Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act may be cited as the “The Data Center Development Act”.

SECTION 2. Chapter 52, Title 48 of the S.C. Code is amended by adding:

Article 5

Data Center Development

Section 48-52-510. For the purposes of this chapter:

(1) “Data center” means a facility, campus of facilities, or array of interconnected facilities in this State used by an entity or other business enterprise to operate, manage, or maintain a computer, group of computers, or other organized assembly of hardware and software for the primary purpose of storing, retrieving, or transmitting data. A “data center” does not include facilities owned or operated by a telecommunications provider, or facilities that primarily support telecommunications network operations.

(2) "Data center operator" means any person, corporation, partnership, or other legal entity that owns, operates, or controls a data center facility.

(3) “Direct to chip cooling technology” means liquid cooling methods that remove heat directly from a processor package, rather than cooling the surrounding air in a server or device.

(4) Electric service provider" means an electrical utility, consolidated political subdivisions, electric cooperatives, and the Public Service Authority.

(5) “Electrical infrastructure costs” means all system costs associated with generating, transmitting, or distributing electricity to serve a data center, including but not limited to:

(a) generation facility construction, expansion, or upgrade costs;

(b) transmission line construction or upgrade costs;

(c) substation construction or upgrade costs;

(d) distribution system improvements;

(e) grid reliability and stability improvements necessitated by data center load;

(f) interconnection costs; and

(g) any other capital or operational costs resulting from serving the data center's electrical load.

(6) "Infrastructure adequacy" means the existence of sufficient electrical generation, transmission, distribution, water supply, wastewater treatment, and transportation infrastructure to serve a proposed data center. Infrastructure adequacy may include a proposed plan for the investment into infrastructure adequacy prior to operation of the data center as approved by the State Energy Office as part of its

permit application required by Section 48-52-520.

(7) “Operational efficiency standards” means reasonable, technology-neutral requirements for data center water use, cooling technologies, measures to control noise, vibration, and light, and facility operations that reflect industry best practices other than standards for electricity provisions or consumption which shall remain the responsibility of the Public Service Commission, the board of Directors of the Public Service Authority, or the board of directors of an electric cooperative, as applicable.

(8) “Minimum contract obligations” means a long-term commercial agreement that requires the customer to pay its electrical infrastructure cost of service based on the customer’s requested amount of power for a duration of time regardless of actual usage, as determined by the Public Service Commission, the board of Directors of the Public Service Authority, or the board of directors of an electric cooperative, as applicable.

(9) "Tier 1 data center" means a data center facility with a connected electrical load between one and ten megawatts.

(10) "Tier 2 data center" means a data center facility with a connected electrical load between eleven and fifty megawatts.

(11) "Tier 3 data center" means a data center facility with a connected electrical load in excess of fifty megawatts.

Section 48-52-520. (A) A data center may not begin any construction or operations within this State unless the data center first receives all applicable permits from the applicable local government certifying that the provisions of this chapter have been met. This obligation to receive a permit is in addition to and not in lieu of other local and state governmental approvals that a data center must receive.

(B) Prior to applying to the local government for a permit to operate a data center in this State, a data center operator must provide the local government, the Department of Commerce, and the Department of Environmental Services with a notice of its intention to open a location in this State. The notice shall contain a statement requesting the local government conduct a pre-application consultation to provide the operator with a clear understanding of the permitting requirements. Upon receipt of the notice of intention with a request for a pre-application consultation, the local government shall schedule a pre-application consultation with the proposed data center operator.

(C)(1) When evaluating an application, the local government shall consider the tier in which the data center falls, infrastructure requirements for that tier, water conservation requirements for that tier, financial assurance requirements for that tier, and environmental review requirements for that tier.

(2) Applications from Tier 1 data centers shall be subject to an expedited review with a permitting decision made within one hundred twenty days of the data center's completed application being

received by the local government. Tier 1 data center applications shall:

(a) satisfy infrastructure requirements without a detailed assessment if the proposed data center is located within existing industrial parks or areas with demonstrated infrastructure adequacy;

(b) not require an environmental review statement; and

(c) satisfy water conservation requirements by demonstrating compliance with industry best practices, without requiring the use of specific prescribed technologies.

