A bill to be entitled – By Angel Ramos

An act relating to advanced data infrastructure and resource efficiency; amending s. 163.326, F.S.; revising legislative findings relating to data centers and large load customers; providing that certain statewide data center standards are minimum standards; preserving local government authority over comprehensive planning, zoning, land development, infrastructure, compatibility, and related matters; amending s. 288.075, F.S.; conforming a cross-reference; creating s. 288.076, F.S.; providing legislative findings and intent; defining terms; establishing minimum statewide resource-efficiency standards for covered data centers; establishing applicability thresholds; requiring certain cooling technologies and prohibiting routine consumptive water use for cooling information technology equipment; establishing requirements for primary active data-storage technology; providing exceptions; establishing a minimum usable digital storage-density standard; establishing development-footprint requirements; preserving local government authority; establishing a maximum energy-intensity standard; providing for measurement and verification; requiring certification and periodic compliance reporting; authorizing inspections and audits; providing notice and an opportunity to cure certain violations; providing for enforcement; prohibiting eligibility for certain state economic development incentives during periods of material noncompliance; authorizing rulemaking; amending s. 373.203, F.S.; revising and providing definitions; amending s. 373.262, F.S.; prohibiting the issuance of consumptive use permits authorizing routine consumptive water use for cooling information technology equipment at covered data centers; clarifying the application of reclaimed-water requirements; providing exceptions; providing for prospective application; preserving vested rights; requiring specified matters to be included in a previously required study by the Office of Program Policy Analysis and Government Accountability; providing for severability; providing effective dates.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 163.326, Florida Statutes, is amended to read:

163.326 Large load customer and data center considerations.—

(1) The Legislature finds that certain land uses, including facilities with substantial electric or other utility demands, such as data centers and other large load customers as defined in s. 366.043(2), may present unique planning, infrastructure, compatibility, environmental, water-resource, energy, and land-use considerations. The Legislature intends that such considerations be addressed through local comprehensive planning and land development regulations adopted pursuant to this chapter, including provisions related to infrastructure

capacity, land-use compatibility, environmental impacts, resource efficiency, and the efficient provision of public facilities and services.

(2) Local governments shall maintain the authority to exercise the powers and responsibilities for comprehensive planning and land development regulation granted by law with respect to large load customers and data centers. A large load customer may not be considered an electric substation for purposes of s. 163.3208.

(3) The standards established in s. 288.076 are minimum statewide resource-efficiency standards and do not preempt or supersede the authority of a county or municipality to adopt, maintain, or enforce comprehensive plans, land development regulations, zoning requirements, site-development standards, compatibility standards, infrastructure requirements, environmental protections, or other lawful requirements applicable to a data center.

(4) A county or municipality may adopt and enforce requirements applicable to a data center which are more stringent than the minimum statewide standards established in s. 288.076 when such requirements are within the local government's authority under general law.

(5) Nothing in this section or s. 288.076:

(a) Requires a county or municipality to approve a proposed data center;

(b) Creates an entitlement to a comprehensive plan amendment, rezoning, development order, building permit, utility connection, or other governmental approval;

(c) Prohibits a county or municipality from denying, conditioning, restricting, or otherwise regulating a proposed data center pursuant to applicable law; or

(d) Preempts a county or municipality from establishing requirements relating to the location, size, intensity, appearance, noise, traffic, emergency access, infrastructure impacts, environmental impacts, or compatibility of a data center with surrounding land uses.

Section 2. Section 288.075, Florida Statutes, is amended as necessary to conform the definition of "data center" to s. 373.203 and to recognize a "covered data center" as defined in s. 288.076.

Section 3. Section 288.076, Florida Statutes, is created to read:

288.076 Advanced data infrastructure and resource-efficiency standards.—

(1) LEGISLATIVE FINDINGS AND INTENT.—

(a) The Legislature finds that artificial intelligence, cloud computing, digital storage, advanced computing, and other information technologies are increasing demand for data infrastructure within the United States and this state.

(b) The Legislature further finds that the economic benefits of advanced data infrastructure should be pursued in a manner that protects Florida's water resources, electric infrastructure, agricultural lands, communities, and other natural and public resources.

