

TEXAS DATA CENTER MORATORIUM AND LOCAL IMPACT STUDY ACT

Summary and Drafting Notes

H.B. No. _____ / S.B. No. _____ (identical companions) — Draft of September 22, 2026

Purpose

This bill writes the governor’s 2026 data center orders into law and adds what those orders leave out. It requires a certified impact study for every municipality and county before any large data center can be permitted, connected to the grid, or receive tax breaks. As of September 21, 2026, the governor had ordered TCEQ to stop issuing data center permits pending ERCOT and TWDB audits. Those are executive orders only, and a future governor can reverse them.

What the Bill Does

SECTIONS 1–2. Findings, and a statewide moratorium on every state and local approval for a data center until a local impact study is certified for that town or county. Sets study contents (water, grid, rates, emissions, noise, emergency services, tax base, land use), public hearings, fee funding, and an [18]-month deadline with a [six]-month outside limit.

SECTION 3. No grid interconnection or energization before a certified study, including behind-the-meter and on-site generation and areas outside ERCOT.

SECTIONS 4–7. Pauses surface water rights, groundwater permits, and TCEQ air permits for on-site generation; penalizes data centers that ignore TWDB water use surveys.

SECTIONS 8–10. Suspends the data center sales tax exemption, Chapter 312 abatements, and state incentive agreements until a study is certified.

SECTIONS 11–14. Authorizes city and county data center moratoria and county siting rules, and shields them from H.B. 2127 preemption and Chapter 245 vested rights.

SECTION 15. Projects already under construction. Sponsors must choose Option A (full stop) or Option B (no power or operation until studied).

SECTIONS 16–19. Enforcement and citizen standing, severability, a September 1, [2031] sunset, and the effective date.

Drafting Notes

Filing. File identical text as an H.B. and an S.B. Prefiling for the 90th Legislature opens in November 2026, and the session convenes in January 2027. Send this draft to the Texas Legislative Council (TLC) to be conformed to current code and assigned final section numbers.

Code citations. New section numbers (for example, Government Code Chapter 2275) are placeholders. TLC should confirm existing cites, including Tax Code Section 151.359, and conform SECTION 3 to the large-load provisions added by S.B. 6 (2025) and SECTION 13 to the codified provisions of H.B. 2127 (2023).

Biggest legal risk. Stopping construction on projects that already hold permits invites challenges under Tex. Const. art. I, §16 (retroactive laws; *Robinson v. Crown Cork & Seal*, 2010) and art. I, §17 (takings). Option A is the full stop and carries higher risk. Option B halts energization, which has nearly the same practical effect and is more defensible.

Outside date. The firm outside deadline in Section 2275.007 strengthens the defense against takings claims. An open-ended moratorium is much easier to challenge.

Tax provisions. Withdrawing future tax benefits (SECTIONS 8–10) carries far less constitutional risk than halting construction and is the fastest way to change project economics while studies run.

Exempt wells. Review the exempt-well limits in Water Code Section 36.117 so data centers cannot drill around the moratorium.

Immediate effect. Immediate effect requires a two-thirds vote of each house (Tex. Const. art. III, §39). Otherwise the Act takes effect September 1, 2027.

Optional joint resolution. The attached H.J.R./S.J.R. is needed only with Option A. It requires a two-thirds vote of each house and voter approval in November 2027. A state constitutional amendment cannot override the federal Takings Clause, so keep the compensation account in Option A.

Placeholders. Bracketed text, such as [75] megawatts, marks a policy choice for the sponsors. Remove the brackets once decided.

Review. This is a draft, not legal advice. Have TLC and outside counsel on takings and utility law review it before filing. Remove this summary page before filing.

[Remove this summary before filing.]

By: _____

H.B. No. _____

A BILL TO BE ENTITLED
AN ACT

relating to a moratorium on the permitting, construction, interconnection, and energization of large data centers pending completion of local impact studies; providing civil penalties; suspending certain tax exemptions and incentives; and authorizing local moratoria.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. (a) This Act may be cited as the Texas Data Center Moratorium and Local Impact Study Act.