(3) Applications for Tier 2 data centers shall be subject to a standard review with a permitting decision made within one hundred fifty days of the data center's completed application being received by the local government. When assessing a Tier 2 data center application the local government shall:

(a) focus its infrastructure adequacy review on major infrastructure systems such as electrical, water, and wastewater without requiring a detailed assessment of every infrastructure component;

(b) require a site-specific environmental review statement addressing:

(i) water source capacity and projected consumption rates;

(ii) wastewater discharge volume and treatment compliance;

(iii) stormwater management adequacy;

(iv) noise mitigation for cooling and backup power systems;

(v) vibration control measures for mechanical equipment;

(vi) measures to mitigate unreasonable light pollution from exterior lighting and facility operations; and

(vii) compatibility with surrounding land uses; and

(c) assess the applicant's water conservation plan which must be derived from available technology options published by the Department of Environmental Services that satisfy water efficiency objectives provided for in this chapter.

(4) Applications for Tier 3 data centers shall be subject to a comprehensive review with a permitting decision made within one hundred eighty days of the data center's completed application being received by the local government. Tier 3 data center applications shall require:

(a) detailed infrastructure adequacy assessment;

(b) comprehensive environmental review statement addressing all factors identified in subsection (C)(3)(b) and additionally including:

(i) the cumulative impact on regional water resources;

(ii) air quality considerations including emergency generator emissions;

(iii) traffic impact during construction and operation; and

(iv) mitigation measures for identified impacts; and

(c) a demonstration that the applicant has fully complied with all relevant provisions contained in this chapter.

(D) The time in which a permitting decision must be rendered may be extended unilaterally by the

local government up to forty-five days, or by mutual agreement between the local government and the applicant or in extraordinary circumstances. Permits shall be issued for the duration of the data center's operations if a data center has a contract with an electrical service provider in place.

Section 48-52-530. (A) Data centers may be developed and operated in locations within this State that are equipped, or could be reasonably equipped with agreement from the infrastructure service provider, with adequate infrastructure to support efficient operations. The local government may proactively work with data center operators to identify suitable locations for the data centers to operate rather than only review locations identified by data center operators. Nothing herein shall be deemed to confer upon the local government any jurisdiction over electricity provision or consumption.

(B) Local government may create a zoning classification exclusively for data centers in Tier 2 and Tier 3. A data center shall be located only in areas zoned specifically for data centers. In determining the sites that may be zoned for data centers, local government shall conduct an infrastructure adequacy assessment of proposed locations subject to the provisions contained in Section 48-52-520(C). The review shall focus primarily on the adequacy of major systems as provided in this subsection.

(1) An infrastructure adequacy assessment with regards to a specific potential site shall evaluate the availability of:

(a) a water supply that does not deplete critical resources, including source sustainability under peak demand conditions;

(b) adequate wastewater treatment capacity or the feasibility of on-site wastewater treatment;

(c) fiber optic connectivity; and

(d) access to major roads and highways.

(2) The assessment shall identify current capacity, projected demand from the proposed zoning, deficiencies in the existing infrastructure at a potential location, and specific mitigation measures. The local government shall provide an applicant with written notice of the assessment of the existing infrastructure at the potential location. The applicant shall be given a reasonable opportunity to cure the deficiencies. An application for rezoning may not be denied until after identified deficiencies are not cured within a reasonable time. The local government shall find that infrastructure at a particular site is adequate for locating a data center at that site if the identified deficiencies will be cured by the data center operator prior to a Certificate of Occupancy being issued, and the cost of required actions to cure the deficiencies are born solely by the operator.

(C) The following locations are presumptively suitable for data center development:

(1) existing industrial parks with demonstrated utility capacity; and

(2) previously developed industrial or commercial sites.

(D) The following locations are presumptively not suitable for data center development:

(1) a one-hundred year floodplain;

(2) protected wetlands;

(3) designated critical habitat areas for endangered species;

(4) a location that is within five hundred feet of an existing residentially zoned property;

(5) properties with conservation easements; and

(6) any site determined by the local government to be unsuitable pursuant to this section.

(E) The environmental impact of a proposed data center's development shall be considered during the application process and shall focus on the proposed data center's material impact on water and wastewater infrastructure; significant environmental resources on or adjacent to the proposed location; and transportation on major roads and highways. The environmental impact assessment shall also take into consideration any proposed mitigation for identified significant impacts. The local government shall provide clear guidance to proposed data center operators on the scope of the assessment during the pre-application consultation.

(F)(1) A data center operator that locates a facility on a brownfield site identified by the Department of Environmental Services pursuant to Section 44-56-710, et seq., or on a site requiring environmental remediation under state or federal environmental cleanup programs, is eligible for a tax credit against state income taxes equal to twenty-five percent of documented environmental remediation costs actually incurred by the operator, not to exceed five million dollars per facility.

