Data Centers: The Legal and Legislative Landscape

By: Jeffrey Caleb Hendrix

Data centers, which experts establish as industrial buildings that house huge banks of computer servers, function as the unseen infrastructure supporting nearly all modern business operations, including law firms[1]. Moreover, the source highlights that these facilities are crucial for everyday functions like card transactions, remote work, and even streaming Netflix. Id. Specifically, one report highlighted that these facilities are essential for storing massive amounts of data and enabling high-speed data analysis necessary for artificial intelligence.[2] Consequently, the explosive growth of artificial intelligence has led to an unprecedented demand worldwide for data center capacity to provide the computational power required for advanced AI applications[3]. Accordingly, this rapid development prompts law firms to establish AI-focused practice areas[4]. Additionally, beyond their role in AI, data centers are vital for storing sensitive information and digital assets, which are directly relevant to core legal functions such as e-discovery and compliance. Id.

More specifically, Generative AI models, like those powering chatbots like ChatGPT, require vast amounts of data and enormous computing power for training and processing user inquiries. Id at 3. Experts state this energy consumption of AI is significant; for example, New Jersey State Sen. Andrew Zwicker highlighted that training a single large language model like OpenAI's ChatGPT consumes approximately 1,300 megawatt hours of electricity, equivalent to the annual energy use of 130 U.S. homes[5]. Finally, sources indicate demand for electricity from data centers doubled from 1.9% to 4.4% of total U.S. electricity consumption from 2018 to 2023, and forecasts predict these will demand between 6.7% to 12.0% of total U.S. electricity by 2028. Id at 3.

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[1] https://stateline.org/2025/04/10/lawmakers-fear-ai-data-centers-will-drive-up-residents-power-bills/
[2] https://scdailygazette.com/2025/04/28/good-and-instructive-news-on-data-centers/
[3] https://www.rshc-law.com/docs/default-source/articles/legal-challenges-and-opportunities-at-the-intersection-of-ai-data-centers-and-power-infrastructure.pdf?sfvrsn=1c597f46_2
[4] https://www.law.com/dailyreportonline/2025/05/27/data-centers-growth-could-help-fuel-law-firms-creation-of-ai-focused-practice-areas-/
[5] https://www.northjersey.com/story/news/new-jersey/2025/06/03/nj-electric-rates-law-study-data-centers-advances/83997198007/

Serving Clients Within the Data Center Industry

As highlighted by one article, legal professionals, like security firms, must be well-informed to effectively advise a diverse range of clients involved in or impacted by the expanding data center industry.[6] To begin with, Perkins Coie indicates that legal counsel serves real estate investors and developers by assisting with site selection, which involves careful analysis of local land use and zoning laws. Id. Furthermore, other attorneys establish that lawyers must navigate regulations that may impose restrictions on building height, noise levels, and energy usage. Id at 3. Additionally, counsel establishes that this role includes ensuring environmental compliance, conducting environmental impact assessments, and adhering to laws like the Clean Air Act[7]. Another source explains that legal due diligence extends beyond physical assets to also analyze capital expenditures, operating expenses, and rough order of magnitude indicators of a facility.[8]. Notably, attorneys emphasize environmental site assessments are crucial for addressing historical and future contamination risks and potential liabilities associated with these sites. Id at 3.

Moving beyond real estate, an article from Law.com indicates that counsel is equally vital for big technology corporations and data center operators. I'd at 4. Specifically, the material highlights that they are needed for negotiating complex long-term energy and utility agreements, including Power Purchase Agreements, which are described as complex long-term contracts, usually involving renewable energy sources. Id. At 6. In effect, practicing attorneys emphasize that navigating intricate grid interconnection requirements and the allocation of costs for necessary transmission infrastructure upgrades is critical, further adding that interconnection agreements must address technical requirements, operational protocols, and liability allocation. Id. At 3. Moreover, one article states that ensuring data security and privacy compliance with evolving regulations like the California Consumer Privacy Act (CCPA) and related state-specific motions

[6] https://perkinscoie.com/insights/article/key-legal-issues-data-center-development

[7] https://www.morganlewis.com/pubs/2025/01/powering-the-future-with-data-centers-legal-considerations

[8] https://www.jw.com/digital-infrastructure-data-centers/

is paramount[9]. The article from Law.com also notes that the U.S. lacks a single federal privacy law, instead relying on several federal privacy and consumer laws in different states. Id at 4.