(b) The legislature finds that:

- (1) large data centers are being proposed and built in this state at a pace and scale that state and local planning, water, and electric reliability processes were not designed to evaluate;
- (2) a single large data center may demand electric load equal to that of a city of tens of thousands of residents and may consume large volumes of surface water or groundwater for cooling;
- (3) the state's electric grid and water supplies are finite public resources held in trust for the people of Texas, and their reliability affects public health and safety, including during extreme weather events;
- (4) the Public Utility Commission of Texas, the Electric Reliability Council of Texas, the Texas Water Development Board, and the Texas Commission on Environmental Quality lack complete information on the water use, electric demand, generation, and community impact of proposed data centers;
- (5) the impacts of a data center fall most heavily on the municipality or county in which it is located, and those impacts differ materially from one community to another;
- (6) a temporary, time-limited pause on new data center approvals while community-specific impact studies are completed is necessary to protect the public health, safety, and welfare, and serves a compelling public interest that outweighs any temporary effect on private expectations; and

- (7) this Act is a temporary planning measure, is not intended to permanently prohibit any lawful use of property, and applies equally without regard to the residence or domicile of any owner or developer.

SECTION 2. Subtitle F, Title 10, Government Code, is amended by adding Chapter 2275 to read as follows:

CHAPTER 2275. DATA CENTER MORATORIUM AND LOCAL IMPACT STUDIES

Sec. 2275.001. DEFINITIONS. In this chapter:

- (1) “Data center” means a facility or campus of facilities under common ownership or control, the primary use of which is housing computer servers and related equipment for data processing, storage, artificial intelligence training or inference, or cryptocurrency mining, and that has, or is designed to have:
 - (A) a peak electric demand of [75] megawatts or more, whether served by the grid, on-site generation, or both; or
 - (B) a water demand of [____] gallons or more per day.
- (2) “Covered approval” means any of the following issued by a state agency or political subdivision for a data center:
 - (A) a permit, registration, license, or authorization under the Water Code or the Health and Safety Code, including an air quality permit for on-site generation;
 - (B) a water right, water supply contract, or groundwater production or transport permit;
 - (C) an interconnection agreement, service agreement, or energization of electric service under Title 2, Utilities Code;
 - (D) a tax exemption, abatement, limitation, or economic development agreement; and
 - (E) a plat, site plan, building permit, development agreement, or certificate of occupancy.
- (3) “Study area” means a municipality together with its extraterritorial jurisdiction or, for territory outside a municipality’s extraterritorial jurisdiction, a county.
- (4) “Local impact study” means a study conducted and certified under this chapter for a study area.

- (5) “Study team” means the Texas Water Development Board, the Public Utility Commission of Texas, the independent organization certified under Section 39.151, Utilities Code, for the ERCOT power region, the Texas Commission on Environmental Quality, and the comptroller, acting jointly.

Sec. 2275.002. STATEWIDE MORATORIUM. (a) Except as provided by Section 2275.009, a state agency or political subdivision may not grant, issue, renew, amend to expand, or execute a covered approval for a data center located or proposed to be located in a study area until a local impact study for that study area has been certified under Section 2275.005.

(b) Subsection (a) applies to an application pending on the effective date of this chapter.

(c) A covered approval granted in violation of this section is void.

Sec. 2275.003. LOCAL IMPACT STUDY. (a) The study team shall conduct a local impact study for each study area in which a data center is proposed, for which an application for a covered approval has been filed, or for which the governing body of the municipality or county requests a study by resolution.

(b) A local impact study must evaluate, for the study area and the region that shares its water and electric resources:

- (1) current and projected surface water and groundwater availability, including aquifer drawdown and effects on existing wells, municipal supplies, agriculture, and the state water plan;
- (2) electric transmission and distribution capacity, reliability during peak and emergency conditions, and the effect on residential and small commercial electric rates;
- (3) air emissions and noise from on-site generation, cooling, and backup equipment;
- (4) demands on roads, fire, emergency medical, and law enforcement services;
- (5) net fiscal effect on the municipality, county, school districts, and other taxing units, including the value of any tax exemption or abatement;
- (6) effects on land use, property values, agricultural land, and residential areas; and
- (7) the cumulative impact of all existing and proposed data centers in the study area and region.

- (c) The study must state the maximum aggregate data center electric load and water use the study area can support without degrading reliability or supply to existing users, and any conditions necessary to protect public health, safety, and welfare.

