

# SENATE BILL 903

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By: **Senator Hester**

Introduced and read first time: January 28, 2025

Assigned to: Education, Energy, and the Environment and Budget and Taxation

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## A BILL ENTITLED

1 AN ACT concerning

2 **Data Centers – Fast Track Pass for Co–Location and Sales and Use Tax**

3 FOR the purpose of establishing an expedited certificate of public convenience and  
4 necessity review process for certain co–located energy generation projects that have  
5 received a fast track pass; establishing a Data Center Fast Track Advisory  
6 Committee in the Public Service Commission to facilitate the application for and  
7 review and awarding of fast track passes; altering the requirements for qualified  
8 data center personal property to be eligible to be exempt from the sales and use tax;  
9 authorizing the State Department of Assessments and Taxation to limit the sales  
10 and use tax exemption for qualified data center personal property under certain  
11 circumstances; requiring the Maryland Energy Administration to establish certain  
12 guidelines; and generally relating to data centers.

13 BY adding to

14 Article – Public Utilities  
15 Section 7–207(b)(1)(iv), 7–207.4, and 7–218  
16 Annotated Code of Maryland  
17 (2020 Replacement Volume and 2024 Supplement)

18 BY repealing and reenacting, without amendments,

19 Article – Public Utilities  
20 Section 7–207(c)  
21 Annotated Code of Maryland  
22 (2020 Replacement Volume and 2024 Supplement)

23 BY repealing and reenacting, with amendments,

24 Article – Tax – General  
25 Section 11–239  
26 Annotated Code of Maryland  
27 (2022 Replacement Volume and 2024 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
That the Laws of Maryland read as follows:

**Article – Public Utilities**

7–207.

(b) (1) (IV) 1. IN THIS SUBPARAGRAPH, “FAST TRACK PROJECT”  
HAS THE MEANING STATED IN § 7–207.4 OF THIS SUBTITLE.

2. NOTWITHSTANDING ANY OTHER PROVISION OF THIS  
SECTION, A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE  
CONSTRUCTION OF A FAST TRACK PROJECT SHALL BE ISSUED IN ACCORDANCE WITH  
§ 7–207.4 OF THIS SUBTITLE.

(c) (1) On receipt of an application for a certificate of public convenience and  
necessity under this section, the Commission shall provide notice immediately or require  
the applicant to provide notice immediately of the application to:

(i) the Department of Planning;

(ii) the governing body, and if applicable the executive, of each  
county or municipal corporation in which any portion of the generating station, overhead  
transmission line, or qualified generator lead line is proposed to be constructed;

(iii) the governing body, and if applicable the executive, of each  
county or municipal corporation within 1 mile of the proposed location of the generating  
station, overhead transmission line, or qualified generator lead line;

(iv) each member of the General Assembly representing any part of  
a county in which any portion of the generating station, overhead transmission line, or  
qualified generator lead line is proposed to be constructed;

(v) each member of the General Assembly representing any part of  
each county within 1 mile of the proposed location of the generating station, overhead  
transmission line, or qualified generator lead line;

(vi) for a proposed overhead transmission line, each owner of land  
and each owner of adjacent land; and

(vii) all other interested persons.

(2) The Commission, when sending the notice required under paragraph  
(1) of this subsection, shall forward a copy of the application to:

(i) each appropriate State unit and unit of local government for review, evaluation, and comment regarding the significance of the proposal to State, area-wide, and local plans or programs; and

(ii) each member of the General Assembly included under paragraph (1)(iv) and (v) of this subsection who requests a copy of the application.

(3) On receipt of an application for a certificate of public convenience and necessity under this section, the Commission shall provide notice of the application on the Commission's social media platforms and website.

**7-207.4.**

**(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

**(2) "CONSTRUCTION" HAS THE MEANING STATED IN § 7-207 OF THIS SUBTITLE.**

**(3) "DATA CENTER" HAS THE MEANING STATED IN § 11-239 OF THE TAX – GENERAL ARTICLE.**

**(4) "FAST TRACK PROJECT" MEANS THE CONSTRUCTION OF A GENERATING STATION THAT INCLUDES THE CO-LOCATION OF A DATA CENTER THAT HAS BEEN AWARDED A FAST TRACK PASS IN ACCORDANCE WITH § 7-218 OF THIS SUBTITLE.**

**(5) "GENERATING STATION" HAS THE MEANING STATED IN § 7-207 OF THIS SUBTITLE.**

**(B) THIS SECTION APPLIES ONLY TO AN APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE CONSTRUCTION OF A FAST TRACK PROJECT.**