Importantly, Law Enforcement Insider states that true compliance mandates robust security measures, including physical security measures like high fencing, surveillance cameras with motion detection, and access control systems (ex, badge readers, biometric scanners), along with intense cybersecurity protocols.[10] Further, this team recommends a layered security approach, moving inward from the perimeter, for enhanced protection. Id. Subsequently, one article highlights that lawyers must advise on managing intellectual property issues related to proprietary systems and software for cooling, computing, storage, power management, and connectivity, which includes handling patents, trade secrets, and crafting procurement agreements. Id at 7. While another source adds that advising on specific tax incentives and economic development agreements is another key service, as these centers often come with specific compliance obligations regarding job creation, local sourcing, or infrastructure investments.[11] Lastly, for this group, experts note that addressing international and cross-border issues, such as compliance with foreign investment laws, import/export controls for equipment, and data localization requirements, adds another layer of complexity for multinational data center projects. Id.

Finally, Jackson Walker states that legal counsel also plays a significant role in serving neighboring companies and communities. Id at 8. Specifically, an article from the Washington Post highlights that residents or local groups are concerned about the environmental impacts of data centers, including water consumption and air pollution from backup generators[12]. One source adds that addressing quality-of-life concerns for communities, such as noise and light pollution and potential impacts on property values, can lead to legal challenges.[13]. Compellingly, experts state that navigating disputes arising from strained electricity grids and rising energy demands is

[9] https://www.site24x7.com/learn/datacenter/data-center-security-and-privacy-for-usa.html
[10] https://www.youtube.com/watch?v=kabaavyPE7U
[11] https://www.gibsondunn.com/when-data-center-developers-have-options-state-regulatory-treatment-is-key-to-success/
[12] https://www.washingtonpost.com/dc-md-va/2024/04/30/data-centers-regulations-northern-virginia-georgia-arizona/
[13] https://www.nlc.org/article/2025/05/23/data-centers-and-local-environmental-considerations/

increasingly common, reporting that about half of the United States is at increased risk of power supply shortfalls in the next decade. Id at 11. The source adds that controversies surrounding tax incentives for data center development often led to heightened scrutiny of compliance with agreement terms and the delivery of promised community benefits. Id.

Nationwide Legislative Efforts

Experts observing the data center industry note a significant shift in legislative approaches across the United States, driven by growing concerns among lawmakers and consumer advocates over the substantial energy demands of these facilities, particularly for AI[14]. Historically, states have actively pursued data center development through "generous tax breaks and incentives," with at least 36 states offering such programs. Id at 1. For instance, Texas has been a magnet for manufacturing and data center development for an extended period due to the abundance of undeveloped land, the low cost of energy, and its reputation for being business-friendly[15]. Likewise, Oregon is considered a favorable location due to its reliable hydropower, a cool and mild climate, and tax incentives[16]. However, a developing concern for lawmakers, as reported by various sources, is that data centers will drive residents' utility bills up[17]. For example, New Jersey State Sen. Bob Smith explicitly stated, "We have a crisis coming our way in electric rates. These outrageous increases are going to be put on the citizens. Why should they bear the rate increases?"[18] Further, a study conducted in Virginia, which hosts the world's largest concentration of data centers, concluded that unconstrained demand from data centers would drive up Virginia's energy usage by 183% by 2040 and would increase system costs for all customers[19].

In response to these concerns, numerous states are implementing new restrictions or cost-sharing measures. Id at 17. In Virginia, for instance, Prince William County has increased its tax rate on data center equipment by 72%, and Loudoun County is restricting where these facilities

[14] https://www.ncsl.org/state-legislatures-news/details/lawmakers-fear-ai-data-centers-will-drive-up-residents-power-bills
[15] https://www.jw.com/news/insights-senate-bill-6-texas-electric-regulations/
[16] https://oregoncub.org/news/water-wastewater/data-centers-oregons-energy-future/3134/
[17] https://www.cbsnews.com/news/artificial-intelligene-ai-data-centers-electricity-bill-energy-costs/
[18] https://www.northjersey.com/story/news/new-jersey/2025/06/03/nj-electric-rates-law-study-data-centers-advances/83997198007/
[19] https://www.datacenterdynamics.com/en/news/unconstrained-data-center-growth-in-virginia-could-outstrip-power-supply-report/

can be built, requiring them to undergo stricter design approval and meet noise mitigation standards. Id at 12. Virginia lawmakers have also explored the implementation of special rates for large electricity users. Id. New Jersey is considering a bill that would require new AI data centers to arrange to supply their power from new, clean energy sources[20]. Furthermore, a bill mandating a study of data center impacts on utility use and expenses has already passed both legislative chambers in New Jersey and is headed to the governor[21]. In Georgia, despite a veto on legislative attempts to place a moratorium on tax incentives, the Georgia Public Service Commission approved a new rule forcing data centers to cover those costs, and the Atlanta City Council limited where data centers can be built in certain areas[22].