Sec. 2275.004. PUBLIC PARTICIPATION. (a) Before certifying a local impact study, the study team shall publish a draft study, accept public comment for at least [60] days, and hold at least one public hearing in the study area with at least [30] days' published notice.

- (b) The governing body of each municipality and county in the study area may submit a resolution of findings and recommendations, which the study team shall address in writing in the final study.

Sec. 2275.005. CERTIFICATION. (a) The study team shall certify a final local impact study by joint order and publish the order in the Texas Register.

- (b) After certification, a covered approval for a data center in the study area may be granted only if the approving entity finds in writing that the approval is consistent with the limits and conditions in the certified study.

Sec. 2275.006. FUNDING. (a) A person applying for a covered approval for a data center shall pay to the study team a study fee in an amount set by joint rule sufficient to recover the cost of the local impact study, but not less than \$ [_____].

- (b) The data center impact study account is created as a dedicated account in the general revenue fund. Fees and appropriations for local impact studies shall be deposited to the account.

Sec. 2275.007. DEADLINES; EXPIRATION. (a) The study team shall certify each local impact study not later than the [18th] month after the date the study is required under Section 2275.003(a).

- (b) If a study is not certified by the deadline prescribed by Subsection (a), the moratorium under Section 2275.002 continues for that study area for not more than [six] additional months.

- (c) A certified local impact study expires on the fifth anniversary of the date of certification and must be updated before a new covered approval is granted after that date.

Sec. 2275.008. RULES. The members of the study team shall adopt joint rules to implement this chapter not later than the [90th] day after the effective date of this chapter.

SECTION 3. Subchapter A, Chapter 37, Utilities Code, is amended by adding Section 37.0591 to read as follows:

Sec. 37.0591. DATA CENTER INTERCONNECTION PENDING LOCAL IMPACT STUDY. (a) In this section, “data center,” “local impact study,” and “study area” have the meanings assigned by Section 2275.001, Government Code.

(b) An electric utility, municipally owned utility, electric cooperative, or transmission service provider may not interconnect, energize, or increase electric service to a data center, and an independent organization certified under Section 39.151 may not approve or advance a data center through a large-load interconnection process, until a local impact study for the study area has been certified.

(c) After certification, the commission and the independent organization may not approve interconnection of a data center that would cause the aggregate data center load in the study area to exceed the limit stated in the certified local impact study.

(d) This section applies to a data center served in whole or in part by on-site or co-located generation, including generation that is not interconnected with the transmission system.

(e) This section applies in every power region of this state, including areas outside the ERCOT power region, to the extent of the commission’s jurisdiction.

(f) The commission shall adopt rules requiring each person seeking interconnection of a data center to disclose the facility’s ownership, peak and average demand, on-site generation, water source and cooling technology, and any tax exemption or abatement sought, and shall provide that information to the study team.

SECTION 4. Subchapter D, Chapter 11, Water Code, is amended by adding Section 11.1352 to read as follows:

Sec. 11.1352. DATA CENTER WATER RIGHTS. The commission may not grant or amend a water right, and a person may not contract to supply water from a state water right, for use at a data center, as defined by Section 2275.001, Government Code, until a local impact study for the study area has been certified. After certification, the commission may not grant a water right for a data center that would cause aggregate data center water use in the study area to exceed the limit stated in the certified study.

SECTION 5. Subchapter D, Chapter 36, Water Code, is amended by adding Section 36.1133 to read as follows:

Sec. 36.1133. DATA CENTER GROUNDWATER PERMITS. (a) A district may not grant or amend a permit to drill, produce, or transport groundwater for use at a data center, as defined by Section 2275.001, Government Code, until a local impact study for the study area has been certified.

(b) Notwithstanding any other provision of this chapter, a district may consider the certified study and the cumulative effects of data center withdrawals on existing users and desired future conditions when acting on a permit.

(c) This section does not apply to a well exempt from permitting under Section 36.117 for domestic or livestock use.

SECTION 6. Subchapter C, Chapter 382, Health and Safety Code, is amended by adding Section 382.05105 to read as follows:

Sec. 382.05105. DATA CENTER GENERATION PERMITS. The commission may not issue a permit, standard permit, permit by rule authorization, or permit amendment for an electric generating unit, turbine, engine, or backup generator located at or serving a data center, as defined by Section 2275.001, Government Code, until a local impact study for the study area has been certified.