(c) The Legislature finds that advances in data-storage technology, cooling technology, building design, and energy efficiency make it possible to increase digital storage and computing capacity while reducing the amount of land, water, and electricity required for data infrastructure.

(d) It is the intent of the Legislature to establish minimum statewide resource-efficiency standards for covered data centers while:

1. Encouraging technological innovation and competition;
2. Avoiding requirements that favor a particular manufacturer, vendor, patent holder, or proprietary technology;
3. Preserving local government authority over comprehensive planning, zoning, land development, infrastructure, and compatibility of land uses;
4. Protecting Florida's water resources from unnecessary consumptive use;
5. Promoting compact development of advanced data infrastructure; and
6. Ensuring that minimum performance standards remain measurable, enforceable, and capable of adaptation to technological advancement.

(2) DEFINITIONS.—

As used in this section, the term:

(a) "Covered data center" means a data center:

1. The primary purpose of which is the commercial processing, storage, management, transmission, hosting, or computation of digital information; and
2. Which meets or exceeds the applicability threshold established in paragraph (3)(a).

The term includes a facility primarily used for artificial intelligence training or inference, cloud computing, commercial digital storage, high-performance computing, colocation services, or another substantially similar data-intensive commercial purpose.

The term does not include an information technology facility that is incidental and subordinate to the primary commercial, governmental, educational, health care, financial, manufacturing, research, telecommunications, or other lawful use of a building.

(b) "Department" means the Department of Commerce.

(c) "Information technology equipment area" or **"ITE area"** means the interior floor area primarily dedicated to servers, digital storage equipment, networking equipment, artificial intelligence computing equipment, high-performance computing equipment, or other electronic equipment used to process, store, manage, or transmit digital information.

The term includes equipment racks and immediately associated equipment space but does not include offices, employee facilities, parking facilities, loading areas, general storage areas, or other portions of a building not primarily dedicated to information technology equipment.

(d) "Installed usable digital storage capacity" means the digital information storage capacity available for operational use after accounting for formatting, system overhead, redundancy, reserved capacity, data protection, and other reductions from raw manufacturer-rated capacity.

(e) "Primary active storage medium" means the data-storage technology used to store a majority of the digital information that is routinely accessed, written, modified, processed, or otherwise made available during the ordinary operation of a covered data center.

The term does not include storage used primarily for archival retention, offline backup, disaster recovery, cybersecurity, legal preservation, or emergency restoration.

(f) "Routine consumptive water use for cooling" means the withdrawal, consumption, evaporation, or discharge of potable water, groundwater, surface water, or reclaimed water as a recurring part of the normal operation of a cooling system serving information technology equipment.

The term does not include water or another heat-transfer fluid contained within a sealed or closed-loop system that does not require routine replenishment because of evaporation or discharge.

(g) "Substantial expansion" means an expansion of an existing data center that meets the threshold established in paragraph (3)(b).

(3) APPLICABILITY.—

(a) The requirements of this section apply to a new data center that:

1. Meets the technically validated minimum threshold for information technology equipment area, connected electrical load, installed digital storage capacity, or another objective measure adopted by the Legislature; and
2. Is not excluded under paragraph (2)(a).

(b) The requirements of this section apply to the expanded portion of an existing data center when a substantial expansion meets the technically validated threshold established by the Legislature.

(c) The department may adopt rules necessary to determine whether physically connected, commonly controlled, or operationally integrated facilities constitute a single data center for purposes of this section.

(d) A person may not divide, phase, separately meter, separately title, or otherwise structure a single data center development for the primary purpose of avoiding the applicability of this section.

(4) COOLING AND WATER USE.—

(a) A covered data center may not use potable water, groundwater, surface water, or reclaimed water for routine consumptive water use for cooling information technology equipment.

(b) Cooling of information technology equipment at a covered data center must be accomplished through:

1. Air-based mechanical cooling;
2. Refrigerant-based cooling;
3. A sealed or closed-loop cooling system that does not require routine consumptive water use;
4. Heating, ventilation, and air-conditioning technology that does not require routine consumptive water use for cooling information technology equipment; or
5. Another technology demonstrated through independent engineering analysis to meet or exceed the water-efficiency requirements of this subsection.