**(C) UNLESS A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IS FIRST OBTAINED FROM THE COMMISSION IN ACCORDANCE WITH THIS SECTION, A PERSON MAY NOT BEGIN CONSTRUCTION OF A FAST TRACK PROJECT.**

**(D) WITHIN 90 DAYS AFTER THE SUBMISSION OF AN APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY THAT INCLUDES AS PART OF THE APPLICATION A REQUEST FOR VERIFICATION THAT THE CONSTRUCTION OR MODIFICATION TO A GENERATING STATION HAS RECEIVED A FAST TRACK PASS IN ACCORDANCE WITH § 7-218 OF THIS SUBTITLE, THE COMMISSION SHALL:**

(1) VERIFY WHETHER THE GENERATING STATION IS A FAST TRACK PROJECT; AND

(2) NOTIFY THE APPLICANT AND RELEVANT ENTITIES UNDER § 7-207(C) OF THIS SUBTITLE THAT THE APPLICATION IS SUBJECT TO AN EXPEDITED REVIEW PROCESS IN ACCORDANCE WITH THIS SECTION.

(E) (1) THE COMMISSION SHALL:

(I) EXPEDITE ALL PROCEEDINGS FOR THE REVIEW AND APPROVAL OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR A FAST TRACK PROJECT AND PRIORITIZE THESE PROCEEDINGS, IF NECESSARY, OVER OTHER MATTERS; AND

(II) TAKE FINAL ACTION ON A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR A FAST TRACK PROJECT NOT LATER THAN 6 MONTHS AFTER THE COMMISSION MAKES THE VERIFICATION UNDER SUBSECTION (D)(1) OF THIS SECTION.

(2) A STATE AGENCY SHALL SUBMIT ANY RECOMMENDED LICENSING CONDITIONS OR TESTIMONY REGARDING THE ISSUANCE OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR A FAST TRACK PROJECT NOT LATER THAN 90 DAYS AFTER THE COMMISSION MAKES THE VERIFICATION UNDER SUBSECTION (D)(1) OF THIS SECTION.

(F) THE COMMISSION, THE DEPARTMENT OF THE ENVIRONMENT, THE DEPARTMENT OF NATURAL RESOURCES, AND ANY OTHER IMPACTED STATE AGENCY SHALL WAIVE OR EXPEDITE ANY REGULATORY REQUIREMENTS OR DECISIONS TO COMPLY WITH THE TIME FRAMES SET FORTH IN THIS SECTION.

7-218.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "COMMITTEE" MEANS THE DATA CENTER FAST TRACK ADVISORY COMMITTEE.

(3) "CONSTRUCTION" HAS THE MEANING STATED IN § 7-207 OF THIS SUBTITLE.

(4) "DATA CENTER" HAS THE MEANING STATED IN § 11-239 OF THE TAX – GENERAL ARTICLE.

1           **(5) “FAST TRACK PASS” MEANS AN EXPEDITED REVIEW PROCESS FOR**  
2 **A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY ISSUED IN ACCORDANCE**  
3 **WITH § 7-207.4 OF THIS SUBTITLE.**

4           **(6) “GENERATING STATION” HAS THE MEANING STATED IN § 7-207 OF**  
5 **THIS SUBTITLE.**

6           **(B) THERE IS A DATA CENTER FAST TRACK ADVISORY COMMITTEE IN THE**  
7 **COMMISSION.**

8           **(C) THE COMMITTEE CONSISTS OF:**

9                 **(1) THE COMPTROLLER, OR THE COMPTROLLER’S DESIGNEE;**

10                **(2) THE SECRETARY OF COMMERCE, OR THE SECRETARY’S**  
11 **DESIGNEE;**

12                **(3) THE SECRETARY OF THE ENVIRONMENT, OR THE SECRETARY’S**  
13 **DESIGNEE;**

14                **(4) THE CHAIR OF THE COMMISSION, OR THE CHAIR’S DESIGNEE;**

15                **(5) THE DIRECTOR OF THE MARYLAND ENERGY ADMINISTRATION,**  
16 **OR THE DIRECTOR’S DESIGNEE;**

17                **(6) THE SECRETARY OF GENERAL SERVICES, OR THE SECRETARY’S**  
18 **DESIGNEE; AND**

19                **(7) THE SECRETARY OF NATURAL RESOURCES, OR THE**  
20 **SECRETARY’S DESIGNEE.**

21           **(D) THE COMMITTEE SHALL:**

22                **(1) IN CONSULTATION WITH THE COMMISSION, ESTABLISH CRITERIA**  
23 **FOR SELECTING PROJECTS FOR THE CONSTRUCTION OR MODIFICATION OF A**  
24 **GENERATING STATION THAT INCLUDES THE CO-LOCATION OF A DATA CENTER TO**  
25 **RECEIVE A FAST TRACK PASS, INCLUDING CRITERIA FOR:**

