

SENATE THIRD READING
SB 887 (Padilla)
As Amended August 21, 2026
Majority vote

SUMMARY

Provides that the California Environmental Quality Act (CEQA) applies to data center projects, as defined. Adds data center projects meeting specified conditions and geothermal projects, *including collocated minerals extraction facilities*, to existing judicial streamlining provisions for Environmental Leadership Development Projects (ELDPs).

Major Provisions

- 1) Defines "data center" as a facility, or part of a facility, that houses computing infrastructure, including graphics and central processing units, servers, storage devices, networking equipment, and associated power and cooling systems, for the primary purpose of processing, storing, or distributing electronic data.
- 2) Requires, notwithstanding any other law, that CEQA applies to the issuance of entitlements related to the development and operation of a data center.
- 3) Prohibits a categorical exemption for a project proposed to be carried out or approved by a public agency in furtherance of the development and operation of a data center.
- 4) Provides that a data center project is an ELDP if it is certified by the lead agency to meet all the following conditions:
 - a) The applicant pays the full cost of interconnection to prevent cost shifts to other ratepayers.
 - b) Does not increase fossil fuel consumption within the state.
 - c) Includes zero-carbon energy storage with at least four hours of capacity at 100% of forecasted peak demand for the facility.
 - d) Uses onsite zero-carbon energy storage to provide demand response services to the electrical grid.
 - e) Relies on zero-carbon generation located behind the meter to the maximum extent feasible.
 - f) The applicant commits to fully pay all electrical grid investments, including costs of new generating capacity, to serve the data center.
 - g) Uses recycled water and water-efficient technology or waterless cooling systems.
 - h) Will rely on 100% zero-carbon electricity resources to serve hourly energy needs within five years of initial operations, of which 75% shall be newly developed.
 - i) Will meet specified requirements regarding avoidance and mitigation of impacts in a disadvantaged community.

- j) Enters into one or more legally binding and enforceable community benefits agreement with community-based organizations.
 - k) Meets specified requirements regarding construction labor per AB 205 (Budget Committee), Chapter 61, Statutes of 2022.
- 5) Requires the *Office of Land Use and Climate Innovation (LCI)*, in consultation with the California Energy Commission (CEC) and other state agencies, to develop uniform statewide standards for these conditions, as part of the CEQA Guidelines.
- 6) Provides that a geothermal powerplant is an ELDP if it is certified by the lead agency to meet both of the following conditions:
- a) Meets the criteria for an eligible renewable energy resource, excluding resources that combust biomass fuels.
 - b) Meets specified requirements regarding construction labor per AB 205.
- Permits a geothermal project to include a colocated critical minerals (e.g., lithium) extraction facility using the same geothermal brine.*
- 7) Provides that data centers and geothermal projects must meet existing ELDP requirements for mitigation of greenhouse gas emissions.
- 8) Makes related findings.

COMMENTS

Data centers house the equipment used to process, store, and transmit digital information. Explosive growth in data centers has significant implications for the environment, as data centers consume huge amounts of energy and water resources, which can result in environmental impacts.

According to a U.S. Department of Energy publication produced by Lawrence Berkeley National Laboratory, data centers consumed about 4.4% of total U.S. electricity in 2023. Data centers are expected to consume approximately 6.7 to 12% of total U.S. electricity by 2028. Data centers that serve AI customers are particularly large electricity consumers within the data center sector.

Depending on the source of all that energy, data centers could have an impact on air pollution and greenhouse gas emissions. Data centers can also lead to localized air pollution from backup power sources at the facilities.

Data centers consume water directly, using it for cooling, and also use water indirectly as part of their energy generation. Water use by data centers can strain local and regional water supplies and adversely impact ecosystems. Researchers at UC Riverside estimate that statewide on-site data center water consumption in California will balloon from 351 million gallons in 2019 to between 1.12 and 1.75 billion gallons by 2028.

While there is not an explicit CEQA exemption for data centers, and it seems unlikely that a class of projects with the scale and potential impacts of data centers would ever qualify for a

categorical exemption, the application of CEQA to data center projects has been called into question by at least two recent developments.

First, last year's passage of the CEQA exemption for advanced manufacturing projects, with its vague definitions, has given rise to as yet untested claims that a data center project could qualify as advanced manufacturing.

Second, Imperial County has taken steps toward facilitating a large data center project adjacent to the City of Imperial, including a grading permit and parcel consolidation, via ministerial approval. In this case, the City has sued the County, alleging improper application of ministerial approval and asserting that the project requires rezoning and a conditional use permit, and therefore could not qualify for a CEQA exemption.

