

1 AN ACT relating to data centers.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) As used in this section:*

6 *(a) "Data center" means a facility or group of facilities engaged in the primary*
7 *services of storing, managing, transporting, and processing digital data;*
8 *including but not limited to:*

9 *1. Computer and network systems, including associated components*
10 *such as servers, network equipment and appliances,*
11 *telecommunications systems, and data storage systems;*

12 *2. Systems for monitoring and managing infrastructure performance;*

13 *3. Internet-related equipment and services;*

14 *4. Data communications connections;*

15 *5. Environmental controls;*

16 *6. Cooling systems;*

17 *7. Power generation systems;*

18 *8. Auxiliary buildings;*

19 *9. Fire protection systems;*

20 *10. Security systems and services; and*

21 *11. Any supporting infrastructure;*

22 *(b) "Nondisclosure or confidentiality agreement" means an agreement or*
23 *contract that includes a provision or clause that prohibits a party from*
24 *disclosing, discussing, describing, or commenting on the agreement or its*
25 *terms beyond protections authorized by statute; and*

26 *(c) "Public agency" has the same meaning as in KRS 61.870.*

27 *(2) (a) A public agency shall not enter into a nondisclosure or confidentiality*

1 agreement relating to a data center that expands confidentiality beyond
2 what is authorized by the Kentucky Revised Statutes.

3 (b) Notwithstanding any provision of law to the contrary, for any contract
4 relating to the potential or actual development, siting, construction, or
5 operation of a data center entered into after the effective date of this Act,
6 any contractual provision that purports to waive, supersede, or expand the
7 requirements of the Kentucky Open Records Act pursuant KRS 61.870 to
8 61.884 or the Kentucky Open Meetings Act pursuant to KRS 61.805 to
9 61.850 shall be void as contrary to public policy.

10 (3) (a) Upon the execution of a data center siting or development agreement, the
11 issuance of a permit relating to the siting, construction, or operation of a
12 data center by a public agency, the approval of a special electric utility rate
13 applicable to data centers by the Public Service Commission or a municipal
14 utility, or a final public agency action approving a data center project, the
15 following information shall be made available to the public and shall not be
16 deemed confidential:

- 17 1. The identity of the data center owner or operator;
- 18 2. The project location;
- 19 3. The total amount and type of public financial incentives or tax
20 benefits that the data center has received or is eligible to receive in the
21 future;
- 22 4. Any public financial contribution toward infrastructure to serve the
23 data center;
- 24 5. Projected and actual aggregate electricity demand, including peak
25 load estimates for the data center;
- 26 6. Projected and actual aggregate water withdrawal, consumption, and
27 wastewater discharge for the data center;

- 1 7. Required generation, transmission, distribution, water, or wastewater
2 infrastructure upgrades needed to serve the data center;
3 8. Any commitments related to environmental mitigation or resource
4 efficiency to which the data center has agreed; and
5 9. Enforcement or claw back provisions for incentives or benefits
6 received by the data center in the event that the data center fails to
7 meet any of its legal obligations or requirements.

8 (b) Nothing in this subsection shall require the disclosure of a trade secret as
9 defined in KRS 365.880.

10 (4) (a) Aggregated data concerning projected or actual impacts on the following
11 shall not be deemed confidential solely because the information relates to a
12 data center project:

- 13 1. Electric utility rates;
14 2. Water or wastewater utility rates;
15 3. Electric grid reliability;
16 4. Potential pollution discharge types and amounts;
17 5. Public infrastructure capacity; or
18 6. Public expenditures.

19 (b) This subsection shall not require disclosure of proprietary technical
20 specifications, cybersecurity systems, or internal operational designs.

21 (5) Notwithstanding any provision of law to the contrary, a nondisclosure or
22 confidentiality agreement or confidentiality designation entered into after the
23 effective date of this Act shall not restrict:

24 (a) The authority of local elected officials, utility boards, or regulatory agencies
25 to publicly discuss or deliberate data center impacts on infrastructure,
26 environmental impacts, or utility rates; or

27 (b) Public participation, hearings, or proceedings otherwise required by law.

- 1 **(6) Nothing in this section shall be construed to alter or limit any provision contained**
- 2 **in KRS Chapter 278, 61.810(1)(g), 61.878(1)(c), or 365.880.**