SENATE, No. 4657

STATE OF NEW JERSEY

222nd LEGISLATURE

INTRODUCED OCTOBER 1, 2026

Sponsored by:
Senator JOSEPH P. CRYAN
District 20 (Union)
Senator PATRICK J. DIEGNAN, JR.
District 18 (Middlesex)

Co-Sponsored by:
Senators Greenstein, Mukherji and McKeon

SYNOPSIS

Modifies certain DEP permit application requirements for data centers.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 10/19/2026)

AN ACT concerning data center permit applications with the Department of Environmental Protection and amending P.L.2020, c.92.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 2 of P.L.2020, c.92 (C.13:1D-158) is amended to read as follows:

2. As used in **[**this act**]** P.L.2020, c.92 (C.13:1D-157 et seq.):

"Data center" means an establishment: (1) whose primary services are the storage, management, and processing of digital data; (2) that is used to house computer and network systems, including associated components such as servers, network equipment and appliances, telecommunications, and data storage systems, systems for monitoring and managing infrastructure performance, Internet-related equipment and services, data communications connections, environmental controls, fire protection systems, and security systems and services; and (3) with a total annual energy demand of more than one megawatt.

"Department" means the Department of Environmental Protection.

"Environmental or public health stressors" means sources of environmental pollution, including, but not limited to, concentrated areas of air pollution, mobile sources of air pollution, contaminated sites, transfer stations or other solid waste facilities, recycling facilities, scrap yards, and point-sources of water pollution including, but not limited to, water pollution from facilities or combined sewer overflows; or conditions that may cause potential public health impacts, including, but not limited to, asthma, cancer, elevated blood lead levels, cardiovascular disease, and developmental problems in the overburdened community.

"Facility" means any: (1) major source of air pollution; (2) resource recovery facility or incinerator; (3) sludge processing facility, combustor, or incinerator; (4) sewage treatment plant with a capacity of more than 50 million gallons per day; (5) transfer station or other solid waste facility, or recycling facility intending to receive at least 100 tons of recyclable material per day; (6) scrap metal facility; (7) landfill, including, but not limited to, a landfill that accepts ash, construction or demolition debris, or solid waste; or (8) medical waste incinerator; except that "facility" shall not include a facility as defined in section 3 of P.L.1989, c.34 (C.13:1E-48.3) that accepts regulated medical waste for disposal, including a medical waste incinerator, that is attendant to a hospital or

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

university and intended to process self-generated regulated medical waste.

"Limited English proficiency" means that a household does not have an adult that speaks English "very well" according to the United States Census Bureau.

"Low-income household" means a household that is at or below twice the poverty threshold as that threshold is determined annually by the United States Census Bureau.

"Major source" means a major source of air pollution as defined by the federal "Clean Air Act," 42 U.S.C. s.7401 et seq., or in rules and regulations adopted by the department pursuant to the "Air Pollution Control Act," P.L.1954, c.212 (C.26:2C-1 et seq.) or which directly emits, or has the potential to emit, one hundred tons per year or more of any air pollutant, or other applicable criteria set forth in the federal "Clean Air Act," 42 U.S.C. s.7401 et seq.

"Overburdened community" means any census block group, as determined in accordance with the most recent United States Census, in which: (1) at least 35 percent of the households qualify as low-income households; (2) at least 40 percent of the residents identify as minority or as members of a State recognized tribal community; or (3) at least 40 percent of the households have limited English proficiency.

