

1 State of Arkansas
2 94th General Assembly
3 Fiscal Session, 2024
4

A Bill

SENATE BILL 79

5 By: Senator Irvin
6 By: Representative J. Moore
7

For An Act To Be Entitled

9 TO AMEND ARKANSAS LAW CONCERNING DIGITAL ASSET MINING
10 BUSINESSES; TO AMEND THE ARKANSAS DATA CENTERS ACT OF
11 2023; TO AMEND ARKANSAS LAW TO PROVIDE FOR THE
12 LICENSURE, PERMITTING, AND REGULATION OF DIGITAL
13 ASSET MINING BUSINESSES AND BUSINESSES UTILIZING A
14 BLOCKCHAIN NETWORK; TO DECLARE AN EMERGENCY; AND FOR
15 OTHER PURPOSES.
16
17

Subtitle

19 TO AMEND THE ARKANSAS DATA CENTERS ACTS
20 OF 2023; TO PROVIDE FOR THE REGULATION OF
21 DIGITAL ASSET MINING BUSINESSES AND
22 BUSINESSES UTILIZING A BLOCKCHAIN
23 NETWORK; AND TO DECLARE AN EMERGENCY.
24
25

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
27

28 SECTION 1. Arkansas Code § 14-1-602(b), concerning legislative intent
29 and findings for the Arkansas Data Centers Act of 2023, is amended to read as
30 follows:

31 (b) Through the enactment of this subchapter, the General Assembly
32 intends to+

33 ~~(1) Recognize~~ recognize that data centers create jobs, pay taxes,
34 and provide general economic value to local communities and this state; ~~and~~

35 ~~(2) Clarify the guidelines needed to protect data asset miners~~
36 ~~from discriminatory industry-specific regulations and taxes.~~



1
2 SECTION 2. Arkansas Code § 14-1-604(a), concerning digital asset
3 mining, is amended to read as follows:

4 (a) A digital asset mining business may operate in this state if the
5 digital asset mining business complies with:

- 6 (1) State law concerning business guidelines and tax policies;
7 (2) Any ordinance concerning operations and safety;
8 (3) Any rule or rate for utility service provided by or on
9 behalf of a public entity; and
10 (4) State and federal ~~employment~~ laws, including without
11 limitation employment laws.

12
13 SECTION 3. Arkansas Code § 14-1-605(a), concerning discrimination
14 against digital asset mining businesses, is amended to read as follows:

15 (a) Except as provided by ~~subsection (d)~~ of this section, a local
16 government shall not:

- 17 (1) ~~Enact or adopt an ordinance, policy, or action that limits~~
18 ~~the sound decibels generated from home digital asset mining other than the~~
19 ~~limits set for sound pollution generally;~~
20 ~~(2)~~ (2) Impose a different requirement for a digital asset mining
21 business than is applicable to any requirement for a data center;
22 ~~(3)~~ (2) Rezone an area in which a digital asset mining business
23 is located without complying with applicable state law and local zoning
24 ordinances; or
25 ~~(4)~~ (3) Rezone an area with the intent or effect of
26 discriminating against a digital asset mining business.

27
28 SECTION 4. Arkansas Code Title 14, Chapter 1, Subchapter 6, is amended
29 to add additional sections to read as follows:

30 14-1-606. Operation of digital asset mining business or business
31 utilizing blockchain network.

32 (a)(1) The sound emitted by a digital asset mining business or a
33 business utilizing a blockchain network shall not exceed sixty (60) decibels.

34 (2) A digital asset mining business or a business utilizing a
35 blockchain network shall utilize a soundproofing enclosure to ensure that the
36 sound emitted by the digital asset mining business or the business utilizing

1 a blockchain network does not exceed forty (40) decibels.

2 (b)(1) A digital asset mining business or a business utilizing a
3 blockchain network beginning operations on and after the effective date of
4 this act shall not utilize water to cool any equipment used as part of the
5 operations of the digital asset mining business or the business utilizing a
6 blockchain network.