(c) A covered data center may use water for:

1. Domestic and sanitary purposes;
2. Drinking water and ordinary employee or occupant uses;

3. Fire prevention, fire suppression, and emergency response;
4. Landscape irrigation otherwise authorized by law;
5. Cleaning and maintenance;
6. Temporary emergency use necessary to prevent an imminent threat to human life, public safety, or substantial equipment damage; and
7. Other uses ordinarily associated with a commercial building of comparable occupied floor area, provided such use is not primarily for the routine cooling of information technology equipment.

(d) Nothing in this subsection prohibits the use of a sealed or closed-loop system containing water or another heat-transfer fluid if the system does not require routine withdrawal, consumption, evaporation, or discharge of water during normal operation.

(5) DATA-STORAGE TECHNOLOGY.—

(a) A covered data center that provides digital data-storage services must use solid-state, nonmechanical, or successor data-storage technology as its primary active storage medium.

(b) Rotational magnetic hard-disk drives may not constitute the primary active storage medium of a covered data center subject to paragraph (a).

(c) This subsection does not prohibit the limited use of rotational magnetic hard-disk drives or other alternative storage media for:

1. Archival storage;
2. Backup;
3. Disaster recovery;
4. Cybersecurity;
5. Legal or regulatory data preservation;
6. Emergency restoration; or
7. Another limited purpose for which the department determines that use of the alternative storage medium does not materially undermine the resource-efficiency objectives of this section.

(d) Nothing in this subsection prohibits a successor technology that meets or exceeds the applicable storage-density and resource-efficiency standards established by this section.

(e) A rule or administrative determination under this subsection may not require or favor equipment, intellectual property, or technology produced or controlled by a particular manufacturer or vendor.

(6) MINIMUM STORAGE DENSITY.—

(a) A covered data center that provides digital data-storage services must maintain an installed usable digital storage capacity of not less than **1 petabyte for each 40 square feet of ITE area dedicated to data-storage equipment and infrastructure directly supporting such equipment**.

(b) Compliance must be based on installed usable digital storage capacity and may not be calculated solely from raw manufacturer-rated storage capacity.

(c) The department shall establish a uniform methodology for calculating:

1. Installed usable digital storage capacity;
2. The portion of ITE area dedicated to data-storage equipment;
3. Shared storage and computing infrastructure;
4. Redundant storage;
5. Distributed storage architecture; and
6. Other technical matters necessary for consistent measurement.

(d) The department may recommend an increase in the minimum storage-density standard to the Legislature based on technological advancement. The minimum standard established in paragraph (a) may not be reduced by rule.

(e) The department may not establish a maximum digital storage capacity for a covered data center.

(7) DEVELOPMENT FOOTPRINT AND COMMERCIAL-BUILDING CAPABILITY.—

(a) A covered data center must be designed so that its information technology equipment and primary supporting infrastructure are capable of being housed within a building constructed in accordance with the Florida Building Code and lawfully approved by the applicable local government for commercial or industrial use.

(b) Compliance with paragraph (a) does not:

1. Require a local government to permit a data center in a commercial or industrial zoning district;

2. Create an entitlement to a particular land-use or zoning classification;
3. Restrict a local government's authority to determine where data centers may be located; or
4. Preempt a local government from imposing more stringent siting, development, infrastructure, environmental, or compatibility requirements.

(c) A covered data center may not rely upon the conversion of land used for bona fide agricultural purposes as a necessary means of satisfying the minimum development requirements of this section.

(d) Nothing in paragraph (c) prohibits a local government from approving a data center on land previously or currently used for agricultural purposes when such approval is otherwise authorized under the local government's comprehensive plan, land development regulations, and applicable law.

(e) The standards established in this subsection are minimum statewide development standards and do not supersede local comprehensive planning or land-development authority.

(8) MAXIMUM ENERGY INTENSITY.—

(a) The average total electrical energy consumed by the information technology equipment and cooling equipment of a covered data center may not exceed **80 kilowatt-hours during a 24-hour period for each 40 square feet of ITE area**.

(b) Compliance with paragraph (a) must be calculated as a rolling 30-day average.

(c) Electricity generated, produced, or stored on site and subsequently consumed by the covered data center must be included in total energy consumption for purposes of this subsection.