"Permit" means any individual permit, registration, or license issued by the department to a facility <u>or data center</u> establishing the regulatory and management requirements for a regulated activity under the following State laws: R.S.12:5-1 et seq.; P.L.1975, c.232 (C.13:1D-29 et al.); the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.); section 17 of P.L.1975, c.326 (C.13:1E-26); the "Comprehensive Regulated Medical Waste Management Act," P.L.1989, c.34 (C.13:1E-48.1 et al.); P.L.1989, c.151 (C.13:1E-99.21a et al.); the "New Jersey Statewide Mandatory Source Separation and Recycling Act," P.L.1987, c.102 (C.13:1E-99.11 et al.); the "Pesticide Control Act of 1971," P.L.1971, c.176 (C.13:1F-1 et seq.); "The Wetlands Act of 1970," P.L.1970, c.272 (C.13:9A-1 et seq.); the "Freshwater Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1 et al.); the "Coastal Area Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.); the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et seq.), the "Air Pollution Control Act (1954)," P.L.1954, c.212 (C.26:2C-1 et seq.); the "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et al.); P.L.1947, c.377 (C.58:4A-5 et seq.); the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.); P.L.1986, c.102 (C.58:10A-21 et seq.); or the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.); except that "permit" shall not include any authorization or approval necessary to perform a remediation, as defined pursuant to section 23 of P.L.1993, c.139 (C.58:10B-1), or any authorization or approval required for a minor modification of a facility's major

source permit for activities or improvements that do not increase emissions.
(cf: P.L.2020, c.92, s.2)

2. Section 4 of P.L.2020, c.92 (C.13:1D-160) is amended to read as follows:

4. a. Beginning immediately upon the adoption of the rules and regulations required pursuant to section 5 of **[**this act**]** P.L.2020, c.92 (C.13:1D-157 et seq.), the department shall not consider complete for review any application for a permit for a new facility or for the expansion of an existing facility, or any application for the renewal of an existing facility's major source permit, if the facility is located, or proposed to be located, in whole or in part, in an overburdened community, unless the permit applicant first:

(1) Prepares an environmental justice impact statement that assesses the potential environmental and public health stressors associated with the proposed new or expanded facility, or with the existing major source, as applicable, including any adverse environmental or public health stressors that cannot be avoided if the permit is granted, and the environmental or public health stressors already borne by the overburdened community as a result of existing conditions located in or affecting the overburdened community;

(2) Transmits the environmental justice impact statement required to be prepared pursuant to paragraph (1) of this subsection, at least 60 days in advance of the public hearing required pursuant to paragraph (3) of this subsection, to the department and to the governing body and the clerk of the municipality in which the overburdened community is located. Upon receipt, the department shall publish the environmental justice impact statement on its Internet website; and

(3) Organizes and conducts a public hearing in the overburdened community. The permit applicant shall publish a notice of the public hearing in at least two newspapers circulating within the overburdened community, including one local non-English language newspaper, if applicable, not less than 60 days prior to the public hearing. The permit applicant shall provide a copy of the notice to the department, and the department shall publish the notice on its Internet website and in the monthly bulletin published pursuant to section 6 of P.L.1975, c.232 (C.13:1D-34). The notice of the public hearing shall provide the date, time, and location of the public hearing, a description of the proposed new or expanded facility or existing major source, as applicable, a map indicating the location of the facility, a brief summary of the environmental justice impact statement, information on how an interested person may review a copy of the complete environmental justice impact statement, an address for the submittal of written comments to the permit applicant, and any other information deemed appropriate by the department. At least 60 days prior to the public hearing, the

permit applicant shall send a copy of the notice to the department and to the governing body and the clerk of the municipality in which the overburdened community is located. The applicant shall invite the municipality to participate in the public hearing. At the public hearing, the permit applicant shall provide clear, accurate, and complete information about the proposed new or expanded facility, or existing major source, as applicable, and the potential environmental and public health stressors associated with the facility. The permit applicant shall accept written and oral comments from any interested party, and provided an opportunity for meaningful public participation at the public hearing. The permit applicant shall transcribe the public hearing and, no later than 10 days after the public hearing, submit the transcript along with any written comments received, to the department. Following the public hearing, the department shall consider the testimony presented and any written comments received, and evaluate the issuance of, or conditions to, the permit, as necessary in order to avoid or reduce the adverse environmental or public health stressors affecting the overburdened community.