7 (2)(A)(i) Subdivision (b)(1) of this section does not prohibit a
8 digital asset mining business or a business utilizing a blockchain network
9 operating before the effective date of this act from utilizing water to cool
10 any equipment used as part of the operations of the digital asset mining
11 business or the business utilizing a blockchain network for no longer than
12 twenty-four (24) months from the effective date of this act.

13 (B) For the purposes of subdivision (b)(2)(A) of this
14 section, a digital asset mining business or a business utilizing a blockchain
15 network that is connected to an electrical network and consuming electrical
16 energy no later than thirty (30) days after the effective date of this act
17 shall be considered as operating before the effective date of this act.

18
19 14-1-607. Ownership of or investment in digital asset mining business
20 located in this state by certain foreign nationals prohibited – Definition.

21 (a) It is the intent of the General Assembly that this act shall be
22 used to protect our state’s security from foreign individuals or countries
23 that may use large amounts of computing power on Arkansas soil to disrupt and
24 attack Arkansas interests through ransomware, computer hacking, or an attack
25 on Arkansas’s electrical grid.

26 (b)(1) As used in this section, "foreign national" means a citizen of
27 a prohibited foreign party who is subject to § 126.1 of the International
28 Traffic in Arms Regulations, 22 C.F.R. §§ 120.1 – 130.17, as it existed on
29 January 1, 2023.

30 (2) As used in this section, "foreign national" does not include
31 an individual who is a citizen of the United States.

32 (c) Notwithstanding any other law, a foreign national shall not own or
33 operate a digital asset mining business in this state.

34 (d) An ownership interest in or investment in a digital asset mining
35 business in violation of this section is subject to divestiture as provided
36 in this section.

1 (e) Upon request of a person or upon receipt of information that leads
2 the Attorney General to believe that a violation of this section may exist,
3 the Attorney General may issue subpoenas requiring the:

4 (1) Appearance of witnesses;

5 (2) Production of relevant records; and

6 (3) Giving of relevant testimony.

7 (f)(1) If as a result of the investigation under subsection (e) of
8 this section the Attorney General concludes that a violation of this section
9 has occurred, the Attorney General may order the foreign national to divest
10 himself, herself, or itself of all interest in the digital asset mining
11 business within one hundred twenty (120) days.

12 (2) If the foreign national under subdivision (f)(1) of this
13 section fails to divest himself, herself, or itself of all interest in the
14 digital asset mining business, the Attorney General may commence an action in
15 a circuit court within the jurisdiction of the location of the digital asset
16 mining business.

17 (3)(A) Except in the case of dismissal, the circuit court under
18 subdivision (f)(2) of this section may order that the digital asset mining
19 business be sold.

20 (B) The Attorney General may pursue other remedies in an
21 action brought under subdivision (f)(2) of this section, including without
22 limitation:

23 (i) A civil penalty not to exceed twenty-five
24 percent (25%) of the fair market value, on the date of the assessment of the
25 penalty, of the foreign national's interest in the digital asset mining
26 business for the failure to divest himself, herself, or itself of all
27 interest in the digital asset mining business within one hundred twenty (120)
28 days as required under subdivision (f)(1) of this section;

29 (ii) Court costs; and

30 (iii) Reasonable attorney's fees.

31 (C)(i) Proceeds of the sale under subdivision (f)(3)(A) of
32 this section shall first be disbursed to lien holders in the order of
33 priority.

34 (ii) The owners of the digital asset mining business
35 shall receive the remaining proceeds of the sale under subdivision (f)(3)(A)
36 of this section.

1
2 SECTION 5. Arkansas Code, Title 23, is amended to add an additional
3 chapter to read as follows:

4 23-119-101. Legislative intent – Findings - Purpose.

5 (a) This chapter establishes the standards and criteria for the
6 licensure, permitting, and regulation of digital asset mining businesses and
7 businesses utilizing a blockchain networks.

