

Policymakers Consider Temporary Pause on AI Data Center Construction: What Stakeholders Need to Know

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Data center developers and hyperscalers are racing to build artificial intelligence (AI) infrastructure and data centers across the United States.[1] In response, federal and state policymakers have introduced legislative measures targeting rising electricity costs, grid strain, environmental impacts, and AI-driven job losses.[2] The most aggressive of these is a moratorium on data center construction.

On March 25, 2026, Sen. Bernie Sanders and Rep. Alexandria Ocasio-Cortez announced the [Artificial Intelligence Data Center Moratorium Act](#). The act would impose a nationwide halt on constructing or upgrading new or existing data centers with a power demand of 20 megawatts (MW) or more until “strong national safeguards” are in place.[3]

Among other things, the act seeks to ensure that:

- Data centers do not raise electricity costs for consumers or harm the environment.
- Affected communities can approve or reject proposed projects.
- Data center developers use union labor and pay prevailing wages for their projects.
- AI data centers do not receive government subsidies for the construction, upgrading, or operation of their facilities.

Whether the act will gain traction in Congress remains to be seen, but at least some federal policymakers are seeking to place guardrails around AI and data center development as they evaluate the impacts and implement adequate safeguards.[4]

The act comes as calls to halt AI data center expansion grow at the state and local level. For example, in New York, lawmakers have introduced [Senate Bill 9144](#), which would impose a sweeping pause on new data center development while the state reassesses environmental and other impacts. The bill would prohibit state and local agencies from issuing any permits for the siting, construction, or operation of a data center that is capable of using 20 MW or more of electricity. The moratorium would remain in effect until state agencies issue new regulations and address certain impacts. Lawmakers in at least 10 other states have introduced similar legislation that would temporarily ban data center construction.[5]

Local governments are also acting. Over the past year, more than 100 localities across the U.S. have enacted moratoriums on data center construction.[6] For instance, Oldham County, KY, imposed an indefinite moratorium on applications to build or expand data centers in the county until appropriate regulations are in place.[7] The

official ordinance removed a provision from an earlier draft that would have exempted construction permit applications submitted before its enactment.[8] Consequently, a developer that had already applied for the land use permits necessary to construct a 100 MW facility elected to forego its project in the county.[9]

Beyond moratoriums, state and local governments are also reconsidering the tax incentives used to attract data center development. Of the 38 states that currently offer such incentives, 28 are considering legislation that would end or curtail those benefits.[10] Virginia, for example, allows data center operators meeting certain infrastructure investment and job creation criteria to purchase and/or lease computer equipment and software without paying retail sales and use tax.[11] That exemption has helped make Virginia one of the most attractive states for data center development. However, Virginia's State Senate recently proposed [Senate Bill 30](#), which would end the exemption on January 1, 2027, eight years ahead of the current scheduled sunset.

Notably, one locality is allowing data centers to receive tax incentives only if its constituents approve. In Port Washington, WI, the city recently passed the nation's first data center [referendum](#) requiring future large-scale projects receiving tax benefits to secure approval from local voters.[12] Under the referendum, a majority of local voters must approve the availability of tax incremental financing for projects with a base value (measured by the aggregate value of taxable property in the Tax Incremental Financing district) or project costs (public expenditures the municipality expects to make or incur during the project) of more than \$10 million.[13]

Takeaways

The full consequences of these local, state, and federal initiatives remain unknown; stakeholders must prepare for legislative curtailment efforts. Moreover, community response is an increasingly important factor in site selection for these projects. It is never too early to begin evaluating potential risks and developing mitigation measures for current and future projects. Potential risks that project participants may want to consider include:

- Whether in-progress or imminent data center construction projects would be halted by a moratorium.
- How risk and delay-related costs are allocated in prime and downstream contracts, including, but not limited to, idle labor, storage and preservation of equipment, and extended insurance or bonding costs.
- Where to build future data centers amid policy uncertainty at the federal, state, and local levels.
- How evolving legislative initiatives may affect financing terms, including lenders' views on the risk that data center construction could be halted.
- How to finance data center construction without government subsidies, including tax incentives.

Of course, each project presents unique circumstances, challenges, and risks, which may be compounded as project stakeholders navigate an uncertain policy environment. Troutman Pepper Locke attorneys continue to monitor these developments and are well-positioned to advise clients on emerging market trends, evolving federal and state policy, and practical strategies to structure projects and contracts in this rapidly changing landscape.