26                **(I) ON-SITE ENERGY GENERATION TECHNOLOGY, INCLUDING**  
27 **BACKUP ENERGY GENERATION AND ENERGY STORAGE TECHNOLOGY;**

(II) EVALUATING A PROJECT'S POWER USAGE EFFECTIVENESS SCORE CALCULATED IN ACCORDANCE WITH GUIDELINES ESTABLISHED BY THE MARYLAND ENERGY ADMINISTRATION UNDER § 11-239 OF THE TAX – GENERAL ARTICLE;

(III) GREEN BUILDING STANDARDS;

(IV) LAND USE AND POTENTIAL REDEVELOPMENT;

(V) WATER USAGE;

(VI) COMMUNITY IMPACT; AND

(VII) ENVIRONMENTAL JUSTICE CONSIDERATIONS; AND

(2) AWARD A FAST TRACK PASS TO SELECTED PROJECTS THAT MEET THE CRITERIA ESTABLISHED IN ITEM (1) OF THIS SUBSECTION.

(E) A PROJECT THAT RECEIVES A FAST TRACK PASS UNDER THIS SECTION SHALL UNDERGO AN EXPEDITED REVIEW PROCESS FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IN ACCORDANCE WITH § 7-207.4 OF THIS SUBTITLE.

(F) (1) ON OR BEFORE SEPTEMBER 1, 2025, AND EACH SEPTEMBER 1 THEREAFTER, THE COMMITTEE SHALL ISSUE AN APPLICATION PERIOD FOR POTENTIAL PROJECTS FOR THE CONSTRUCTION OR MODIFICATION OF A GENERATING STATION THAT INCLUDES THE CO-LOCATION OF A DATA CENTER TO APPLY FOR A FAST TRACK PASS UNDER THIS SECTION.

(2) THE APPLICATION PERIOD UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL REMAIN OPEN FOR 90 DAYS.

(3) IN EVALUATING APPLICATIONS RECEIVED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSION:

(I) MAY AWARD NOT MORE THAN THREE FAST TRACK PASSES IN A YEAR;

(II) SHALL USE THE CRITERIA ESTABLISHED UNDER SUBSECTION (D)(1) OF THIS SECTION; AND

(III) SHALL AWARD EACH FAST TRACK PASS NOT LATER THAN 30 DAYS AFTER THE CLOSE OF THE APPLICATION PERIOD.

(4) A PROPOSED PROJECT MAY APPLY FOR NOT MORE THAN ONE FAST TRACK PASS IN A YEAR.

**Article – Tax – General**

11–239.

(a) (1) In this section the following words have the meanings indicated.

(2) “Data center” means a building or group of buildings used to house computer systems, computer storage equipment, and associated infrastructure that businesses or other organizations use to organize, process, store, and disseminate large amounts of data.

(3) “Department” means the Department of Commerce.

(4) “Opportunity zone” means an area that has been designated as a qualified opportunity zone in the State under § 1400Z–1 of the Internal Revenue Code.

(5) (i) “Qualified data center” means a data center located in the State in which an individual or a corporation, within 3 years after [submitting an application for] RECEIVING the sales and use tax exemption under this section, has:

1. for a data center located within a Tier I area, invested at least \$2,000,000 in qualified data center personal property and created at least [five]:

**A. 35 qualified positions; or**

**B. 5 QUALIFIED POSITIONS FOR EACH 20,000 SQUARE FEET OR LESS OF THE DATA CENTER THAT IS NEWLY DEDICATED TO HOUSING SERVERS; OR**

2. for a data center located in any other area of the State, invested at least \$5,000,000 in qualified data center personal property and created at least [five]:

**A. 35 qualified positions; OR**

**B. 5 QUALIFIED POSITIONS FOR EACH 20,000 SQUARE FEET OR LESS OF THE DATA CENTER THAT IS NEWLY DEDICATED TO HOUSING SERVERS.**

(ii) “Qualified data center” includes:

1. a data center that is a co-located or hosting data center where equipment, space, and bandwidth are available to lease to multiple customers; and

2. an enterprise data center owned and operated by the company it supports.