8 (b) The General Assembly finds:

9 (1) Digital asset mining businesses and blockchain networks
10 represent a new and emerging industry that presents significant challenges
11 for the citizens of Arkansas, including without limitation:

12 (A) Significant noise emissions;

13 (B) Massive consumption of power that places a strain on
14 electrical grids;

15 (C) The usage of vast amounts of water that could
16 potentially threaten resources for citizens and future economic development
17 opportunities; and

18 (D) Potential issues involving cyber-security.

19 (2) While the State of Arkansas welcomes new businesses and
20 economic growth, the General Assembly likewise has a responsibility to ensure
21 that the operations of new industries do not negatively impact the public
22 peace, health, and safety or otherwise damage the well-being of the citizens
23 of the state;

24 (3) When an industry presents harm to the public peace, health
25 and safety, it has been the practice of the General Assembly to provide for
26 regulation of that industry to ensure that the industry operates successfully
27 while not harming the citizens of the state and its natural resources; and

28 (4) Based upon the challenges presented by digital asset mining
29 businesses and blockchain networks that have become evident, it is necessary
30 to regulate digital asset mining businesses and businesses utilizing a
31 blockchain network as provided in this chapter to provide a regulatory
32 framework for the safe operation of this new, emerging industry.

33 (c) The purpose of this chapter is to:

34 (1) Promote, preserve, and protect the public peace, health, and
35 safety through effective licensure, permitting, and regulation of digital
36 asset mining businesses and businesses utilizing a blockchain network;

1 (2) Provide for the powers and duties of the Department of
2 Energy and Environment relating to the licensure, permitting, and regulation
3 of digital asset mining businesses and businesses utilizing a blockchain
4 network; and

5 (3) Prescribe penalties and fines for violations of this
6 chapter.

7
8 23-119-102. Definitions.

9 As used in this chapter:

10 (1) "Blockchain network" means a group of computers operating and
11 processing together to execute a consensus mechanism to agree upon and verify
12 data in a digital record;

13 (2) "Digital asset" means cryptocurrency, virtual currency, and
14 natively electronic assets, including without limitation stable coins,
15 nonfungible tokens, and other digital-only assets, that confer economic,
16 proprietary, or access rights or powers;

17 (3) "Digital asset mining" means the use of electricity to power
18 a computer for the purpose of securing or validating a blockchain network;
19 and

20 (4) "Digital asset mining business" means a group of computers
21 working at a single site that consumes more than one megawatt (1 MW) of
22 electrical energy on an average annual basis for the purpose of generating
23 digital assets by securing a blockchain network.

24
25 23-119-103. License – Application – Fees.

26 (a)(1)(A) An individual or a legal entity shall not operate one (1) or
27 more digital asset mining businesses or businesses utilizing a blockchain
28 networks in Arkansas without first obtaining a license from the Department of
29 Energy and Environment under this chapter.

30 (B) The department may delegate its duties under this
31 chapter to a state entity within the department.

32 (2) When considering whether to issue a license under
33 subdivision (a)(1) of this section, the factors evaluated by the department
34 shall include without limitation the:

35 (A) Financial condition and responsibility of the
36 applicant;

1 (B) Financial and business experience of the applicant;
2 and

3 (C) Character and general fitness of the applicant.

4 (b) Each digital asset mining business or business utilizing a
5 blockchain network operated by an individual licensed under subsection (a) of
6 this section shall obtain a permit from the department under this section.

7 (c) The department shall establish the application for a:

8 (1) License to operate one (1) or more digital asset mining
9 businesses or businesses utilizing a blockchain network in Arkansas; and

10 (2) Permit for a digital asset mining business or business
11 utilizing a blockchain network to be operated by an individual or legal
12 entity licensed under subsection (a) of this section.

13 (d)(1) The department shall charge application fees and renewal fees
14 as established by rule.