Other states are also adopting new frameworks: Oregon passed the "POWER Act" HB 3546, which establishes a new classification for data centers and other industrial users over 20 megawatts, requiring them to pay their share of electricity use and costs, sign 10-year contracts, and pay for new transmission[23]. While Utah enacted a law allowing large load customers to craft separate contracts with utilities to protect residential ratepayers from additional costs[24]. In Texas, Senate Bill 6 (SB 6) directs the Public Utility Commission to "establish a rule for investor-owned utilities to address cost sharing and interconnection standards for new large load customers" (with a 75 MW threshold), also mandating disclosures, financial commitments for initial studies, and protocols for load curtailment during grid emergencies[25]. Further, Minnesota has proposed legislation (HF2928) to impose regulatory requirements on large-scale data centers, including "pre-application filings for large water appropriation projects," environmental impact statements, requirements for carbon-free energy generation (at least 65%), fees based on peak demand, and a new tariff[26]. Additionally, states like Arizona, Illinois, and Arkansas have "passed laws to either

[20] https://utahnewsdispatch.com/2025/04/14/lawmakers-fear-ai-data-centers-will-drive-up-residents-power-bills/
[21] https://www.northjersey.com/story/news/new-jersey/2025/05/23/nj-ai-data-centers-lawmakers-regulation-electric-grid/83799114007/
[22] https://www.datacenterdynamics.com/en/news/atlanta-city-council-passes-rules-limiting-data-center-locations/
[23] https://www.opb.org/article/2025/06/05/oregon-data-centers-cryptocurrency-business-environment-power-electricity/#:~:text=HB%203546%20creates%20a%20new,of%20electricity%20use%20and%20costs.
[24] https://scdailygazette.com/2025/04/15/sc-can-prevent-data-centers-from-increasing-power-bills/#:~:text=Utah%20just%20passed%20a%20new,Citizen%2C%20a%20consumer%20advocate%20nonprofit.
[25] https://www.butlersnow.com/news-and-events/texas-legislature-adopts-new-law-regarding-large-load-interconnection-and-operation
[26] https://www.house.mn.gov/sessiondaily/Story/18677

suspend data center development or further restrict where they can be built", with Chandler, Arizona, specifically tightening requirements by restricting future development to specific districts away from residential areas and requiring data center companies to explain community benefits[27].

Despite these evolving regulatory landscapes, tech companies assert that data centers are a crucial infrastructure that create tax revenue and jobs. Id. At 14. They contend that singling out data centers for such legislation is unfair and can signal looming friction in that market, potentially deterring investment. Id.

South Carolina Data Center Development

Accordingly, South Carolina is grappling with significant legislative concerns deriving from a massive spike in electricity demand, primarily driven by data centers, which utility executives estimate account for 65% of the state's new energy generation needs. Id. At 2. Further, the same article establishes that data center energy demands raise considerable alarm among state officials and citizens, as consumer advocates highlight fears that the immense infrastructure required, including new power plants and transmission lines, will inevitably drive up residents' utility bills. Id. Initially, South Carolina attracted these facilities with generous tax breaks, including sales and use tax exemptions on equipment and electricity, requiring investments of at least $50 million and 25 jobs[28]. However, individuals raised concerns about cost shifting to consumers, which prompted state lawmakers and regulators to consider significant changes. Specifically, the Senate Special Committee on South Carolina’s Energy Future concluded that consumers needed protection from the costs of building new power plants primarily serving data centers. Consequently, the Senate initially amended an energy bill (H.3309) to require data centers to "pay their own way," proposing higher rates, minimum billing requirements, and 15-year contracts[29]. Likewise, Santee Cooper also proactively adopted special "experimental" rates for

[27] https://www.washingtonpost.com/dc-md-va/2024/04/30/data-centers-regulations-northern-virginia-georgia-arizona/
[28] https://dor.sc.gov/resources-site/lawandpolicy/Advisory%20Opinions/RR13-5.pdf
[29] https://scdailygazette.com/2025/04/25/sc-power-company-enacts-higher-rates-for-data-centers-large-users/

large users, mandating 15-year contracts and higher payments during peak demand to ensure they cover generation costs[30].