SECTION 7. Section 16.012, Water Code, is amended by adding Subsection (__) to read as follows:

(__) The board may assess an administrative penalty of not more than \$[_____] for each day against the owner or operator of a data center, as defined by Section 2275.001, Government Code, that fails to respond to a water use survey required under this section. A data center that has an unpaid penalty or an unanswered survey is ineligible for a covered approval, as defined by that section.

SECTION 8. Section 151.359, Tax Code, is amended by adding Subsection (__) to read as follows:

(__) Notwithstanding any other provision of this section, the comptroller may not certify a qualifying data center or qualifying operator, and an exemption under this section does not apply to a purchase for use at a data center, as defined by Section 2275.001, Government Code, located in a study area for which a local impact study has not been certified. A purchase made while this subsection applies is not eligible for a later refund.

SECTION 9. Subchapter B, Chapter 312, Tax Code, is amended by adding Section 312.2042 to read as follows:

Sec. 312.2042. DATA CENTERS. A taxing unit may not enter into or amend a tax abatement agreement for a data center, as defined by Section 2275.001, Government Code, until a local impact study for the study area has been certified. An agreement entered into after certification must include a finding by the governing body that the agreement is consistent with the certified study.

SECTION 10. Notwithstanding any other law, the comptroller may not approve an application or agreement under Chapter 403, Government Code, or any other state economic development program, for a data center, as defined by Section 2275.001, Government

Code, as added by this Act, located in a study area for which a local impact study has not been certified.

SECTION 11. Subchapter E, Chapter 212, Local Government Code, is amended by adding Section 212.1352 to read as follows:

Sec. 212.1352. MORATORIUM ON DATA CENTERS. (a) A municipality may adopt a moratorium on the acceptance or approval of applications for a data center, as defined by Section 2275.001, Government Code, pending completion of a local impact study or a study by the municipality of the data center's effects on water supply, electric service, public safety, and land use.

(b) A finding of a shortage of essential public facilities is not required for a moratorium under this section. The notice, hearing, and written justification requirements of Sections 212.133 and 212.134 apply.

(c) A moratorium under this section expires on the later of the 180th day after the date of adoption or the 90th day after the date of certification of the local impact study for the study area, unless extended under Section 212.136.

SECTION 12. Chapter 240, Local Government Code, is amended by adding Subchapter __ to read as follows:

Sec. 240.__. COUNTY REGULATION OF DATA CENTERS. (a) The commissioners court of a county may, by order, in the unincorporated area of the county:

(1) adopt a moratorium described by Section 212.1352;

(2) establish minimum setbacks of data centers from residences, schools, places of worship, and water wells;

(3) establish noise limits measured at the property line; and

(4) require a site plan and a written water and emergency services plan before construction.

(b) An order under this section must be consistent with any certified local impact study for the study area.

SECTION 13. Notwithstanding Chapter 899 (H.B. 2127), Acts of the 88th Legislature, Regular Session, 2023, or any provision of law added or amended by that Act, a state law does not preempt an ordinance, order, or moratorium adopted by a municipality or county in accordance with Section 212.1352 or 240.__, Local Government Code, as added by this Act, or with a local impact study certified under Chapter 2275, Government Code, as added by this Act.

SECTION 14. Section 245.004, Local Government Code, is amended by adding Subdivision (__) to read as follows:

(__) Chapter 2275, Government Code, Section 212.1352 or 240.___, and any regulation adopted in accordance with a local impact study certified under Chapter 2275, Government Code.

SECTION 15. Chapter 2275, Government Code, as added by this Act, is amended by adding Section 2275.009 to read as follows:

[OPTION A: full stop of construction in progress]

Sec. 2275.009. CONSTRUCTION IN PROGRESS. (a) On the effective date of this chapter, all construction of a data center shall cease until a local impact study for the study area is certified, regardless of any covered approval previously granted.

(b) An owner who establishes that a cessation under Subsection (a) is a taking of property under Section 17, Article I, Texas Constitution, may recover compensation as provided by Chapter 2007. The data center compensation account is created as a dedicated account in the general revenue fund for that purpose.

[OPTION B: halt energization and operation of construction in progress]

Sec. 2275.009. CONSTRUCTION IN PROGRESS. (a) This chapter does not require the cessation of physical construction authorized by a covered approval granted before the effective date of this chapter. Construction performed after that date is at the owner's sole risk.