15 (2) The application fee for a license to operate one (1) or more
16 digital asset mining businesses or businesses utilizing a blockchain network
17 in Arkansas shall not exceed five thousand dollars (\$5,000).

18 (3) The application fee for a permit for a digital asset mining
19 business or business utilizing a blockchain network shall not exceed five
20 thousand dollars (\$5,000).

21
22 23-119-104. Rules

23 The Department of Energy and Environment shall promulgate rules to
24 implement this chapter, including without limitation rules establishing
25 requirements for:

26 (1) Licensing;

27 (2) Permitting;

28 (3) Fees;

29 (4) Application for a license;

30 (5) Renewal of a license;

31 (6) The establishment and operation of a digital asset mining
32 business or business utilizing a blockchain network, including without
33 limitation rules pertaining to the location of digital asset mining
34 businesses and businesses utilizing a blockchain network;

35 (7) Compliance with and enforcement of relevant laws and the
36 rules of the department; and

1 (8)(A) Penalties for failure to comply with the requirements and
2 terms of a license or permit, including without limitation:

3 (i) Penalties for the late payment or nonpayment of
4 fees due to the department; and

5 (ii) The suspension or revocation of a license or
6 permit issued under this chapter.

7 (B) Financial penalties for failure to comply with the
8 requirements and terms of a license shall not exceed five thousand dollars
9 (\$5,000) per violation.

10
11 SECTION 6. DO NOT CODIFY – TEMPORARY LANGUAGE. ADOPTION OF INITIAL
12 RULES.

13 (a)(1) The provisions of this section regarding the promulgation of
14 the initial rules required under § 23-119-104 are supplemental to the
15 Arkansas Administrative Procedure Act, § 25-15-201 et seq.

16 (2) If the Department of Energy and Environment delegates its
17 duties to a state entity within the department that is not subject to the
18 Arkansas Administrative Procedure Act, § 25-15-201 et seq., the state entity
19 shall comply with the Arkansas Administrative Procedure Act, § 25-15-201 et
20 seq. and the supplemental provisions of this section when promulgating the
21 initial rules in lieu of following the administrative procedures provided for
22 that state entity.

23 (b)(1) Before promulgating the initial rules required under § 23-119-
24 104, the department shall:

25 (A)(i) Study the methods and means used to regulate
26 digital asset mining businesses and businesses utilizing a blockchain network
27 in other states, including without limitation the application processes,
28 application fees, and penalties utilized by other states and restrictions on
29 operations utilized by other states to preserve the public peace, health, and
30 safety.

31 (ii) The department may consult with other state
32 agencies whose input would be relevant to the study; and

33 (B) Submit a report to the following committees of the
34 General Assembly summarizing the methods and means used to regulate digital
35 asset mining businesses and businesses utilizing a blockchain network in
36 other states and identifying the department's recommendations on the best

1 manner to regulate digital asset mining businesses and businesses utilizing a
 2 blockchain network in Arkansas:

3 (i) The House Committee on City, County, and Local
 4 Affairs;

5 (ii) The Senate Committee on City, County, and Local
 6 Affairs;

7 (iii) The House Committee on Public Health, Welfare,
 8 and Labor;

9 (iv) The Senate Committee on Public Health, Welfare,
 10 and Labor; and

11 (v) The Joint Committee on Advanced Communications
 12 and Information Technology.

13 (2) The committees under subdivision (b)(1)(B)(i)-(v) of this
 14 section shall meet jointly to review the report submitted by the department
 15 under subdivision (b)(1)(B) of this section.

16 (3) The department shall not promulgate the initial rules
 17 required under § 23-119-104 until the committees have met jointly under
 18 subdivision (b)(2) of this section and reviewed the report.

19 (c)(1) After the committees under subdivision (b)(1)(B)(i)-(v) of this
 20 section have met jointly to review the report submitted by the department
 21 under subdivision (b)(1)(B) of this section, the department shall promulgate
 22 the initial rules required under § 23-119-104 under the Arkansas
 23 Administrative Procedure Act, § 25-15-201 et seq.

