



LAND USE REVIEW BOARD

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To: House Committee on Energy and Digital Infrastructure

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From: Land Use Review Board

Brooke Dingledine, Member
Kirsten Sultan, Member
Jenny Ronis, General Counsel

Date: May 19, 2026 – Memorandum #2

RE: H.727 · An act relating to sustainable data center deployment

Land Use Review Board's additional recommended language edits to
H.727 - Bill as Passed by the House (with Senate Proposals 5-14-2026)

The Land Use Review Board has further reviewed **H.727 – Bill as Passed by the House (with Senate Proposals 5-14-2026)**, and respectfully recommends the additional following edits to the language proposed as:

10 VSA §6086a(b)(2) (contained on page 13, line 13 through page 14, line 3),

10 VSA §6086a(e)(2)(B) (contained on page 15, line 17 through line 21).

The Board's additional recommendations appear in RED as follows:

§ 6086a. WATER USE; COOLING; PERMITTING; QUALITY

* * *

(b) (1) A data center shall identify to the District Commission reviewing the data center's application for a permit under ~~10 V.S.A. chapter 151~~ this chapter how the data center will cool the facility.

(2) If water is used to cool a data center, the data center shall use a closed-loop cooling system or an alternative cooling system that is approved by a District Commission and that shall not use more water than a comparable closed-loop cooling system for the data center. ~~to minimize impacts to the quality and quantity of surface water and groundwater unless a District Commission, during review of a permit application under 10 V.S.A. chapter 151, determines that the use of a closed-loop cooling system is not feasible at the proposed data center.~~ Before approving an alternative cooling system, a District Commission shall find that the alternative cooling system will **conserve water** and minimize groundwater use ~~or and~~ surface water use and will not unreasonably burden ~~a public an existing~~ water supply, surface water, or groundwater resource.

(3) If water is used to cool a data center through a closed-loop cooling system or through another type of an alternative cooling system approved by a District Commission, a data center shall identify where the data center will obtain water to cool the facility and where the cooling water will be discharged.

(c) If a data center proposes to use groundwater to cool the data center, the data center shall obtain a groundwater withdrawal permit under ~~10 V.S.A. §~~ section 1418 of this title for any withdrawal of groundwater by the data center notwithstanding the permitting threshold of withdrawal of more than 57,600 gallons of groundwater a day. A closed-loop cooling system is not exempt from the groundwater withdrawal permit under ~~10 V.S.A. §~~ subdivision 1418(b)(6) of this title.

(d) If a data center proposes to use surface water to cool the facility, the data center shall obtain a surface water withdrawal permit pursuant to ~~10 V.S.A. §~~ section 1043 of this title. The rules adopted by the Secretary to implement ~~10 V.S.A. §~~ section 1043 of this title shall require a data center to cease withdrawals under drought conditions.

(e) (1) A data center shall obtain all applicable water quality and water resource protection permits from the Agency of Natural Resources, including stormwater, shoreland, stream alteration, direct discharge, surface water withdrawal, groundwater withdrawal, wetland, and river corridor development permits.

(2) ~~A data center shall obtain from the Agency of Natural Resources a water quality certificate that meets the same criteria that the Agency requires to be met to obtain a federal Clean Water Act Section 401 water quality certification as those criteria existed under the Act, 33 U.S.C. §§ 1251-1388, and any regulations adopted thereunder on January 1, 2026.~~

(A) If a data center proposes to use more than 150,000 gallons a day of surface water for cooling or other purposes, the Agency in reviewing the application for a surface water withdrawal permit required under section 1042 of this title shall assess the impacts on water quality, aquatic biota, State endangered and threatened species, instream flow habitat, impingement, streambank erosion, littoral habitat, and wetlands.

~~(B) The issuance of a surface water withdrawal permit by the Agency after completion of the assessments required under subdivision (2)(A) of this subsection (e) shall create a rebuttable presumption that the data center will not result in undue water pollution under the requirements of subdivision 6086(a)(1) of this title.~~

~~(C) The Agency may by rule reduce the amount of surface water proposed for withdrawal by a data center for which the Agency would be required to complete the assessment under subdivision (2)(A) of this subsection (e).~~

~~(f) A data center that discharges wastewater waste into a surface water of the State shall identify PFAS that may be used in the operation and submit a plan to the Agency of Natural Resources establishing a program that monitors the wastewater discharge from the data center, including monitoring for the presence of PFAS. The monitoring plan shall be approved by the Agency upon a determination that it meets the Vermont water quality standards monitor the discharge for the maximum number of PFAS that are detectable under U.S. Environmental Protection Agency standard methods approved as of January 1, 2026. A data center shall not discharge waste that exceeds the criteria established under the Vermont Water Quality Standards. If no criteria have been established under the Vermont Water Quality Standards for PFAS and the data center is withdrawing surface water or groundwater for purposes of operating the data center's cooling system, the data center shall monitor the withdrawn water for PFAS at the point of withdrawal. When the data center discharges waste from the cooling system to surface water, PFAS in the discharged waste shall not exceed the level of PFAS detected in the surface water or groundwater withdrawn for purposes of operating the cooling system at the data center.~~

~~(g) The addition of PFAS to water discharged from a data center shall be prohibited in Vermont.~~

NOTE: THE LURB RECOMMENDS RELOCATING THE STATUTORY SECTIONS CONTAINED IN THE BOX ABOVE FROM TITLE 10 TO A SECTION GOVERNING THE AGENCY OF NATURAL RESOURCES.

Further, the Board recommends the following change to clarify that the burden of proof to demonstrate compliance with the additional data center criteria lies with the applicant:

10 V.S.A. § 6088. Burden of proof

(a) The burden shall be on the applicant with respect to subdivisions 6086(a)(1), (2), (3), (4), (9), and (10) of this title and, as applicable, subdivision 6086a(b) of this title.

(b) The burden shall be on any party opposing the applicant with respect to subdivisions 6086(a)(5) through (8) of this title to show an unreasonable or adverse effect.