(2) To qualify for the credits provided for in subsection (F)(1):

(a) the operator must obtain certification from the Department of Environmental Services that the site meets the definition of a brownfield site or requires environmental remediation;

(b) all environmental remediation must be completed in accordance with applicable state and federal requirements and approved by the Department of Environmental Services;

(c) the data center facility must meet all requirements of this chapter; and

(d) the operator must apply for the credit within twelve months of commencing commercial operations at the facility.

(3) Tax credits authorized pursuant to this subsection may be carried forward for ten years from the year in which they are earned.

(4) Tax credits authorized pursuant to this subsection are in addition to any other tax credits, incentives, or economic development benefits for which the operator may qualify under state law.

(5) The Department of Revenue shall promulgate regulations necessary to administer the tax credits authorized by this subsection, including documentation requirements, application procedures, and verification of eligible remediation costs.

(6) The total amount of tax credits issued under this subsection may not exceed fifty million dollars in any fiscal year. Credits shall be allocated on a first-come, first-served basis based on the date a complete application is received by the Department of Revenue.

(G)(1) The local government shall establish reasonable buffer requirements for a particular proposed

location, including those for environmentally sensitive areas, based upon site-specific factors, including but not limited to:

(a) the nature and sensitivity of adjacent environmental resources;

(b) proposed mitigation measures;

(c) existing development patterns in the general area surrounding the proposed data center; and

(d) engineering and operational considerations.

(2) The buffer requirements in the following environmentally sensitive areas are presumed to be reasonable:

(a) one-half mile from national wildlife refuges and heritage preserves;

(b) one-quarter mile from a critical habitat for endangered species; and

(c) the distance imposed by state and federal permits for wetlands.

(3) The required buffers may include, but are not limited to, setbacks, vegetative screening, and operational controls rather than requiring uniform distances.

(H)All of the criteria in this section used to determine zoning shall be fully disclosed, fifteen days prior to the first reading of any zoning bill, shall be released to the public on the local government website and all other media. However, this subsection does not require the identity of the data center or data center operator to be disclsoed.

(I)(1) A local government may not approve any zoning designation, rezoning, or land use approval for a Tier 2 or Tier 3 data center unless the applicant demonstrates compliance with the water efficiency and cooling requirements set forth in Section 48-52-590. As part of any zoning or siting application, the applicant must submit a Cooling and Water Management Plan that includes:

(a) the proposed cooling technology or combination of technologies;

(b) projected water use, including estimated water use effectiveness (WUE);

(c) identification of water sources, including potable, non-potable, and reclaimed sources;

(d) demonstration that the proposed system minimizes consumptive water use;

(e) analysis of alternative cooling technologies considered and justification for the selected approach; and

(f) a plan for mitigating impacts on local and regional water resources.

(2) The local government shall approve the Cooling and Water Management Plan if it demonstrates, based on objective evidence, that:

(a) the proposed cooling system complies with or will comply with the standards established in Section 48-52-590;

(b) the proposed water use will not materially deplete or impair existing or reasonably foreseeable water resources; and

(c) the applicant has incorporated the lowest water-use technology that is reasonably feasible for the proposed facility.

(3) A local government shall deny a zoning or siting application if:

(a) the proposed cooling system relies primarily on consumptive or evaporative water use and a feasible lower-water alternative exists;

(b) sufficient water resources are not available to support the proposed use without material adverse impact; or

(c) the applicant fails to demonstrate compliance with Section 48-52-590.

(4) Any approval granted under this section shall include a binding condition requiring the applicant to construct and operate the data center in accordance with the approved Cooling and Water Management Plan.

(5) A local government shall not approve a project based on future or speculative compliance; or defer consideration of cooling or water impacts to a later stage of review.

(6) Compliance with an approved Cooling and Water Management Plan shall be deemed satisfaction of all local water-related land use requirements.

Section 48-52-540. (A)(1) Local governments retain full authority over zoning, land use, building codes, and other related matters within the jurisdiction of local governments. Therefore, data centers must comply with local zoning and land use regulations. Nothing herein shall be deemed to confer upon local governments any jurisdiction over electricity provisions or consumption.

(2) Local governments may impose additional, reasonable requirements addressing local concerns through the proper exercise of land use authority, not addressed in this section.

(B) Local governments may undertake comprehensive data center planning and establish clear data center development policies.