24 (2)(A) The department shall:

25 (i) Give at least one hundred twenty (120) days
 26 notice of its intended action; and

27 (ii) Accept both oral and written public comments
 28 during the one hundred twenty-day period.

29 (B) The one hundred twenty-day period shall begin on the
 30 first day of the publication of the notice under § 25-15-204 et seq.

31 (C) In addition to the publication of the notice required
 32 under § 25-15-204, the department shall file the notice with the quorum court
 33 of each county.

34 (D) During the one hundred twenty-day period, the
 35 department shall hold at least three (3) in-person public hearings to afford
 36 interested persons a reasonable opportunity to submit data, views, or

1 arguments.

2 (E) If an in-person public hearing is requested in a
3 county by at least one hundred (100) persons residing within the county or by
4 the quorum court of the county, the department shall hold an in-person public
5 hearing within the county regarding the proposed rule during the one hundred
6 twenty-day period.

7 (d)(1) At the conclusion of the one hundred twenty-day period, the
8 department shall fully consider all written and oral submissions concerning
9 the proposed rule before finalizing the language of the proposed rule.

10 (2) After finalizing the language of the proposed rule but
11 before the proposed rule is considered for approval by the Legislative
12 Council or the Joint Budget Committee under § 10-3-309, the following
13 committees shall meet jointly to review the rule:

14 (A) The House Committee on City, County, and Local
15 Affairs;

16 (B) The Senate Committee on City, County, and Local
17 Affairs;

18 (C) The House Committee on Public Health, Welfare, and
19 Labor;

20 (D) The Senate Committee on Public Health, Welfare, and
21 Labor; and

22 (E) The Joint Committee on Advanced Communications and
23 Information Technology.

24 (3) The committees meeting jointly under subdivision (d)(2)(A)-
25 (E) of this section shall submit a report to the Legislative Council, the
26 Joint Budget Committee, or a subcommittee of those committees concerning the
27 committees' review of the proposed rule that includes without limitation the
28 opinion of the committees on whether the Legislative Council or Joint Budget
29 Committee should approve the proposed rule.

30 (4) The Legislative Council, the Joint Budget Committee, or a
31 subcommittee of those committees shall not consider the proposed rule for
32 approval before receiving the report of the committees under subdivision
33 (d)(3) of this section.

34 (e) The department shall not promulgate an emergency rule under § 25-
35 15-204 to adopt the initial rules required under § 23-119-104.

36 (f) A person may not petition the department under § 25-15-204(d) for

1 the issuance of the initial rules required under § 23-1119-104

2
3 SECTION 7. DO NOT CODIFY – TEMPORARY LANGUAGE. ISSUANCE OF INITIAL
4 LICENSES AND PERMITS.

5 (a) On and after the effective date of this section, an individual or
6 legal entity shall not establish or operate a new digital asset mining
7 business or business utilizing a blockchain network in Arkansas unless:

8 (1) The operator of the digital asset mining business or
9 business utilizing a blockchain network has been issued a license under § 23-
10 19-103; and

11 (2) The digital asset mining business or business utilizing a
12 blockchain network has been issued a permit under § 25-19-103.

13 (b)(1)(A) Subsection (a) of this section does not prohibit a digital
14 asset mining business or business utilizing a blockchain network operating
15 before the effective date of this section from continued operation.

16 (B) For purposes of subdivision (b)(1)(A) of this section,
17 a digital asset mining business or business utilizing a blockchain network
18 that is connected to an electrical network and consuming electrical energy no
19 later than thirty (30) days after the effective date of this section shall be
20 considered as operating before the effective date of this section.