(6) (i) “Qualified data center personal property” means personal property purchased or leased to establish or operate a data center.

(ii) “Qualified data center personal property” includes:

1. computer equipment or enabling software used for the processing, storage, retrieval, or communication of data, including servers, routers, connections, and other enabling hardware used in the operation of that equipment;

2. heating, ventilation, and air-conditioning and mechanical systems, including chillers, cooling towers, air-handling units, pumps, energy storage or energy efficiency technology, and other capital equipment used in the operation of that equipment; and

3. equipment necessary for the generation, transformation, transmission, distribution, or management of electricity, including exterior substations, generators, transformers, unit substations, uninterruptible power supply systems, batteries, power distribution units, remote power panels, and any other capital equipment necessary for these purposes.

(7) (i) “Qualified position” means a position that:

1. is a full-time position of indefinite duration;

2. pays at least 150% of the State minimum wage;

3. is newly created because a data center begins or expands in a single location in the State; and

4. is filled.

(ii) “Qualified position” does not include a position:

1. created if an employment function is shifted from an existing data center in the State to another data center of related ownership if the position is not a net new job in the State;

2. created through a change in ownership of a trade or business;

3. created through a consolidation, merger, or restructuring of a business entity if the position is not a net new job in the State;

1                               4.       created if an employment function is contractually shifted  
2 from an existing business entity in the State to another business entity if the position is  
3 not a net new job in the State; or

4                               5.       filled for a period of less than 12 months.

5                               (8)     “Tier I area” means:

6                               (i)     a Tier I county as defined in § 1–101 of the Economic  
7 Development Article; or

8                               (ii)    an opportunity zone.

9                               (b)     The sales and use tax does not apply to the sale of qualified data center  
10 personal property for use at a qualified data center if the buyer provides the vendor with  
11 evidence of eligibility for the exemption issued by the Comptroller.

12                           (c)     (1)     To qualify for the sales and use tax exemption under subsection (b) of  
13 this section, an individual or a corporation shall file an application for an exemption  
14 certificate with the Department.

15                           (2)     The application must:

16                           (i)     demonstrate that the applicant intends to meet the requirements  
17 of a qualified data center; [and]

18                           (II)    **DEMONSTRATE THAT THE DATA CENTER:**

19                           1.       **HAS A POWER USAGE EFFECTIVENESS SCORE OF NOT**  
20 **MORE THAN 1.2; OR**

21                           2.       **FOR A DATA CENTER THAT IS CO-LOCATED IN A**  
22 **BUILDING WITH OTHER COMMERCIAL USES AND TAKES NOT MORE THAN 20% OF THE**  
23 **SQUARE FOOTAGE OF THE BUILDING, ACHIEVES AN ENERGY EFFICIENCY LEVEL**  
24 **THAT IS AT LEAST AS EFFICIENT AS THE TOP 15% MOST EFFICIENT SIMILAR**  
25 **BUILDINGS CONSTRUCTED IN THE PREVIOUS 5 YEARS;**

26                           (III) **DEMONSTRATE THAT AT LEAST 90% OF THE ELECTRICITY**  
27 **USED BY THE DATA CENTER IS DERIVED FROM CARBON-FREE RENEWABLE ENERGY**  
28 **SOURCES:**

29                           1.       **LOCATED IN THE PJM INTERCONNECTION, LLC,**  
30 **SERVICE TERRITORY; OR**

31                           2.       **THROUGH ON-SITE GENERATION;**

1                   (IV) CERTIFY THAT THE DATA CENTER WILL NOT USE ANY  
2 DIESEL FUEL FOR ON-SITE GENERATION, NOT INCLUDING FOR BACKUP  
3 GENERATION; AND

4                   [(ii)] (V) include any information the Department requires to  
5 evidence the capacity and intention of the applicant to fulfill the commitments set forth in  
6 the applicant's application.

7                   (3) (I) [If,] SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,  
8 IF, based on the information and supporting documentation provided in the application,  
9 the Department determines the applicant is eligible for the sales and use tax exemption  
10 under subsection (b) of this section, the Department shall certify the eligibility of the  
11 applicant.

