

By: Senator Irvin

SENATE RESOLUTION

TO AUTHORIZE THE INTRODUCTION OF A NONAPPROPRIATION BILL TO AMEND ARKANSAS LAW CONCERNING DIGITAL ASSET MINING BUSINESSES, TO AMEND THE ARKANSAS DATA CENTERS ACT OF 2023, TO AMEND ARKANSAS LAW TO PROVIDE FOR THE LICENSURE, PERMITTING, AND REGULATION OF DIGITAL ASSET MINING BUSINESSES AND BUSINESSES UTILIZING A BLOCKCHAIN NETWORK, AND TO DECLARE AN EMERGENCY.

Subtitle

TO AUTHORIZE THE INTRODUCTION OF A NONAPPROPRIATION BILL TO AMEND THE ARKANSAS DATA CENTERS ACTS OF 2023, TO REGULATE DIGITAL ASSET MINING BUSINESSES AND BUSINESSES UTILIZING A BLOCKCHAIN NETWORK, AND TO DECLARE AN EMERGENCY.

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

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

"Title

TO AMEND ARKANSAS LAW CONCERNING DIGITAL ASSET MINING BUSINESSES; TO AMEND THE ARKANSAS DATA CENTERS ACT OF 2023; TO AMEND ARKANSAS LAW TO PROVIDE FOR THE LICENSURE, PERMITTING, AND REGULATION OF DIGITAL ASSET MINING BUSINESSES AND BUSINESSES UTILIZING A BLOCKCHAIN NETWORK; TO DECLARE AN EMERGENCY; AND



FOR OTHER PURPOSES.

Subtitle

TO AMEND THE ARKANSAS DATA CENTERS ACTS OF 2023; TO PROVIDE FOR THE REGULATION OF DIGITAL ASSET MINING BUSINESSES AND BUSINESSES UTILIZING A BLOCKCHAIN NETWORK; AND TO DECLARE AN EMERGENCY.

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

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

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

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

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

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

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

(1) State law concerning business guidelines and tax policies;
 (2) Any ordinance concerning operations and safety;
 (3) Any rule or rate for utility service provided by or on behalf of a public entity; and

(4) State and federal ~~employment~~ laws, including without limitation employment laws.

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

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

(1) ~~Enact or adopt an ordinance, policy, or action that limits the sound decibels generated from home digital asset mining other than the~~

~~limits set for sound pollution generally;~~

~~(2)~~ Impose a different requirement for a digital asset mining business than is applicable to any requirement for a data center;

~~(3)~~(2) Rezone an area in which a digital asset mining business is located without complying with applicable state law and local zoning ordinances; or

~~(4)~~(3) Rezone an area with the intent or effect of discriminating against a digital asset mining business.

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

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

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

(2) A digital asset mining business or a business utilizing a blockchain network shall utilize a soundproofing enclosure to ensure that the sound emitted by the digital asset mining business or the business utilizing a blockchain network does not exceed forty (40) decibels.

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

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

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

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

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

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

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

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

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

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

- (1) Appearance of witnesses;
- (2) Production of relevant records; and
- (3) Giving of relevant testimony.

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

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

(3)(A) Except in the case of dismissal, the circuit court under subdivision (f)(2) of this section may order that the digital asset mining

business be sold.

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

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

(ii) Court costs; and

(iii) Reasonable attorney's fees.

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

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

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

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

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

(b) The General Assembly finds:

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

(A) Significant noise emissions;

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

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

(D) Potential issues involving cyber-security.

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

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

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

(c) The purpose of this chapter is to:

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

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

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

23-119-102. Definitions.

As used in this chapter:

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

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

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

and

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

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

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

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

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

(A) Financial condition and responsibility of the applicant;

(B) Financial and business experience of the applicant;

and

(C) Character and general fitness of the applicant.

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

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

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

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

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

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

(3) The application fee for a permit for a digital asset mining

business or business utilizing a blockchain network shall not exceed five thousand dollars (\$5,000).

23-119-104. Rules

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

- (1) Licensing;
- (2) Permitting;
- (3) Fees;
- (4) Application for a license;
- (5) Renewal of a license;
- (6) The establishment and operation of a digital asset mining business or business utilizing a blockchain network, including without limitation rules pertaining to the location of digital asset mining businesses and businesses utilizing a blockchain network;
- (7) Compliance with and enforcement of relevant laws and the rules of the department; and
- (8)(A) Penalties for failure to comply with the requirements and terms of a license or permit, including without limitation:
 - (i) Penalties for the late payment or nonpayment of fees due to the department; and
 - (ii) The suspension or revocation of a license or permit issued under this chapter.
- (B) Financial penalties for failure to comply with the requirements and terms of a license shall not exceed five thousand dollars (\$5,000) per violation.

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

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

(2) If the Department of Energy and Environment delegates its duties to a state entity within the department that is not subject to the Arkansas Administrative Procedure Act, § 25-15-201 et seq., the state entity

shall comply with the Arkansas Administrative Procedure Act, § 25-15-201 et seq. and the supplemental provisions of this section when promulgating the initial rules in lieu of following the administrative procedures provided for that state entity.

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

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

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

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

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

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

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

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

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

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

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

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

(2)(A) The department shall:

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

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

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

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

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

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

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

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

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

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

(C) The House Committee on Public Health, Welfare, and

Labor;

(D) The Senate Committee on Public Health, Welfare, and

Labor; and

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

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

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

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

(f) A person may not petition the department under § 25-15-204(d) for the issuance of the initial rules required under § 23-1119-104

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

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

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

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

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

(B) For purposes of subdivision (b)(1)(A) of this section, a digital asset mining business or business utilizing a blockchain network that is connected to an electrical network and consuming electrical energy no

later than thirty (30) days after the effective date of this section shall be considered as operating before the effective date of this section.

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

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

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

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

(a)(1)(A) If a digital asset mining business or a business utilizing a blockchain network is operating before the effective date of this act, the digital asset mining business or business utilizing a blockchain network shall utilize a soundproofing enclosure to ensure that the sound emitted by the digital asset mining business or the business utilizing a blockchain network does not exceed forty (40) decibels under § 14-1-606(a)(2) within twenty-four (24) months of the effective date of this act.

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

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

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

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

SECTION 10. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that digital asset mining businesses and businesses utilizing blockchain networks present significant threats to the public peace, health, and safety, including without limitation significant noise emissions, massive power consumption that imposes a strain on resources, the use of vast amounts of water that threatens water resources, and potential issues with cybersecurity; that the continuous noise emitted by digital asset mining businesses and businesses utilizing a blockchain network threaten the public peace, health, and safety as they risk potential damage to the hearing and quality of life of the citizens of this state; the large volumes of water used by digital asset mining businesses and businesses utilizing a blockchain network threaten the public peace, health, and safety as the large volumes of water used diminish the water supply and potentially lessen the amount of water available to the agriculture industry in this state, which is critical to the state's economic well-being; that in light of these threats it is imperative that the General Assembly regulate digital asset mining businesses and businesses utilizing blockchain networks to protect the public peace, health, and safety; and that this act should become effective at the earliest opportunity to begin the regulatory process and protect the citizens of the state from any harmful actions related to digital asset mining businesses and businesses utilizing blockchain networks. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

- (1) The date of its approval by the Governor;
- (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or
- (3) If the bill is vetoed by the Governor and the veto is

overridden, the date the last house overrides the veto."