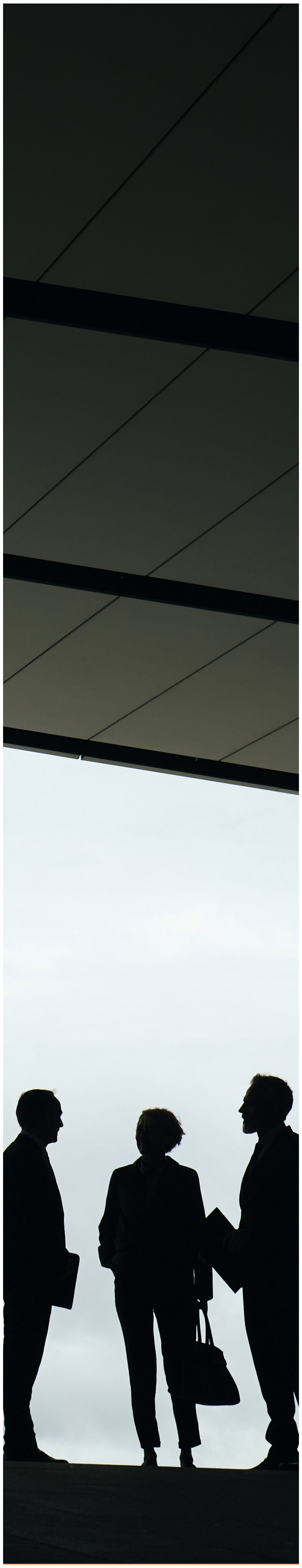
Trends, Risks and Strategic Considerations

THE TREND: DATA CENTER LEGISLATION ACCELERATES NATIONWIDE

The political landscape for data center development has shifted with remarkable speed. In 2025, more than 200 bills were introduced across all 50 states targeting data center siting, energy consumption, water use, tax incentives and environmental standards. More than 40 of these bills were enacted into law.

In 2026, the pace intensified further. Moratorium legislation has been introduced in at least 15 states. More than 100 local governments enacted bans or restrictions on data center development. According to Data Center Watch, an estimated $64 billion in data center projects have been blocked or delayed as a result. A Gallup poll found that 70% of Americans now oppose AI data center construction in their communities.

This is no longer a localized phenomenon driven by neighborhood opposition. It reflects a structural political shift in which data centers have become a focal point for concerns about energy affordability, environmental protection, community impacts and the equitable distribution of costs and benefits from the AI economy.



KEY STATE AND FEDERAL ACTIONS

New York

On July 14, 2026, Gov. Kathy Hochul signed Executive Order No. 62 making New York the first state to impose a statewide moratorium on hyperscale data centers. The order pauses state permitting for facilities above a specified threshold for up to one year, pending the development of comprehensive siting, energy and environmental standards.

Texas

On Aug. 3, 2026, Gov. Greg Abbott issued an executive order imposing a moratorium on new data center grid connections pending a comprehensive audit by ERCOT and the Public Utility Commission. This action follows SB 6, enacted in June 2025, which expanded regulatory oversight of large-load customers connecting to the Texas grid.

Pennsylvania

On Aug. 18, 2026, Gov. Josh Shapiro signed Executive Order 2026-05, which the administration described as imposing the "strictest guardrails in the nation" on data center development. The order requires self-funded energy infrastructure, local government approval before issuance of state permits, and binding environmental and transparency standards. A detailed analysis of this order follows.

Maine

The Maine legislature passed LD 307, a statewide moratorium on data center development. Gov. Janet Mills vetoed the bill on April 24, 2026, citing concerns about an exemption issue affecting a $550 million brownfield redevelopment project in the town of Jay. The legislature failed to override the veto. However, Mills subsequently signed LD 713, barring data centers from state business development tax incentives, and issued Executive Order 5 creating a Data Center Advisory Council to develop a long-term policy framework.

California (Monterey Park)

On June 3, 2026, voters in Monterey Park, California, approved Measure NDC with 88% support, making it the first voter-approved permanent ban on data center construction in the United States.

Colorado

Colorado experienced a cascade of local moratoria, including actions by Denver, Longmont and Woodland Park. Longmont adopted an ordinance capping data center energy consumption at 5% of the regional grid capacity.