(d) A covered data center must use separate metering, submetering, or an equivalent independently verifiable measurement system capable of determining:

1. Electricity consumed by information technology equipment;
2. Electricity consumed by cooling equipment serving the information technology equipment; and
3. The total electricity consumption subject to the limitation established in paragraph (a).

(e) The department, in consultation with the Public Service Commission, shall establish uniform measurement and verification standards for:

1. ITE area;
2. Electricity consumption;
3. Shared building systems;
4. On-site generation;
5. Energy storage;
6. Temporary emergency operations; and
7. Independent verification.

(f) A covered data center may temporarily exceed the limitation established in paragraph (a) during:

1. A declared state of emergency;
2. A utility emergency or grid-stability event;
3. A cybersecurity incident;
4. Emergency restoration or disaster-recovery operations;
5. Commissioning or testing of equipment for a limited period established by rule; or
6. Another temporary emergency circumstance established by rule.

(g) A temporary exceedance must be documented and may not be used as a recurring or routine means of avoiding compliance with this subsection.

(9) INITIAL CERTIFICATION.—

(a) Before commencing commercial operation, a covered data center must submit a certification of compliance to the department.

(b) The certification must be prepared or independently verified by one or more qualified professionals possessing expertise appropriate to the matter being certified.

(c) The certification must include:

1. The total ITE area;
2. The cooling technology used;

3. All anticipated sources and purposes of water use;
4. The primary active storage technology;
5. The installed usable digital storage capacity, if applicable;
6. The methodology used to calculate storage density;
7. The anticipated electricity consumption;
8. The measurement system used to determine compliance with subsection (8);
9. A statement identifying all applicable exceptions relied upon by the facility; and
10. Other information reasonably necessary to verify compliance with this section.

(d) A certification containing materially false information is subject to the penalties otherwise provided by law.

(10) CONTINUING COMPLIANCE.—

(a) A covered data center shall maintain records sufficient to demonstrate continuing compliance with this section.

(b) A covered data center shall submit a compliance certification to the department at intervals established by rule, which may not be more frequent than annually unless:

1. The department has reasonable cause to believe the facility is materially out of compliance;
2. The facility has previously been found materially out of compliance; or
3. More frequent reporting is required as part of a corrective action plan.

(c) The department may require an independent audit or inspection when reasonable cause exists to believe that a covered data center is materially out of compliance.

(d) Information submitted under this section is subject to chapter 119 except to the extent that a specific exemption from public-records requirements applies.

(11) NOTICE AND OPPORTUNITY TO CURE.—

(a) Except when an immediate threat to public health, public safety, or water resources exists, the department shall provide written notice of a material violation and a reasonable opportunity to cure before imposing an administrative penalty.

(b) The notice must:

1. Identify the alleged violation;
2. State the factual basis for the department's determination;
3. Specify the corrective action required, if known; and
4. Establish a reasonable period for corrective action.

(c) The department may approve a corrective action plan when immediate compliance is not technically practicable but the covered data center demonstrates that it can achieve compliance within a reasonable period.

(d) Repeated, knowing, or intentional violations are not entitled to successive cure periods for substantially the same violation.

(12) ENFORCEMENT.—

(a) The department may issue an administrative order requiring compliance with this section.

(b) For a material violation that continues after expiration of an applicable cure period, the department may impose an administrative penalty as provided by law.

(c) In determining the appropriate enforcement action, the department shall consider:

1. The nature and duration of the violation;
2. The effect of the violation on water resources, energy consumption, or other public resources;
3. Whether the violation was knowing or intentional;
4. The facility's history of compliance;
5. The facility's efforts to correct the violation; and
6. Whether the violation resulted from circumstances outside the reasonable control of the facility.

(d) A covered data center that is in material noncompliance with this section after expiration of an applicable cure period is not eligible to receive a new state economic development incentive, grant, tax refund, or discretionary financial benefit based specifically on the development or operation of the covered data center until the department certifies that the facility has returned to compliance.

(e) Nothing in this subsection limits the enforcement authority of another state agency, water management district, or local government under otherwise applicable law.

(13) LOCAL GOVERNMENT AUTHORITY.—

(a) This section establishes minimum statewide resource-efficiency standards.