(b) A data center under construction on the effective date of this chapter may not be energized, placed in operation, or granted any further covered approval until a local impact study for the study area is certified and the data center is found consistent with the study.

(c) Not later than the 60th day after the effective date of this chapter, the owner of a data center under construction shall file with the study team the disclosures required by Section 37.0591(f), Utilities Code.

SECTION 16. Chapter 2275, Government Code, as added by this Act, is amended by adding Section 2275.010 to read as follows:

Sec. 2275.010. ENFORCEMENT. (a) A person who constructs, energizes, or operates a data center in violation of this chapter is liable for a civil penalty of not more than \$[_____] for each day of the violation.

(b) The attorney general, the county attorney or district attorney of the county, or the municipality in which the data center is located may sue for injunctive relief and

the civil penalty. A court shall grant a temporary injunction on a showing of a violation without a showing of irreparable harm.

(c) A person who owns real property or a water well within [five] miles of a data center, or who is a retail electric customer in the study area, has standing to seek injunctive relief under this section.

SECTION 17. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared severable. The legislature declares that it would have enacted each provision of this Act regardless of the invalidity of any other provision, including Section 2275.009, Government Code, as added by this Act.

SECTION 18. Chapter 2275, Government Code, as added by this Act, expires September 1, [2031].

SECTION 19. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2027.

By: _____

S.B. No. _____

A BILL TO BE ENTITLED
AN ACT

relating to a moratorium on the permitting, construction, interconnection, and energization of large data centers pending completion of local impact studies; providing civil penalties; suspending certain tax exemptions and incentives; and authorizing local moratoria.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. (a) This Act may be cited as the Texas Data Center Moratorium and Local Impact Study Act.

(b) The legislature finds that:

- (1) large data centers are being proposed and built in this state at a pace and scale that state and local planning, water, and electric reliability processes were not designed to evaluate;
- (2) a single large data center may demand electric load equal to that of a city of tens of thousands of residents and may consume large volumes of surface water or groundwater for cooling;
- (3) the state's electric grid and water supplies are finite public resources held in trust for the people of Texas, and their reliability affects public health and safety, including during extreme weather events;
- (4) the Public Utility Commission of Texas, the Electric Reliability Council of Texas, the Texas Water Development Board, and the Texas Commission on Environmental Quality lack complete information on the water use, electric demand, generation, and community impact of proposed data centers;
- (5) the impacts of a data center fall most heavily on the municipality or county in which it is located, and those impacts differ materially from one community to another;
- (6) a temporary, time-limited pause on new data center approvals while community-specific impact studies are completed is necessary to protect the public health, safety, and welfare, and serves a compelling public interest that outweighs any temporary effect on private expectations; and

- (7) this Act is a temporary planning measure, is not intended to permanently prohibit any lawful use of property, and applies equally without regard to the residence or domicile of any owner or developer.

SECTION 2. Subtitle F, Title 10, Government Code, is amended by adding Chapter 2275 to read as follows:

CHAPTER 2275. DATA CENTER MORATORIUM AND LOCAL IMPACT STUDIES

Sec. 2275.001. DEFINITIONS. In this chapter:

- (1) “Data center” means a facility or campus of facilities under common ownership or control, the primary use of which is housing computer servers and related equipment for data processing, storage, artificial intelligence training or inference, or cryptocurrency mining, and that has, or is designed to have:
 - (A) a peak electric demand of [75] megawatts or more, whether served by the grid, on-site generation, or both; or
 - (B) a water demand of [____] gallons or more per day.
- (2) “Covered approval” means any of the following issued by a state agency or political subdivision for a data center:
 - (A) a permit, registration, license, or authorization under the Water Code or the Health and Safety Code, including an air quality permit for on-site generation;
 - (B) a water right, water supply contract, or groundwater production or transport permit;
 - (C) an interconnection agreement, service agreement, or energization of electric service under Title 2, Utilities Code;
 - (D) a tax exemption, abatement, limitation, or economic development agreement; and
 - (E) a plat, site plan, building permit, development agreement, or certificate of occupancy.
- (3) “Study area” means a municipality together with its extraterritorial jurisdiction or, for territory outside a municipality’s extraterritorial jurisdiction, a county.
- (4) “Local impact study” means a study conducted and certified under this chapter for a study area.