Federal

Sen. Bernie Sanders introduced the AI Data Center Moratorium Act, S. 4214, in March 2026, which would impose a federal moratorium on new data center construction pending environmental and economic impact studies. Rep. Alexandria Ocasio-Cortez introduced the House companion bill, H.R. 9442, on June 24, 2026.

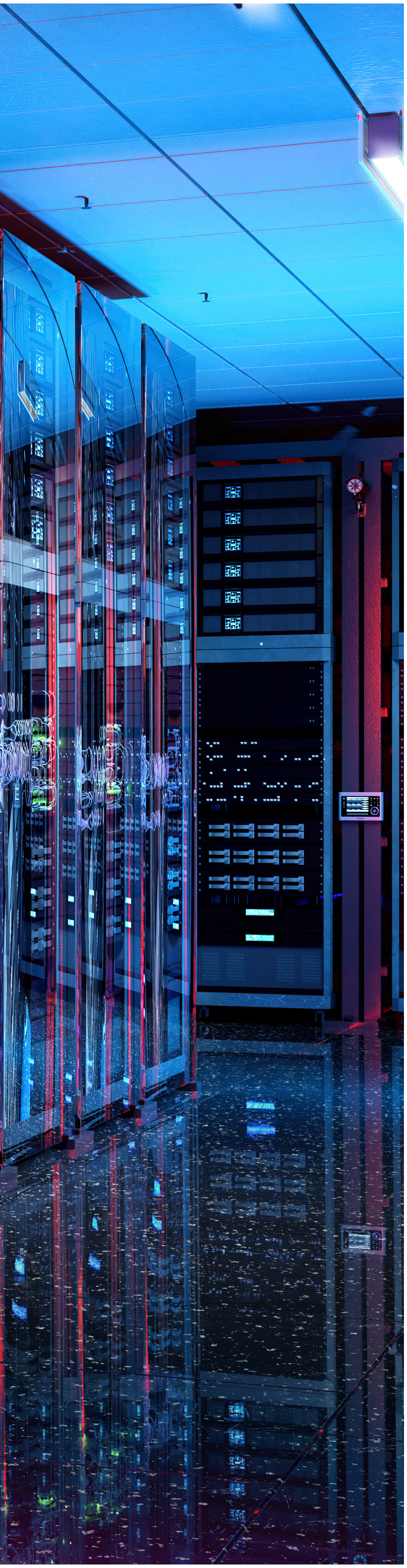
BEYOND MORATORIA: RATEPAYER PROTECTION AND REGULATORY REFORM

A parallel and equally significant trend involves legislation aimed at protecting ratepayers from cost-shifting associated with data center energy demand, and broader regulatory reform targeting tax incentives and local siting authority.

- **Federal:** On March 4, 2026, President Donald Trump signed the Ratepayer Protection Pledge, a voluntary commitment by hyperscale data center operators to build, bring or buy 100% of the energy their facilities consume. The pledge was accompanied by a framework for industry self-governance. H.R. 9340, the Ratepayer Protection Act, advanced unanimously from the House Energy and Commerce Committee on July 21, 2026. The bill would codify ratepayer protections and impose reporting requirements on large-load data center customers.
- **Florida (SB 484, May 2026):** Prevents the pass-through of data center infrastructure costs to ratepayers. Preserves local siting authority and establishes environmental standards for large-load facilities.
- **Tennessee (HB 1847, May 2026):** Bars infrastructure cost-shifting to residential ratepayers from data center grid connections and capacity upgrades.

- **Oklahoma (HB 2992, May 2026):** The Data Center Customer Ratepayer Protection Act requires separate terms, conditions and tariffs for large-load data center customers, ensuring transparent cost allocation.
- **New Jersey (A796, July 2026):** Creates a large-load ratepayer class and establishes a first-of-its-kind mechanism allowing data centers to reduce capacity obligations by funding energy efficiency programs and storage infrastructure for other utility customers.
- **Arizona:** Enacted a bipartisan budget provision imposing a three-year moratorium on new data center tax incentives, effective July 1, 2026.
- **Illinois:** Gov. JB Pritzker directed a pause on new data center tax incentive agreements, effective July 1, 2026.
- **Ohio:** Gov. Mike DeWine suspended new tax exemption requests for data centers. A Joint Data Center Committee is evaluating policy, with a possible 2027 ballot initiative to ban data centers that require 25 MW or more of power.
- **Virginia:** Enacted a first-of-its-kind electricity use tax on data centers and issued revised permitting guidance for hyperscale backup generators.
- **South Dakota (SB 135, March 2026):** Preserves local authority to regulate, limit or prohibit data center development within jurisdictions.
- **Michigan and Maryland:** Advancing legislation addressing energy use, community benefits requirements and state impact studies for data center development.