12                   (II) THE DEPARTMENT MAY LIMIT A CERTIFICATION ISSUED  
13 UNDER THIS SECTION BY ALLOWING A QUALIFIED DATA CENTER TO CLAIM A  
14 PARTIAL EXEMPTION UNDER THIS SECTION ONLY UP TO A SPECIFIED DOLLAR  
15 AMOUNT BASED ON THE FOLLOWING ECONOMIC DEVELOPMENT PRIORITIES:

16                   1. A COMPARATIVE ANALYSIS BETWEEN THE STATE AND  
17 OTHER STATES IDENTIFYING THE COST DIFFERENTIAL IN THE COSTS OF THE  
18 PROJECT IN THE STATE COMPARED TO THE PROJECTED COSTS IF THE PROJECT HAD  
19 COMMENCED IN ANOTHER STATE, INCLUDING:

20                   A. ANY IMPACT OF THE OTHER STATE'S INCENTIVE  
21 PROGRAMS, INCLUDING SPECIFIC COSTS FOR LABOR, UTILITIES, TAXES, AND ANY  
22 OTHER RELEVANT COSTS; AND

23                   B. THE COST STRUCTURE OF THE TAXPAYER'S INDUSTRY  
24 IN THE OTHER STATE; AND

25                   2. CERTIFIED DOCUMENTATION FROM THE TAXPAYER  
26 TO DEMONSTRATE THAT THE EXEMPTION ALLOWED UNDER THIS SECTION WAS A  
27 SUBSTANTIAL FACTOR IN THE DECISION TO LOCATE THE PROJECT IN THE STATE,  
28 INCLUDING:

29                   A. WHETHER THE TAXPAYER COULD HAVE REASONABLY  
30 AND EFFICIENTLY LOCATED THE PROJECT OUTSIDE THE STATE;

31                   B. EVIDENCE THAT AT LEAST ONE OTHER STATE WAS  
32 CONSIDERED FOR THE PROJECT;

1                               **C.     DOCUMENTATION THAT RECEIPT OF THE EXEMPTION**  
2 **UNDER THIS SECTION WAS A MAJOR FACTOR IN THE DATA CENTER’S DECISION; AND**

3                               **D.     CERTIFICATION THAT WITHOUT THE EXEMPTION**  
4 **ALLOWED UNDER THIS SECTION, THE DATA CENTER WAS NOT LIKELY TO COMMENCE**  
5 **THE PROJECT IN THE STATE.**

6                               **(4)    THE MARYLAND ENERGY ADMINISTRATION SHALL ESTABLISH**  
7 **GUIDELINES FOR:**

8                               **(I)     CALCULATING A POWER USAGE EFFECTIVENESS SCORE;**  
9 **AND**

10                              **(II)    DETERMINING SIMILAR BUILDINGS FOR COMPARISON**  
11 **UNDER PARAGRAPH (2)(II)2 OF THIS SUBSECTION.**

12               (d)   (1)    Each year, the Department shall provide the Comptroller with a list of  
13 individuals and corporations that the Department determines are eligible for the sales and  
14 use tax exemption under subsection (b) of this section.

15                       (2)    Within 30 days after receiving the list described in paragraph (1) of this  
16 subsection, the Comptroller shall issue to each individual and corporation listed a  
17 certificate of eligibility for the sales and use tax exemption under subsection (b) of this  
18 section.

19                       (3)    (i)    The certificate of eligibility issued under paragraph (2) of this  
20 subsection:

21                               1.     must be renewed each year; and

22                               2.     except as provided in subparagraph (ii) of this paragraph, may  
23 not be renewed for more than 10 consecutive years.

24                               (ii)   If the individual or corporation invests at least \$250,000,000 in  
25 qualified data center personal property, the certificate of eligibility may be renewed for up  
26 to 20 consecutive years.

27               (e)    For at least 3 years after the termination of a certificate issued under  
28 subsection (d) of this section, each individual or corporation that receives the certificate  
29 shall:

30                       (1)    maintain a record of:

31                               (i)    the amount of sales and use tax that was not paid as a result of  
32 the certificate;

(ii) the number of qualified positions created; and

(iii) the investment in qualified data center personal property; and

(2) allow the Department to inspect the records described in item (1) of this subsection.

(f) (1) The Department may revoke a certificate of eligibility under subsection (d) of this section if any representation made in connection with the application for the certificate is determined by the Department to have been false when made or if the applicant has failed to fulfill the applicant's commitments under the application.

(2) The revocation may be in full or in part as the Department may determine.

(3) The individual or corporation shall have an opportunity to appeal any revocation to the Department before notification of the Comptroller.

(4) The Comptroller may make an assessment against the individual or corporation to recapture any amount of sales and use tax that the individual or corporation has not paid as a result of an exemption under subsection (b) of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2025.