The department may require the applicant to consolidate the public hearing held pursuant to this paragraph with any other public hearing held or required by the department regarding the permit application, provided the public hearing meets the other requirements of this paragraph. The department shall consider a request by a permit applicant to consolidate required public hearings and, if the request is granted by the department, the consolidation shall not preclude an application from being deemed complete for review pursuant to subsection a. of this section.

b. Notwithstanding the provisions of P.L.1975, c.232 (C.13:1D-29 et seq.) or any other law, or rule or regulation adopted pursuant thereto, to the contrary, the department shall not issue a decision on an application for a permit for a new facility or for the expansion of an existing facility, or on an application for the renewal of an existing facility's major source permit, if such facility is located, or proposed to be located, in whole or in part in an overburdened community until at least 45 days after the public hearing held pursuant to paragraph (3) of subsection a. of this subsection. Notwithstanding the provisions of P.L.1975, c.232 (C.13:1D-29 et seq.) or any other law, or rule or regulation adopted pursuant thereto, to the contrary, the department shall not issue a decision on an application for a permit for a new data center until at least 45 days after the public hearing held pursuant to paragraph (3) of subsection h. of this section

c. Notwithstanding the provisions of any other law, or rule or regulation adopted pursuant thereto, to the contrary, the department shall, after review of the environmental justice impact statement prepared pursuant to paragraph (1) of subsection a. or paragraph (1) of subsection h. of this section, as applicable, and any other relevant information, including testimony and written comments received at

the public hearing, deny a permit for a new facility or data center upon a finding that approval of the permit, as proposed, would, together with other environmental or public health stressors affecting ⟦the⟧ an overburdened community, or community, as applicable, cause or contribute to adverse cumulative environmental or public health stressors in the ⟦overburdened⟧ community that are higher than those borne by other communities within the State, county, or other geographic unit of analysis as determined by the department pursuant to rule, regulation, or guidance adopted or issued pursuant to section 5 of ⟦this act⟧ P.L.2020, c.92 (C.13:1D-157 et seq.), except that where the department determines that a new facility or data center will serve a compelling public interest in the community where it is to be located, the department may grant a permit that imposes conditions on the construction and operation of the facility or data center to protect public health.

d. Notwithstanding the provisions of any other law, or rule or regulation adopted pursuant thereto, to the contrary, the department may, after review of the environmental justice impact statement prepared pursuant to paragraph (1) of subsection a. of this section and any other relevant information, including testimony and written comments received at the public hearing, apply conditions to a permit for the expansion of an existing facility, or the renewal of an existing facility's major source permit, concerning the construction and operation of the facility to protect public health, upon a finding that approval of a permit or permit renewal, as proposed, would, together with other environmental or public health stressors affecting the overburdened community, cause or contribute to adverse cumulative environmental or public health stressors in the overburdened community that are higher than those borne by other communities within the State, county, or other geographic unit of analysis as determined by the department pursuant to rule, regulation, or guidance adopted or issued pursuant to section 5 of ⟦this act⟧ P.L.2020, c.92 (C.13:1D-157 et seq.).

e. If a permit applicant is applying for more than one permit for a proposed new or expanded facility or new data center, the permit applicant shall only be required to comply with the provisions of this section once, unless the department, in its discretion, determines that more than one public hearing is necessary due to the complexity of the permit applications necessary for the proposed new or expanded facility or new data center. Nothing in this section shall be construed to limit the authority of the department to hold or require additional public hearings, as may be required by any other law, rule, or regulation.

f. Nothing in this section shall be construed to limit the right of an applicant to continue facility or data center operations during the process of permit renewal to the extent such right is conveyed by applicable law, rule, or regulation, including the application shield

provisions of the rules and regulations adopted pursuant to the "Air Pollution Control Act (1954)," P.L.1954, c.212 (C.26:2C-1 et seq.).