According to the Author

Data centers are being built at breakneck speed without adequate guardrails, creating air quality, water supply, and energy supply challenges for local communities across the country. Imperial county, which has one of the highest unemployment rates in the state, is currently evaluating multiple proposed hyperscale projects that could transform the region. This could bring substantial economic development to the region, but if done incorrectly, could have disastrous impacts on public health and energy costs. This measure incentivizes good neighbor data center development for projects that support California's grid and the communities in which they are built.

Arguments in Support

According to The Utility Reform Network (TURN), the elements of SB 887 represent aggressive but achievable benchmarks for superior environmental performance by data center projects that justifies expedited CEQA review. TURN believes that this approach incentivizes data center developers to prioritize a minimized environmental footprint, world-class clean energy leadership, and meaningful commitments to benefit the communities in which they are located.

Arguments in Opposition

According to the Data Center Coalition, SB 887 mischaracterizes data centers as a threat rather than an asset and by establishing a more stringent regulatory environment that is not equitably applied to other industries will put future growth and investment by the data center industry at risk. By shifting existing regulatory approaches and proposing unattainable standards in exchange for streamlined processes, this bill will effectively halt data center development in California.

FISCAL COMMENTS

According to the Assembly Appropriations Committee:

- 1) CEC estimates ongoing annual costs of approximately \$1.8 million for eight positions to develop the required statewide standards, develop reporting requirements for ongoing compliance, and conduct enforcement and seek administrative civil penalties. CEC notes there is no fund source identified in the bill, and that the Energy Resource Program Account – the primary account supporting CEC's operations – faces an ongoing structural deficit and, therefore, may not be able to support implementation of this bill.

- 2) LCI estimates General Fund costs of about \$513,000 annually for two years for two limited-term air pollution specialists to facilitate the inclusion of data centers into the ELDP judicial streamlining program, which would include developing guidelines and processes, processing applications, conducting public engagement and informational sessions, developing communications materials, and providing technical assistance.
- 3) By establishing criteria by which a data center project may qualify for CEQA streamlining as an ELDP, this bill creates potential cost pressures (Trial Court Trust Fund, General Fund) of an unknown amount to the courts to process and hear CEQA challenges to eligible data center ELDPs on an expedited timeline. Expedited cases generally create costs and staffing pressures on the courts, as each review typically requires a judicial officer, research attorneys, a dedicated courtroom, and staff. Actual costs will depend on the number of cases filed and the amount of court time needed to resolve each case. It generally costs approximately \$1,000 to operate a courtroom for one hour. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund may create a demand for increased funding for courts from the General Fund. The state budget provides annual General Fund backfills to the Trial Court Trust Fund to offset revenue reductions, totaling approximately \$117.3 million in 2025-26.

Under the existing ELDP CEQA judicial streamlining program, project applicants typically pay specific court costs and fees to cover the expedited review process. For example, for a clean renewable energy project that generates electricity exclusively through wind or solar, an applicant pays \$180,000 and \$215,000 for trial court and court of appeal costs, respectively. It is not clear to the committee if eligible data center project applicants will be subject to a similar filing fee to ensure the courts have the resources needed to timely adjudicate complicated CEQA cases.

As discussed in the Assembly Utilities and Energy Committee's analysis of this bill, geothermal powerplants are already eligible for expedited judicial and administrative review under CEQA under previously passed measures. Therefore, the committee assumes the provision in the bill providing that a geothermal powerplant is an ELDP if it meets certain conditions duplicates existing law and likely does not create new cost pressures for the courts.

- 4) The California Public Utilities Commission (CPUC) anticipates any costs would be minor and absorbable.

VOTES

SENATE FLOOR: 29-9-2

YES: Allen, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Cortese, Durazo, Grayson, Hurtado, Laird, Limón, McGuire, McNerney, Menjivar, Padilla, Pérez, Reyes, Richardson, Rubio, Smallwood-Cuevas, Stern, Umberg, Wahab, Weber Pierson, Wiener

NO: Alvarado-Gil, Choi, Grove, Jones, Niello, Ochoa Bogh, Seyarto, Strickland, Valladares

ABS, ABST OR NV: Dahle, Gonzalez

ASM NATURAL RESOURCES: 10-3-1

YES: Bryan, Connolly, Garcia, Haney, Kalra, Muratsuchi, Pellerin, Schultz, Wicks, Zbur

NO: Ellis, Hoover, Macedo

ABS, ABST OR NV: Alanis

ASM UTILITIES AND ENERGY: 14-1-3

YES: Petrie-Norris, Patterson, Boerner, Calderon, Mark González, Harabedian, Hart, Irwin, Kalra, Papan, Rogers, Schiavo, Schultz, Zbur

NO: Ta

ABS, ABST OR NV: Chen, Davies, Wallis

ASM APPROPRIATIONS: 11-4-0

YES: Wicks, Arambula, Calderon, Caloza, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache

NO: Hoover, Dixon, Ta, Tangipa

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