The common thread across these actions is clear: States are no longer willing to subsidize or fast-track data center development without meaningful protections for ratepayers, communities, and the environment.



SPOTLIGHT: PENNSYLVANIA EXECUTIVE ORDER 2026-05

Executive Order 2026-05, "Protecting Pennsylvania Consumers from Data Center Impacts," signed Aug. 18, 2026, does not impose a moratorium on data center development. However, its practical effect is sweeping, and it establishes a regulatory framework that may function as a de facto moratorium for projects that cannot satisfy its requirements.

GRID Requirements (Responsible Infrastructure Development)

The order establishes binding GRID requirements for all data center projects with peak demand exceeding 25 MW. These requirements address four pillars:

- **Energy Affordability:** Developers must pay 100% of the capital costs for generation, transmission and distribution upgrades necessary to serve their facilities. No cost-shifting to ratepayers is permitted.
- **Transparency and Community Engagement:** Developers must implement community outreach plans, provide public notifications and consult with local governments. The order bans nondisclosure agreements between developers and state agencies.
- **Workforce and Economic Development:** Projects must include local hiring and training commitments and enter community benefit agreements investing in local schools, infrastructure and economic development.
- **Environmental Protection:** Developers must implement water conservation measures and commit to clean energy phasing requirements (10% clean dispatchable energy by 2027, increasing to 32% by 2035). A consent order and agreement with the Department of Environmental Protection is required.

Two-Track Permitting System

The order establishes two permitting pathways:

- **GRID Track:** Projects that commit to full GRID compliance receive rolling state-level review in parallel with local approvals. However, no state permit will issue until all local approvals have been secured.
- **Non-GRID Track:** The Department of Environmental Protection will not begin its review of a project until all local approvals have been completed.

Fast Track Program Removal

All data center projects, including those previously admitted to Pennsylvania's Permit Fast Track Program, have been removed from the program. This retroactive action affects projects already in the development pipeline.

Tax Exemption Conditioned on GRID Compliance

The Computer Data Center Equipment Exemption Program now requires full GRID compliance for all new applications. Projects that have not yet received final approval of their exemption applications must satisfy GRID requirements to proceed.

Public Transparency

The Department of Environmental Protection is directed to publish a publicly accessible map of all proposed data center projects in the state.