Section 48-52-550. (A) Data centers shall implement reasonable measures to minimize noise, vibration, and light impacts on surrounding communities.

(B)(1) Data centers shall comply with the following noise level limits measured at the property boundary with residential property:

(a) a maximum of 60 dBA Leq between the hours of 7:00 am to 10:00 pm;

(b) a maximum of 50 dBA Leq between the hours of 10:00 pm to 7:00 am.

(2) Noise limits contained in item (1) may be adjusted on a case-by-case basis based upon:

(a) existing ambient noise levels exceeding standards;

(b) industrial zoning allowing higher noise levels;

(c) the distance from residential areas; or

(d) agreement with affected property owners.

(3) Noise monitoring shall be conducted:

(a) prior to the data center commencing operations to set a baseline;

(b) within six months of commencing operations;

(c) every three years thereafter; and

(d) at any time the local government deems appropriate; however, if it is found that a data center exceeds the noise level limits, then the data center must remediate the issue and reimburse the local government for the cost of the noise monitoring.

(4) Data centers shall install noise reduction measures as needed. Appropriate noise reduction measures include, but are not limited to:

(a) acoustic barriers or enclosures for loud equipment;

(b) selection of lower-noise equipment where feasible and cost-effective;

(c) strategic building orientation considering nearest residential areas;

(d) vegetative buffers; and

(e) regular equipment maintenance.

(C) Data centers shall minimize light pollution while maintaining necessary security lighting through:

(1) limitation of outdoor lighting to meet dark sky requirements;

(2) the use of motion sensors and timers where consistent with security requirements; and

(3) interior window treatments to minimize light transmission during the night.

(D) Data centers shall minimize vibration impacts on surrounding properties through:

(1) installation of vibration isolation systems for mechanical equipment, cooling systems, and backup generators;

(2) proper foundation design to prevent transmission of vibration beyond the property boundary;

(3) selection of equipment with lower vibration profiles;

(4) regular equipment maintenance to prevent excessive vibration from worn or imbalanced components; and

(5) structural engineering review to ensure adequate isolation from adjacent properties and infrastructure.

(E) Data center operators, neighboring property owners and local communities may enter into voluntary agreements addressing site-specific concerns. Light restrictions in voluntary agreements that are different than the restrictions imposed by this subsection shall govern the use of lighting at the facility subject to the agreement.

Section 48-52-560. The provisions contained in this chapter are intended to supplement, not supersede, other environmental laws. However, compliance with the provisions contained in this chapter satisfies any state-level environmental review specifically addressing data center operations. Data centers remain subject to:

(1) federal environmental requirements;

(2) air quality permitting;

(3) stormwater management requirements;

(4) wetlands protection requirements; and

(5) all other applicable environmental laws and regulations.

Section 48-52-570. A data center permitted under Section 48-52-520 must report to the Department of Environmental Services annually by January thirty first the amount of surface water and ground water the data center utilized withing the prior twelve months and the anticipated amount of surface water and ground water to be utilized during the next twelve months. The department may assess a civil penalty against the owner of a data center of not more than ten thousand dollars for each day after January thirty first that the report is not filed with the department.

Section 48-52-580. (A) For electrical utilities as defined by Section 58-27-10(7), the Public Service Commission shall have jurisdiction over:

(1) all rates charged by electrical utilities to data center operators;

(2) the determination of appropriate cost allocation methodologies that protect existing ratepayers; and

(3) approval of utility infrastructure investments undertaken to serve data centers.

(B)(1) The commission shall encourage on- and off-site energy efficient practices from data centers to reduce system peaks, including but not limited to improvements to power usage effectiveness (PUE) metrics, on-and off-site generation, energy storage resources, weatherization, load flexibility, demand data center-funded demand response programs, and energy efficiency technologies.

(2) Data centers achieving superior energy efficiency, a PUE below 1.3, may receive preferential treatment in rate agreement approval.

Section 48-52-590. (A)(1) The Department of Environmental Services shall establish water efficiency standards that prioritize technologies minimizing consumptive water use.

(2) Acceptable methods include:

(a) closed-loop liquid cooling;

(b) direct-to-chip cooling;

(c) immersion cooling;

(d) hybrid systems optimized for low water use;

(e) high-efficiency air cooling; and

(f) water reuse or equivalent technologies.

(3) Cooling systems relying primarily on evaporative or once-through water use are disfavored and may not be approved.