- (5) “Study team” means the Texas Water Development Board, the Public Utility Commission of Texas, the independent organization certified under Section 39.151, Utilities Code, for the ERCOT power region, the Texas Commission on Environmental Quality, and the comptroller, acting jointly.

Sec. 2275.002. STATEWIDE MORATORIUM. (a) Except as provided by Section 2275.009, a state agency or political subdivision may not grant, issue, renew, amend to expand, or execute a covered approval for a data center located or proposed to be located in a study area until a local impact study for that study area has been certified under Section 2275.005.

(b) Subsection (a) applies to an application pending on the effective date of this chapter.

(c) A covered approval granted in violation of this section is void.

Sec. 2275.003. LOCAL IMPACT STUDY. (a) The study team shall conduct a local impact study for each study area in which a data center is proposed, for which an application for a covered approval has been filed, or for which the governing body of the municipality or county requests a study by resolution.

(b) A local impact study must evaluate, for the study area and the region that shares its water and electric resources:

- (1) current and projected surface water and groundwater availability, including aquifer drawdown and effects on existing wells, municipal supplies, agriculture, and the state water plan;
- (2) electric transmission and distribution capacity, reliability during peak and emergency conditions, and the effect on residential and small commercial electric rates;
- (3) air emissions and noise from on-site generation, cooling, and backup equipment;
- (4) demands on roads, fire, emergency medical, and law enforcement services;
- (5) net fiscal effect on the municipality, county, school districts, and other taxing units, including the value of any tax exemption or abatement;
- (6) effects on land use, property values, agricultural land, and residential areas; and
- (7) the cumulative impact of all existing and proposed data centers in the study area and region.

- (c) The study must state the maximum aggregate data center electric load and water use the study area can support without degrading reliability or supply to existing users, and any conditions necessary to protect public health, safety, and welfare.

Sec. 2275.004. PUBLIC PARTICIPATION. (a) Before certifying a local impact study, the study team shall publish a draft study, accept public comment for at least [60] days, and hold at least one public hearing in the study area with at least [30] days' published notice.

- (b) The governing body of each municipality and county in the study area may submit a resolution of findings and recommendations, which the study team shall address in writing in the final study.

Sec. 2275.005. CERTIFICATION. (a) The study team shall certify a final local impact study by joint order and publish the order in the Texas Register.

- (b) After certification, a covered approval for a data center in the study area may be granted only if the approving entity finds in writing that the approval is consistent with the limits and conditions in the certified study.

Sec. 2275.006. FUNDING. (a) A person applying for a covered approval for a data center shall pay to the study team a study fee in an amount set by joint rule sufficient to recover the cost of the local impact study, but not less than \$ [_____].

- (b) The data center impact study account is created as a dedicated account in the general revenue fund. Fees and appropriations for local impact studies shall be deposited to the account.

Sec. 2275.007. DEADLINES; EXPIRATION. (a) The study team shall certify each local impact study not later than the [18th] month after the date the study is required under Section 2275.003(a).

- (b) If a study is not certified by the deadline prescribed by Subsection (a), the moratorium under Section 2275.002 continues for that study area for not more than [six] additional months.

- (c) A certified local impact study expires on the fifth anniversary of the date of certification and must be updated before a new covered approval is granted after that date.

Sec. 2275.008. RULES. The members of the study team shall adopt joint rules to implement this chapter not later than the [90th] day after the effective date of this chapter.

SECTION 3. Subchapter A, Chapter 37, Utilities Code, is amended by adding Section 37.0591 to read as follows:

Sec. 37.0591. DATA CENTER INTERCONNECTION PENDING LOCAL IMPACT STUDY. (a) In this section, “data center,” “local impact study,” and “study area” have the meanings assigned by Section 2275.001, Government Code.

(b) An electric utility, municipally owned utility, electric cooperative, or transmission service provider may not interconnect, energize, or increase electric service to a data center, and an independent organization certified under Section 39.151 may not approve or advance a data center through a large-load interconnection process, until a local impact study for the study area has been certified.

(c) After certification, the commission and the independent organization may not approve interconnection of a data center that would cause the aggregate data center load in the study area to exceed the limit stated in the certified local impact study.

(d) This section applies to a data center served in whole or in part by on-site or co-located generation, including generation that is not interconnected with the transmission system.