g. In addition to any other fee authorized by law, rule, or regulation, the department shall assess each permit applicant a reasonable fee in order to cover the department's costs associated with the implementation of ⟦this act⟧ P.L.2020, c.92 (C.13:1D-157 et seq.), including costs to provide technical assistance to permit applicants and overburdened communities as needed to comply with ⟦this act⟧ P.L.2020, c.92 (C.13:1D-157 et seq.).

h. Commencing one year after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), the department shall not consider complete for review any application for a permit for a new data center unless the permit applicant first:

(1) prepares an environmental justice impact statement that assesses the potential environmental and public health stressors associated with the proposed new data center, as applicable, including any adverse environmental or public health stressors that cannot be avoided if the permit is granted, and the environmental or public health stressors already borne by the community wherein the data center is located as a result of existing conditions located in or affecting the community;

(2) transmits the environmental justice impact statement required to be prepared pursuant to paragraph (1) of this subsection, at least 60 days in advance of the public hearing required pursuant to paragraph (3) of this subsection, to the department and to the governing body and the clerk of the municipality where the data center is located. Upon receipt, the department shall publish the environmental justice impact statement on its Internet website; and

(3) organizes and conducts a public hearing in the community where the data center is located. The permit applicant shall publish a notice of the public hearing in at least two newspapers circulating within the community, including one local non-English language newspaper, if applicable, not less than 60 days prior to the public hearing. The permit applicant shall provide a copy of the notice to the department, and the department shall publish the notice on its Internet website and in the monthly bulletin published pursuant to section 6 of P.L.1975, c.232 (C.13:1D-34). The notice of the public hearing shall provide the date, time, and location of the public hearing, a description of the proposed new data center, as applicable, a map indicating the location of the data center, a brief summary of the environmental justice impact statement, information on how an interested person may review a copy of the complete environmental justice impact statement, an address for the submittal of written comments to the permit applicant, and any other information deemed appropriate by the department. At least 60 days prior to the public hearing, the permit applicant shall send a copy of the notice to the department and to the governing body and the clerk of the municipality in which the data center is located.

The applicant shall invite the municipality to participate in the public hearing. At the public hearing, the permit applicant shall provide clear, accurate, and complete information about the proposed new data center, as applicable, and the potential environmental and public health stressors associated with the data center. The permit applicant shall accept written and oral comments from any interested party, and provided an opportunity for meaningful public participation at the public hearing. The permit applicant shall transcribe the public hearing and, no later than 10 days after the public hearing, submit the transcript along with any written comments received, to the department. Following the public hearing, the department shall consider the testimony presented and any written comments received, and evaluate the issuance of, or conditions to, the permit, as necessary in order to avoid or reduce the adverse environmental or public health stressors affecting the community. The department may require the applicant to consolidate the public hearing held pursuant to this paragraph with any other public hearing held or required by the department regarding the permit application, provided the public hearing meets the other requirements of this paragraph. The department shall consider a request by a permit applicant to consolidate required public hearings and, if the request is granted by the department, the consolidation shall not preclude an application from being deemed complete for review pursuant to subsection h. of this section.

(cf: P.L.2020, c.92, s.4)

3. This act shall take effect immediately.

STATEMENT

This bill would amend P.L.2020, c.92, commonly referred to as the "Environmental Justice Law," to require the Department of Environmental Protection (DEP) to evaluate the environmental and public health impacts of new data centers on local communities when reviewing permit applications. Beginning one year after the bill's effective date, the DEP would not consider complete for review any application for a permit for a new data center unless the permit applicant meets certain conditions enumerated in the "Environmental Justice Law," including developing an environmental justice impact statement and holding a public hearing. Additionally, the DEP would be authorized to deny a permit application for a new data center, regardless of whether or not the new data center will be located in an overburdened community, upon a finding that approval of the permit application would, result in a disproportionate impact to the community when compared to the impact and risk born by other communities in the State.