NDA Ban

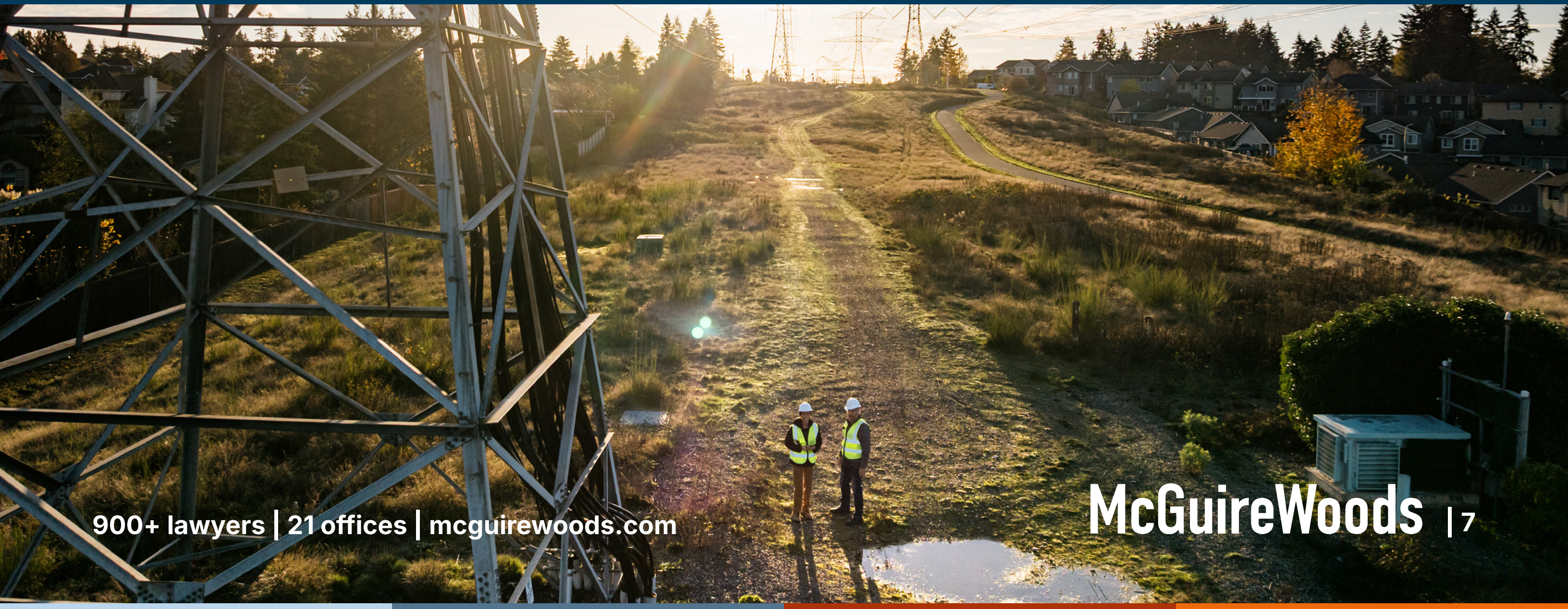
The order prohibits nondisclosure agreements between data center developers and state agencies, consistent with the broader national trend toward transparency in data center development.

Practical Effect

While the order does not impose a moratorium, the requirement that local approvals be secured before state permitting can proceed effectively gives local communities veto power over data center projects. Given the current environment, this requirement may function as a de facto moratorium for projects in many jurisdictions.

IMPLICATIONS FOR STAKEHOLDERS

- **Local strategy is mission-critical.** Municipal approvals are no longer procedural steps in the development process. They are gatekeeping mechanisms that can determine whether a project proceeds. Developers must invest in community engagement, political intelligence and local relationship-building from the earliest stages of site selection.
- **Existing approvals are at risk.** Retroactive changes, including removal from fast-track programs and conditioning of tax incentives on new compliance requirements, mean that projects already in the development pipeline cannot rely on prior assurances or expectations.
- **The NDA era is ending.** Pennsylvania's ban on NDAs between developers and state agencies, combined with PJM's pending public registry of interconnection requests and transparency demands in Florida and New Jersey, means that code-name development and stealth site selection are no longer viable strategies.
- **Cost structures are changing.** Ratepayer protection legislation in eight or more states, GRID requirements in Pennsylvania, and tax incentive freezes in 12 or more states mean that financial models must be stress-tested against new cost assumptions.
- **The window for proactive engagement is narrowing.** Legislative templates from Oklahoma, Tennessee, Florida and New Jersey are portable to other jurisdictions. States that have not yet acted are watching these developments and considering their own responses. Clients that engage proactively in the legislative process can shape frameworks in their favor; those who wait will be subject to frameworks shaped by others.



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McGuireWoods and McGuireWoods Consulting offer an integrated legal, regulatory, legislative and public affairs platform uniquely positioned to help clients navigate this environment, with comprehensive support including:

- local approval strategy and community engagement;
- protection of existing project approvals and vested rights;
- regulatory compliance and permitting under new frameworks;
- confidentiality and disclosure strategy;
- tax incentive defense and restructuring;
- bipartisan legislative advocacy across state capitals and Washington, D.C.;
- real-time legislative monitoring across 40+ states;
- and transaction structuring with regulatory risk allocation.

For more information, contact McGuireWoods Consulting or a member of McGuireWoods' Data Centers Practice Area.

AUTHORS

- Greg Riegle
- W. Ford Graham
- Zachery Smith
- Tracy Baynard
- Chris Lloyd
- Robert Loftin
- Margaret Rockwell