Troutman Pepper Locke construction, energy, environmental, and real estate attorneys are hosting a three-part webinar series to explore how these dynamics are reshaping the data center landscape in 2026 and beyond. Each session will provide practical perspectives on how market participants are reallocating risk, structuring contracts, and positioning projects to remain bankable and scalable in a rapidly changing environment. [Click here to register and to learn more.](#)

[1] See generally “Navigating Contractual Considerations in the AI Data Center Construction Boom” by Ryan Graham, Jamey Collidge, Jason Spang & Christian Pirri.

[2] See “Federal and State Policymakers Target AI Data Centers as Electricity Costs and Grid Reliability Concerns Mount” by Jamey Collidge, Christian Pirri, Ryan Graham, Ben Henry & Vaughn Morrison; “EPA May Redefine ‘Begin Actual Construction’ in Permit Reform Intended to Expedite Construction of Emissions-Generating Developments” by Mack McGuffey, Jamey Collidge, Darby Koput, Christian Pirri & Melissa Horne.

[3] Press Release, Bernie Sanders, Sen., U.S. Senate, Sanders, Ocasio-Cortez Announce AI Data Center Moratorium Act (Mar. 25, 2026), <https://www.sanders.senate.gov/press-releases/news-sanders-ocasio-cortez-announce-ai-data-center-moratorium-act/>.

[4] *Id.*

[5] Legislation has been introduced in Minnesota, Michigan, Oklahoma, Georgia, South Carolina, Maryland, Pennsylvania, New York, Vermont, and Maine (not all of which remains under active consideration for this legislative season). Max Rust & Will Parker, *These Cities and States Are Taking Aim at Data Centers*, Wall St. J. (Apr. 7, 2026, at 05:30 E.T.), <https://www.wsj.com/tech/ai/these-cities-and-states-are-taking-aim-at-data-centers-3b98adf1>.

[6] See Sanders, Ocasio-Cortez Announce AI Data Center Moratorium Act, *supra* note 3. In 2025 alone, at least \$156 billion across 48 projects with publicly disclosed values were blocked or delayed amid local opposition. Lydia DePillis, *Local Opposition Is Slowing A.I. Data Centers. Wall Street Has Noticed.*, N.Y. Times (Mar. 26, 2026, at 11:29 E.T.), <https://www.nytimes.com/2026/03/26/business/economy/ai-data-centers-construction-local-opposition.html>.

[7] Oldham Cnty., Ky., Ordinance 25-910-520 (Nov. 18, 2025) (extending prior 150-day moratorium indefinitely), available at <https://www.oldhamcountyky.gov/publicnotices>.

[8] Joe Sonka, *Oldham County Passes Sweeping Data Center Moratorium, Executive Fired Over Recording*, Louisville Pub. Media (July 2, 2025, at 12:39 E.T.), <https://www.lpm.org/news/2025-07-02/oldham-county-passes-sweeping-data-center-moratorium-executive-fired-over-recording>.

[9] *Id.*

[10] Jason Plautz & Jeffrey Tomich, *Data centers used to be a prize. States are having second thoughts.*, Politico (May 2, 2026, at 12:00 E.T.), <https://www.politico.com/news/2026/05/02/data-centers-states-tax-incentives-00891184>.

[11] Va. Code § 58.1-609.3.

[12] See Tyler Katzenberger, *Wisconsin City Passes Nation’s First Anti-Data Center Referendum*, Politico (Apr. 8, 2026, at 06:00 E.T.), <https://www.politico.com/news/2026/04/08/wisconsin-city-passes-nations-first-anti-data-center-referendum-00863432?shem=dsdf,sharefoc,agadiscoverdli,,sh/x/discover/m1/4>.

[13] Julia Shapero, *Nation's First Anti-Data Center Referendum Passes in Wisconsin*, The Hill (Apr. 8, 2026, at 15:30 E.T.), <https://thehill.com/policy/technology/5822566-port-washington-data-center-vote/>; see also Wis. Stat. § 66.1105(2)(j) (defining “tax incremental base” as “the aggregate value, as equalized by the department of revenue, of all taxable property located within a tax incremental district on the date as of which the district is created”); Wis. Stat. § 66.1105(2)(f)(1) (defining “project costs” as expenditures made or estimated to be made or monetary obligations incurred or estimated to be incurred by the city that are listed in a project plan as costs of public works or improvements within the district, plus incidental costs, diminished by non-TIF revenues).

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