(e) This section applies in every power region of this state, including areas outside the ERCOT power region, to the extent of the commission’s jurisdiction.

(f) The commission shall adopt rules requiring each person seeking interconnection of a data center to disclose the facility’s ownership, peak and average demand, on-site generation, water source and cooling technology, and any tax exemption or abatement sought, and shall provide that information to the study team.

SECTION 4. Subchapter D, Chapter 11, Water Code, is amended by adding Section 11.1352 to read as follows:

Sec. 11.1352. DATA CENTER WATER RIGHTS. The commission may not grant or amend a water right, and a person may not contract to supply water from a state water right, for use at a data center, as defined by Section 2275.001, Government Code, until a local impact study for the study area has been certified. After certification, the commission may not grant a water right for a data center that would cause aggregate data center water use in the study area to exceed the limit stated in the certified study.

SECTION 5. Subchapter D, Chapter 36, Water Code, is amended by adding Section 36.1133 to read as follows:

Sec. 36.1133. DATA CENTER GROUNDWATER PERMITS. (a) A district may not grant or amend a permit to drill, produce, or transport groundwater for use at a data center, as defined by Section 2275.001, Government Code, until a local impact study for the study area has been certified.

(b) Notwithstanding any other provision of this chapter, a district may consider the certified study and the cumulative effects of data center withdrawals on existing users and desired future conditions when acting on a permit.

(c) This section does not apply to a well exempt from permitting under Section 36.117 for domestic or livestock use.

SECTION 6. Subchapter C, Chapter 382, Health and Safety Code, is amended by adding Section 382.05105 to read as follows:

Sec. 382.05105. DATA CENTER GENERATION PERMITS. The commission may not issue a permit, standard permit, permit by rule authorization, or permit amendment for an electric generating unit, turbine, engine, or backup generator located at or serving a data center, as defined by Section 2275.001, Government Code, until a local impact study for the study area has been certified.

SECTION 7. Section 16.012, Water Code, is amended by adding Subsection (__) to read as follows:

(__) The board may assess an administrative penalty of not more than \$[_____] for each day against the owner or operator of a data center, as defined by Section 2275.001, Government Code, that fails to respond to a water use survey required under this section. A data center that has an unpaid penalty or an unanswered survey is ineligible for a covered approval, as defined by that section.

SECTION 8. Section 151.359, Tax Code, is amended by adding Subsection (__) to read as follows:

(__) Notwithstanding any other provision of this section, the comptroller may not certify a qualifying data center or qualifying operator, and an exemption under this section does not apply to a purchase for use at a data center, as defined by Section 2275.001, Government Code, located in a study area for which a local impact study has not been certified. A purchase made while this subsection applies is not eligible for a later refund.

SECTION 9. Subchapter B, Chapter 312, Tax Code, is amended by adding Section 312.2042 to read as follows:

Sec. 312.2042. DATA CENTERS. A taxing unit may not enter into or amend a tax abatement agreement for a data center, as defined by Section 2275.001, Government Code, until a local impact study for the study area has been certified. An agreement entered into after certification must include a finding by the governing body that the agreement is consistent with the certified study.

SECTION 10. Notwithstanding any other law, the comptroller may not approve an application or agreement under Chapter 403, Government Code, or any other state economic development program, for a data center, as defined by Section 2275.001, Government

Code, as added by this Act, located in a study area for which a local impact study has not been certified.

SECTION 11. Subchapter E, Chapter 212, Local Government Code, is amended by adding Section 212.1352 to read as follows:

Sec. 212.1352. MORATORIUM ON DATA CENTERS. (a) A municipality may adopt a moratorium on the acceptance or approval of applications for a data center, as defined by Section 2275.001, Government Code, pending completion of a local impact study or a study by the municipality of the data center's effects on water supply, electric service, public safety, and land use.

(b) A finding of a shortage of essential public facilities is not required for a moratorium under this section. The notice, hearing, and written justification requirements of Sections 212.133 and 212.134 apply.

(c) A moratorium under this section expires on the later of the 180th day after the date of adoption or the 90th day after the date of certification of the local impact study for the study area, unless extended under Section 212.136.