(b) Nothing in this section preempts or supersedes the authority of a county or municipality to:

1. Adopt or enforce a comprehensive plan;
2. Establish zoning districts and permitted or prohibited uses;
3. Approve or deny a rezoning, comprehensive plan amendment, development order, or other development application;
4. Establish more stringent requirements relating to land use, infrastructure, compatibility, noise, traffic, emergency services, environmental protection, building placement, buffering, or development intensity; or
5. Require mitigation of local impacts caused by a data center.

(c) Compliance with this section does not create a presumption that a proposed data center is compatible with a particular location or surrounding land uses.

(14) RULEMAKING.—

(a) The department may adopt rules necessary to implement this section.

(b) Rules adopted under this section must:

1. Use objective and measurable standards;
2. Be technology-neutral to the greatest extent practicable;
3. Avoid requiring or favoring a particular manufacturer, vendor, patent holder, or proprietary technology;
4. Be consistent with the minimum statutory standards established by the Legislature;
5. Consider commercially available and reasonably deployable technology; and
6. Provide uniform methods for certification, measurement, verification, and compliance.

(c) The department may not by rule:

1. Reduce the minimum storage-density requirement established in subsection (6);
2. Increase the maximum energy-intensity limit established in subsection (8);

3. Authorize routine consumptive water use for cooling prohibited by subsection (4); or

4. Preempt or restrict local government authority preserved by this section.

(15) CONSTRUCTION.—

Nothing in this section:

(a) Exempts a data center from any otherwise applicable federal, state, regional, or local law;

(b) Guarantees or creates a right to electric service, water service, a consumptive use permit, development approval, economic development incentive, or other governmental benefit;

(c) Limits the authority of the Public Service Commission under chapter 366;

(d) Limits the authority of the Department of Environmental Protection or a water management district under chapter 373; or

(e) Limits the authority of a local government preserved under s. 163.326.

Section 4. Section 373.203, Florida Statutes, is amended to provide:

373.203 Definitions.—

For purposes of this part:

(3) "Data center" means a facility that primarily contains electronic equipment used to process, store, manage, compute, or transmit digital information, which may be:

(a) A free-standing structure; or

(b) A facility within a larger structure which uses environmental control equipment to maintain conditions appropriate for the operation of electronic equipment.

(4) "Large-scale data center" means a single location, with a data center on site, that has an anticipated monthly peak load of 50 megawatts or more, calculated as the highest average load over a 15-minute interval. The term does not include a load aggregated across multiple locations owned by the same customer. However, the term includes all customers or other entities that have entered into a colocation or similar agreement at a single location that otherwise meets the anticipated monthly peak load provided in this subsection.

(5) "Covered data center" has the same meaning as provided in s. 288.076.

(6) "Routine consumptive water use for cooling" has the same meaning as provided in s. 288.076.

Section 5. Section 373.262, Florida Statutes, is amended to read:

373.262 Large-scale and covered data center permitting.—

(1) It is the intent of the Legislature that the development and operation of large-scale data centers and covered data centers in this state be managed under a framework that ensures this state's water resources are used in the public interest, in a manner that is not harmful to the water resources of this state, and consistent with local government zoning regulations and comprehensive plans.

It is further the intent of the Legislature to prevent routine consumptive water use for cooling information technology equipment at covered data centers.

(2) Consistent with other provisions of this part, the governing board of a water management district or the department may not issue a permit to a large-scale data center applicant for an allocation of water if the proposed use of water is harmful to the water resources of the area or is prohibited by applicable local government zoning regulations or the comprehensive plan.

A permit may be issued only if the proposed use:

(a) Is a reasonable-beneficial use as defined in s. 373.019;

(b) Will not interfere with any presently existing legal use of water;

(c) Is consistent with the public interest; and

(d) Is not prohibited by this section or s. 288.076.

(3) Except for a use prohibited by subsection (5) or s. 288.076, the governing board or the department shall require the use of reclaimed water in lieu of all or a portion of a proposed use of surface water or groundwater by a large-scale data center applicant when the requirements otherwise provided by this section are satisfied.

The availability of reclaimed water does not authorize routine consumptive water use for cooling information technology equipment when such use is prohibited by law.

(4) The existing application, disclosure, conservation-plan, and hearing requirements applicable to large-scale data centers remain applicable except to the extent expressly modified by this act.