(4) Compliance shall be measured using water use effectiveness (WUE):

(a) Tier 1: ≤ 2.0 liters/kWh;

(b) Tier 2: ≤ 1.8 liters/kWh;

(c) Tier 3: ≤ 1.2 liters/kWh.

The Department may adopt alternative metrics that provide equivalent or superior measurement.

(5) Tier 3 facilities shall utilize advanced cooling technologies and minimize potable water use.

(6) Variances may not be granted unless there is clear and convincing evidence that an alternative achieves equal or better environmental outcomes.

(B)(1) Data centers shall submit annual reports including:

(a) total water consumption;

(b) total water withdrawn or purchased;

(c) WUE; and

(d) cooling system type.

(2) Reports shall be standardized, with simplified requirements for Tier 1.

(3) Proprietary information shall remain confidential.

(C) The Department of Environmental Services shall promulgate regulations, which include appropriate fines, penalties, or other administrative actions within one hundred eighty days consistent with this section and industry's best practices.

SECTION 3. Chapter 27, Title 58 of the S.C. Code is amended by adding:

Section 58-27-835. (A) For the purposes of this section:

(1)"Data center" has the same meaning as in Section 48-52-510(1).

(2) "Electric service provider" has the same meaning as in Section 48-52-510(4).

(3) "Financial security" may be provided in the form of prepayment, deposits, letters of credit that cannot be affected by bankruptcy, guarantees, or other forms of credit support reasonably acceptable to the electric service provider to cover the data center's repayment obligations under this section.

(B) Notwithstanding any other provision of law, an electric service provider shall require additional terms and conditions of electric service including, without limitation, rates, charges, minimum billing requirements, and minimum terms of contract, designed to ensure all costs associated with serving or preparing to serve data centers are recovered solely from data centers with a connected electrical load of twenty megawatts or more. These terms and conditions shall include at least:

(1) a contract term of at least fifteen years;

(2) minimum billing requirements;

(3) a requirement that the data center, upon termination of its contract for electric service, pay any unrecovered costs incurred in serving or preparing to serve the data center including, but not limited

to, distribution, transmission, and generation costs associated with the provision of electric service to the data center;

(4) financial security from the data center to be paid to the electric service provider in the event the data center terminates its contract prior to the contract expiration date. The electric service provider must maintain this financial security in a separate account. In the event the account earns any interest, that interest amount must be used to lower overall system costs for consumers or must be applied towards the data center's outstanding costs, less any administrative fees the electric service provider may have incurred due to the account; and

(5) a requirement that the data center, upon termination of its contract for electric service, pay any unrecovered costs incurred in serving or preparing to serve the data center to the electric service provider. This must include, but not be limited to, distribution, transmission, and generation costs associated with the provision of electric service to the data center.

(C) Any contract pursuant to this section between an electrical utility as defined by Section 58-27-10(7) and a data center must be filed with the Public Service Commission, and the commission shall take no more than sixty days to determine whether the contract meets the requirements of this Act. Before the commission approves a contract, it must determine that the contract meets the requirements of this section and that costs associated with increased fuel requirements, generation costs, and transmission costs:

(1) are substantially related to the provision of electric services to the data center; and

(2) would not have been incurred but for the electric demand of such data center, shall be recovered solely by the electric service provider from the data center.

(D) The provisions of this section shall not apply to a data center with an executed contract with an electric service provider in this State as of effective date of this Act.

SECTION 4. Chapter 31, Title 58 of the S.C. Code is amended by adding:

Section 58-31-750. The Public Service Authority's board of directors must determine any contract established for retail electrical service to a data center meets the requirements of Section 58-27-835(B).

SECTION 5. Chapter 49, Title 33 of the S.C. Code is amended by adding:

Section 33-49-170. The board of trustees of an electric cooperative providing retail electric service to a data center must determine that any electric service contract established for a data center meets the requirements of Section 58-27-835(B). In making its determination, the board may rely upon rates, contracts, policies and representations made by the electric service provider that provides its wholesale electric service to the extent that such rates, contracts and policies control.

SECTION 6. The provisions of this act are prospective and apply to data centers for which applications for service are submitted to the electrical utility after the effective date. However, data centers in substantial development that have agreements with electric service providers or local government or are otherwise existing as of the effective date of this act are subject to the act's provisions if they increase electrical load capacity by more than ten megawatts over the load capacity utilized in the agreement as of the effective date of this act or increase the data center's floor area by more than fifty percent.

SECTION 7. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 8. This act takes effect upon approval by the Governor.

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