SECTION 12. Chapter 240, Local Government Code, is amended by adding Subchapter __ to read as follows:

Sec. 240.__. COUNTY REGULATION OF DATA CENTERS. (a) The commissioners court of a county may, by order, in the unincorporated area of the county:

(1) adopt a moratorium described by Section 212.1352;

(2) establish minimum setbacks of data centers from residences, schools, places of worship, and water wells;

(3) establish noise limits measured at the property line; and

(4) require a site plan and a written water and emergency services plan before construction.

(b) An order under this section must be consistent with any certified local impact study for the study area.

SECTION 13. Notwithstanding Chapter 899 (H.B. 2127), Acts of the 88th Legislature, Regular Session, 2023, or any provision of law added or amended by that Act, a state law does not preempt an ordinance, order, or moratorium adopted by a municipality or county in accordance with Section 212.1352 or 240.__, Local Government Code, as added by this Act, or with a local impact study certified under Chapter 2275, Government Code, as added by this Act.

SECTION 14. Section 245.004, Local Government Code, is amended by adding Subdivision (__) to read as follows:

(__) Chapter 2275, Government Code, Section 212.1352 or 240.___, and any regulation adopted in accordance with a local impact study certified under Chapter 2275, Government Code.

SECTION 15. Chapter 2275, Government Code, as added by this Act, is amended by adding Section 2275.009 to read as follows:

[OPTION A: full stop of construction in progress]

Sec. 2275.009. CONSTRUCTION IN PROGRESS. (a) On the effective date of this chapter, all construction of a data center shall cease until a local impact study for the study area is certified, regardless of any covered approval previously granted.

(b) An owner who establishes that a cessation under Subsection (a) is a taking of property under Section 17, Article I, Texas Constitution, may recover compensation as provided by Chapter 2007. The data center compensation account is created as a dedicated account in the general revenue fund for that purpose.

[OPTION B: halt energization and operation of construction in progress]

Sec. 2275.009. CONSTRUCTION IN PROGRESS. (a) This chapter does not require the cessation of physical construction authorized by a covered approval granted before the effective date of this chapter. Construction performed after that date is at the owner's sole risk.

(b) A data center under construction on the effective date of this chapter may not be energized, placed in operation, or granted any further covered approval until a local impact study for the study area is certified and the data center is found consistent with the study.

(c) Not later than the 60th day after the effective date of this chapter, the owner of a data center under construction shall file with the study team the disclosures required by Section 37.0591(f), Utilities Code.

SECTION 16. Chapter 2275, Government Code, as added by this Act, is amended by adding Section 2275.010 to read as follows:

Sec. 2275.010. ENFORCEMENT. (a) A person who constructs, energizes, or operates a data center in violation of this chapter is liable for a civil penalty of not more than \$[_____] for each day of the violation.

(b) The attorney general, the county attorney or district attorney of the county, or the municipality in which the data center is located may sue for injunctive relief and

the civil penalty. A court shall grant a temporary injunction on a showing of a violation without a showing of irreparable harm.

(c) A person who owns real property or a water well within [five] miles of a data center, or who is a retail electric customer in the study area, has standing to seek injunctive relief under this section.

SECTION 17. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared severable. The legislature declares that it would have enacted each provision of this Act regardless of the invalidity of any other provision, including Section 2275.009, Government Code, as added by this Act.

SECTION 18. Chapter 2275, Government Code, as added by this Act, expires September 1, [2031].

SECTION 19. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2027.

By: _____

H.J.R. No. _____

A JOINT RESOLUTION

proposing a constitutional amendment authorizing the legislature to temporarily suspend the construction and operation of large data centers pending studies of their effects on water resources, electric reliability, and local communities.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article XVI, Texas Constitution, is amended by adding Section ____ to read as follows:

Sec. _____. Notwithstanding Sections 16 and 17, Article I, of this constitution, the legislature by general law may temporarily suspend the permitting, construction, interconnection, energization, and operation of data centers, as defined by general law, pending completion of studies of their effects on water resources, electric reliability, public safety, and the communities in which they are located. A suspension under this section may not exceed [four] years for any area of this state.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November ___, 2027. The ballot shall be printed to permit voting for or against the proposition: “The constitutional amendment authorizing the legislature to temporarily suspend the construction and operation of large data centers pending studies of their effects on water, the electric grid, and local communities.”

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S.J.R. No. _____

A JOINT RESOLUTION

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