

By: Senator B. King

SENATE RESOLUTION

TO AUTHORIZE THE INTRODUCTION OF AN NONAPPROPRIATION BILL TO AMEND THE ARKANSAS DATA CENTERS ACT OF 2023; TO REQUIRE A DIGITAL ASSET MINING BUSINESS TO PAY A FEE TO THE DEPARTMENT OF ENERGY AND ENVIRONMENT FOR EXTRAORDINARY ELECTRICAL ENERGY USAGE; AND TO IMPLEMENT OVERSIGHT AND MONITORING PROCEDURES FOR A DIGITAL ASSET MINING BUSINESS.

Subtitle

TO AUTHORIZE THE INTRODUCTION OF A NONAPPROPRIATION BILL TO REQUIRE A DIGITAL ASSET MINING BUSINESS TO PAY A FEE FOR EXTRAORDINARY ELECTRICAL ENERGY USAGE.

BE IT RESOLVED BY THE SENATE OF THE NINETY-FOURTH GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

THAT Senator King is authorized to introduce a bill which as introduced will read substantially as follows:

“Title

AN ACT TO AMEND THE ARKANSAS DATA CENTERS ACT OF 2023; TO REQUIRE A DIGITAL ASSET MINING BUSINESS TO PAY A FEE TO THE DEPARTMENT OF ENERGY AND ENVIRONMENT FOR EXTRAORDINARY ELECTRICAL ENERGY USAGE; TO IMPLEMENT OVERSIGHT AND MONITORING PROCEDURES FOR A DIGITAL ASSET MINING BUSINESS; AND FOR OTHER PURPOSES.



Subtitle

TO REQUIRE A DIGITAL ASSET MINING BUSINESS TO PAY A FEE TO THE DEPARTMENT OF ENERGY AND ENVIRONMENT FOR EXTRAORDINARY ELECTRICAL ENERGY USAGE.

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

SECTION 1. Arkansas Code Title 14, Chapter 1, Subchapter 6, is amended to add an additional section to read as follows:

14-1-606. Digital asset mining business – Extraordinary electrical energy usage fee – Oversight and monitoring procedures.

(a) A digital asset mining business or business utilizing a blockchain network that is in operation as of the effective date of this act shall pay a fee to the Department of Energy and Environment on an annual basis for each instance of extraordinary electrical energy usage generated during the preceding calendar year according to the following scale:

(1) Twenty-five thousand dollars (\$25,000) for each one megawatt (1 MW) to two and forty-nine hundredths megawatts (2.49 MW) of electrical energy in any given calendar month of the preceding calendar year;

(2) Fifty thousand dollars (\$50,000) for each two and five-tenths megawatts (2.5 MW) to four and ninety-nine hundredths megawatts (4.99 MW) of electrical energy in any given calendar month of the preceding calendar year;

(3) Seventy-five thousand dollars (\$75,000) for each five megawatts (5 MW) to ten megawatts (10 MW) of electrical energy in any given calendar month of the preceding calendar year; and

(4) One hundred thousand dollars (\$100,000) for each use of more than ten megawatts (10 MW) of electrical energy in any given calendar month of the preceding calendar year.

(b)(1) If a digital asset mining business or business utilizing a blockchain network begins operation after the effective date of this act, before the digital asset mining business or business utilizing a blockchain network begins consuming electrical energy at the site of its operation, the digital asset mining business or business utilizing a blockchain network shall:

(A) Prepare a good faith estimate of what the digital

asset mining business or business utilizing a blockchain network's electrical energy usage for the next following calendar year will be; and

(B) Submit any applicable fees to the Department of Energy and Environment that the digital asset mining business or business utilizing a blockchain network believes in good faith would apply to the digital asset mining business or business utilizing a blockchain network under subsection (a) of this section, together with the good faith estimate of the digital asset mining business or business utilizing a blockchain network's anticipated electrical energy usage.

(2)(A) Within thirty (30) days of a digital asset mining business or business utilizing a blockchain network's completing one (1) calendar year of electrical energy consumption at the site of the operation of the digital asset mining business or business utilizing a blockchain network under subdivision (b)(1) of this section, the digital asset mining business or business utilizing a blockchain network shall provide to the Department of Energy and Environment an attestation, together with full and accurate documentation showing the actual electrical energy usage of the digital asset mining business or business utilizing a blockchain network for the preceding calendar year, that the estimate provided in subdivision (b)(1) was accurate or, if underestimated, that there was more electrical energy consumption than estimated, together with the applicable fees under subsection (a) of this section.

(B) If a digital asset mining business or business utilizing a blockchain network overestimated its electrical energy usage under subdivision (b)(1)(A) of this section and overpaid the Department of Energy and Environment under subdivision (b)(1)(B) of this section, the Department of Energy and Environment, within thirty calendar (30) days of receipt of the attestation and documentation under subdivision (b)(2)(A) of this section, shall provide a refund of the difference to the digital asset mining business or business utilizing a blockchain network.

(3)(A) If through audit or other means the Department of Energy and Environment gains actual knowledge that a digital asset mining business or business utilizing a blockchain network has knowingly made a false material statement under subdivision (b)(2)(A) of this section, the Department of Energy and Environment may assess penalties against the digital asset mining business or business utilizing a blockchain network of no less

than twenty-five thousand dollars (\$25,000) per violation.

(B) A digital asset mining business or business utilizing a blockchain network that has knowingly made a false material statement under subdivision (b)(2)(A) of this section is, upon conviction, guilty of a:

(i) Class A misdemeanor for a first offense; and
(ii) Class D felony for a second or subsequent offense.

(c) The proceeds from the extraordinary electrical energy usage fee under subsection (a) of this section shall be disbursed as follows:

(1) Fifty percent (50%) to the State Securities Department, to a cash fund deposited into the State Treasury as determined by the Chief Fiscal Officer of the State, to be used exclusively for:

(A) Personal services and operating expenses; and
(B) Oversight and monitoring of digital asset mining businesses for fraud or other illegal activities;

(2) Twenty-five percent (25%) to the Office of the Attorney General, to a cash fund deposited into the State Treasury as determined by the Chief Fiscal Officer of the State, to be used exclusively for:

(A) Personal services and operating expenses; and
(B) Oversight and monitoring of digital asset mining businesses and businesses utilizing a blockchain network for fraud or other illegal activities, including without limitation investigation into state and national security concerns; and

(3) Twenty-five percent (25%) to the Department of Energy and Environment, to a cash fund deposited into the State Treasury as determined by the Chief Fiscal Officer of the State, to be used exclusively for:

(A) Personal services and operating expenses; and
(B) Oversight and monitoring of digital asset mining businesses for concerns related to energy usage.

(d)(1) The Department of Energy and Environment shall promulgate rules to implement this section.

(2) A proposed rule by the Department of Energy and Environment promulgated under subdivision (d)(1) of this section shall be approved by the Legislative Council or Joint Budget Committee under § 10-3-309.

SECTION 2. DO NOT CODIFY. Rules implementing this act.

(a) The Department of Energy and Environment shall promulgate rules necessary to implement this act.

(b)(1) When adopting the initial rules to implement this act, the final rule shall be filed with the Secretary of State for adoption under § 25-15-204(f):

(A) On or before January 1, 2025; or

(B) If approval under § 10-3-309 has not occurred by January 1, 2024, as soon as practicable after approval under § 10-3-309.

(2) The Department of Energy and Environment shall file the proposed rule with the Legislative Council under § 10-3-309(c) sufficiently in advance of January 1, 2025, so that the Legislative Council may consider the rule for approval before January 1, 2025.”