Senate and proactive steps by Santee Cooper, the final legislative action on House Bill 3309, passed on May 7, 2025, did not deliver a new outcome.[31] This article notes that the bill struck down all regulatory and incentives language related to data centers, meaning they will not be required to enter their rate processes and contracts and will continue to receive incentives under the state's prior framework, with tax breaks for computer equipment and electricity remaining intact. Id.

From an innovation standpoint, Dennis Fassuliotis, President of the South Carolina Emerging Tech Association (SCETA), has argued that statutory tax incentives for data centers are essential not only to drive innovation and attract high-density compute infrastructure but also to support baseload generation and grid resiliency statewide[32]. In his September 2024 Senate testimony, Fassuliotis emphasized that emerging data center models—such as modular, energy-flexible compute centers—differ significantly from traditional hyperscale designs yet play a vital role in supporting real-time demand response, rural revitalization, and public-sector compute needs. Id. He urged legislators to avoid codifying narrow design standards and instead create technology-neutral policies that reward energy efficiency, support chip innovation, and strengthen infrastructure investment. Id.

This position aligns with SCETA's June 2025 op-ed, "Energy Alone Won't Power South Carolina's Digital Future," which expands on SC Competes' energy policy narrative by highlighting a deeper issue: outdated, opaque fiscal systems that hinder the deployment of transparent digital services[33]. As Fassuliotis wrote, "Teaching students how to code for a future built on crumbling legacy infrastructure is a strategy doomed to repeat old mistakes—just faster

30 https://www.datacenterdynamics.com/en/news/south-carolina-utility-santee-cooper-enacts-new-electricity-rates-for-data-centers-and-other-large-loads/

31https://www.scpolicycouncil.org/energy_reform_bills_potential_shock_to_ratepayers_wallets

32 Dennis Fassuliotis, Senate Energy Committee Testimony, Sept. 19, 2024 (South Carolina Emerging Tech Association)

33 Dennis Fassuliotis, "Energy Alone Won't Power South Carolina's Digital Future," SCETA Op-Ed, June 20, 2025.

and at higher stakes." Id. Further, he argues that South Carolina's leadership in the digital economy depends on aligning policy incentives with systemic fiscal modernization. Id. Fassuliotis adds that a promising opportunity lies in the development of sovereign AI data centers—publicly owned infrastructure to support AI model training, public services, and secure data governance. Id. However, he warns that no such facility should be fully developed without simultaneously developing public-private partnerships to modernize the state's underlying fiscal systems. Id.

Susie Shannon, President & CEO of the South Carolina Council on Competitiveness (SC Competes), offers a broader economic perspective on the competitive growth of technology-enabled industries in South Carolina[34]. Shannon establishes that reliable and affordable energy is a make-or-break issue for businesses, particularly within energy-intensive sectors like AI, cloud computing, and advanced manufacturing, when they consider South Carolina as a location for new siting, growth, or expansion. Id. Accordingly, she highlights that South Carolina's data center infrastructure is increasingly vital, powering small businesses and manufacturers across the state, and enabling every sector of the economy to adopt the advanced skills necessary to compete in this technology-driven landscape. Id. Further, Shannon underscores that the state's newest AI Cluster is working to reshape our major economic engines and educate future talent, in turn helping local industries -- from agriculture to advanced air mobility, cybersecurity to national security, logistics to supply chains, manufacturing to tourism, leverage new tools to boost efficiency and competitiveness. Id.

Specifically, Susie Shannon points to the state's recent successful economic diversification efforts, which have resulted in over $10 billion in capital investment and tens of thousands of jobs from companies like Boeing, Lockheed Martin, and BMW. Id. Shannon asserts that continued investment in innovative technologies like AI and prioritization of energy innovation are essential to "retain and grow jobs" and "secure a prosperous future for all South Carolinians" amidst global

[34] https://www.sccompetes.org/resource/powering-south-carolinas-future-energy-innovation-and-opportunity/

competition. Id. Interestingly, this perspective is implicitly supported by legislative actions, such as the recent South Carolina Energy Security Act, which permits utilities to offer special rates to attract "transformational customers" (often large-scale energy users) who promise significant investment and job creation. Id. Ultimately, South Carolina's journey with data centers highlights a dynamic balance between attracting significant economic investment and addressing the substantial energy and environmental concerns that accompany this power-intensive industry[35].

[35] https://scdailygazette.com/2024/04/15/data-centers-need-massive-amounts-of-energy-what-does-that-mean-for-sc/