(5)(a) Notwithstanding any other provision of this chapter, the governing board or the department may not issue a consumptive use permit authorizing a covered data center to withdraw or consume potable water, groundwater, surface water, or reclaimed water primarily for routine consumptive water use for cooling information technology equipment.

(b) Water use may be authorized for:

1. Domestic and sanitary uses;
2. Drinking water and ordinary employee or occupant uses;
3. Fire prevention and fire suppression;
4. Emergency response;
5. Landscape irrigation otherwise authorized by law;
6. Cleaning and maintenance;
7. Temporary emergency use necessary to prevent an imminent threat to human life, public safety, or substantial equipment damage; and
8. Other uses ordinarily associated with a commercial building of comparable occupied floor area which are not primarily for routine cooling of information technology equipment.

(c) This subsection does not prohibit the use of a sealed or closed-loop cooling system containing water or another heat-transfer fluid if the system does not require routine withdrawal, consumption, evaporation, or discharge of water during normal operation.

(d) The use of reclaimed water may not be required for a purpose prohibited by this subsection.

Section 6. Prospective application; existing facilities; vested rights.—

(1) Except as otherwise provided in this section, this act applies prospectively to:

(a) A covered data center for which a complete application for the primary local development approval is submitted on or after the effective date of this act; and

(b) A substantial expansion of an existing data center commenced on or after the effective date of this act.

(2) This act does not impair a vested right existing under Florida law before the effective date of this act.

(3) An existing data center is not required to retrofit existing equipment or structures solely to comply with this act.

(4) When an existing data center undergoes a substantial expansion, the requirements of this act apply to the expanded portion of the facility to the extent technically feasible and as otherwise provided by law.

(5) Routine maintenance, repair, replacement of failed equipment with substantially equivalent equipment, cybersecurity improvements, and changes that do not increase the facility beyond the substantial-expansion threshold do not independently subject an existing facility to the requirements applicable to a new covered data center.

Section 7. OPPAGA study.—

In conducting the independent, interdisciplinary study required by section 7 of chapter 2026-65, Laws of Florida, the Office of Program Policy Analysis and Government Accountability shall evaluate:

(1) The implementation and anticipated effects of minimum statewide resource-efficiency standards for data centers;

(2) High-density solid-state, nonmechanical, and successor data-storage technologies;

(3) The feasibility and performance of data center cooling systems that do not require routine consumptive water use;

(4) The relationship between storage density, computing density, land consumption, water consumption, and electricity consumption;

(5) The feasibility of locating advanced data infrastructure within existing commercial and industrial development patterns;

(6) The effects of the standards established by this act on economic development, technological innovation, competition, electric utilities, water resources, agricultural lands, local governments, and consumers;

(7) The effectiveness of the applicable covered-data-center threshold;

(8) The effectiveness of the minimum storage-density standard of 1 petabyte per 40 square feet;

(9) The effectiveness of the maximum energy-intensity standard of 80 kilowatt-hours per 24-hour period per 40 square feet;

(10) Whether technological advancement supports strengthening the minimum standards established by this act; and

(11) Recommendations for additional statutory or regulatory changes necessary to encourage advanced, compact, water-efficient, energy-efficient, and technologically competitive data infrastructure in this state.

Section 8. Rulemaking and implementation.—

(1) The Department of Commerce shall coordinate implementation of s. 288.076 and shall consult with:

(a) The Department of Environmental Protection on water-resource matters;

(b) The Public Service Commission on electricity measurement and utility matters;

(c) The Department of Business and Professional Regulation on matters relating to the Florida Building Code;

(d) Water management districts on consumptive use permitting;

(e) Counties and municipalities on land-use and development matters; and

(f) Other agencies and technical experts as necessary.

(2) Rules necessary to administer this act must be adopted no later than July 1, 2028.

(3) A covered data center may not be required to submit an initial compliance certification before the effective date of the final rules necessary to administer the applicable certification requirement.

Section 9. Severability.—

If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 10. Effective dates.—

(1) Sections necessary for rulemaking and implementation shall take effect upon this act becoming a law.

(2) Except as otherwise expressly provided in this act, this act shall take effect July 1, 2028.