21 (2) Within ninety (90) days of the effective date of the initial
22 rules promulgated under § 23-19-104, an individual or legal entity operating
23 one (1) or more digital mining asset businesses or businesses utilizing a
24 blockchain network in Arkansas shall apply for a:

25 (A) License to operate one (1) or more digital asset
26 mining businesses or businesses utilizing a blockchain network under § 23-
27 119-103; and

28 (B) Permit for each digital asset mining business and
29 business utilizing a blockchain network operated by the individual or legal
30 entity under § 23-119-103.

31
32 SECTION 8. DO NOT CODIFY. TEMPORARY LANGUAGE. IMPLEMENTATION OF ACT.

33 (a)(1)(A) If a digital asset mining business or a business utilizing a
34 blockchain network is operating before the effective date of this act, the
35 digital asset mining business or business utilizing a blockchain network
36 shall utilize a soundproofing enclosure to ensure that the sound emitted by

1 the digital asset mining business or the business utilizing a blockchain
2 network does not exceed forty (40) decibels under § 14-1-606(a)(2) within
3 twenty-four (24) months of the effective date of this act.

4 (B) For the purposes of subdivision (a)(1)(A) of this
5 section, a digital asset mining business or a business utilizing a blockchain
6 network that is connected to an electrical network and consuming electrical
7 energy no later than thirty (30) days after the effective date of this act
8 shall be considered as operating before the effective date of this act.

9 (2) A digital asset mining business or a business utilizing a
10 blockchain network beginning operations on or after the effective date of
11 this act shall not commence operations without utilizing a soundproofing
12 enclosure under § 14-1-606(a)(2).

13 (b) A digital asset mining business or a business utilizing a
14 blockchain network operating before the effective date of this act shall
15 utilize its best efforts to ensure that the sound emitted by the digital
16 asset mining business or the business utilizing a blockchain network does not
17 exceed forty (40) decibels before utilizing a soundproofing enclosure under
18 subdivision (a)(1)(A) of this section.

19 (

20 SECTION 9. DO NOT CODIFY. TEMPORARY LANGUAGE. EFFECT OF ACT ON
21 ORDINANCES. This act shall not be interpreted as superseding any ordinances
22 adopted by a local government regulating digital asset mining businesses or
23 businesses utilizing a blockchain network before the initial rules under §
24 23-119-104 are effective.

25
26 SECTION 10. EMERGENCY CLAUSE. It is found and determined by the
27 General Assembly of the State of Arkansas that digital asset mining
28 businesses and businesses utilizing blockchain networks present significant
29 threats to the public peace, health, and safety, including without limitation
30 significant noise emissions, massive power consumption that imposes a strain
31 on resources, the use of vast amounts of water that threatens water
32 resources, and potential issues with cybersecurity; that the continuous noise
33 emitted by digital asset mining businesses and businesses utilizing a
34 blockchain network threaten the public peace, health, and safety as they risk
35 potential damage to the hearing and quality of life of the citizens of this
36 state; the large volumes of water used by digital asset mining businesses and

1 businesses utilizing a blockchain network threaten the public peace, health,
2 and safety as the large volumes of water used diminish the water supply and
3 potentially lessen the amount of water available to the agriculture industry
4 in this state, which is critical to the state's economic well-being;
5 that in light of these threats it is imperative that the General Assembly
6 regulate digital asset mining businesses and businesses utilizing blockchain
7 networks to protect the public peace, health, and safety; and that this act
8 should become effective at the earliest opportunity to begin the regulatory
9 process and protect the citizens of the state from any harmful actions
10 related to digital asset mining businesses and businesses utilizing
11 blockchain networks. Therefore, an emergency is declared to exist, and this
12 act being immediately necessary for the preservation of the public peace,
13 health, and safety shall become effective on:

14 (1) The date of its approval by the Governor;

15 (2) If the bill is neither approved nor vetoed by the Governor,
16 the expiration of the period of time during which the Governor may veto the
17 bill; or

18 (3) If the bill is vetoed by the Governor and the veto is
19 overridden, the date the last house overrides the veto.

20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36