



Rep. Michael W. Tryon

Filed: 4/17/2013

09800HB1040ham003

LRB098 03825 JDS 44765 a

1 AMENDMENT TO HOUSE BILL 1040

2 AMENDMENT NO. _____. Amend House Bill 1040, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 1. Short title. This Act may be cited as the Open
6 Operating Standard Act.

7 Section 5. Findings and purposes.

8 (a) The General Assembly finds that:

9 (1) the State of Illinois data portal,
10 data.illinois.gov, empowers the public to access and use
11 public data collected and maintained by the State of
12 Illinois and the federal government;

13 (2) the State of Illinois is committed to be a national
14 leader in improving access to public data sets for all
15 citizens, and to encourage entrepreneurs and innovators to
16 draw on this data for the benefit of all in the Land of

1 Lincoln;

2 (3) the State and the municipalities of Illinois
3 collect information and data on numerous topics including
4 services available to the residents of Illinois;

5 (4) finding and utilizing government data, data that
6 should be readily accessible, is often burdensome for both
7 developers and the general public;

8 (5) government information should be organized with
9 consistency and should be freely available; and

10 (6) meeting the State's commitment to providing open
11 data will require the adoption of an open data operating
12 standard and utilization of a cloud-based open data
13 platform for the State's open data portal, coordinated
14 strategic planning, where appropriate and feasible, by
15 agencies as to enterprise application portfolio
16 management, and will require the State to make its open
17 data portal available to all units of government within the
18 State including, but not limited to, municipalities,
19 counties and public universities statewide, so that
20 everyone may participate in the open data movement.

21 (b) The purposes of this Act are:

22 (1) to establish and implement a statewide commitment
23 to fully adopting an open operating standard, because
24 making public data available online using open standards
25 will make the operation of government across the State of
26 Illinois more transparent, effective and accountable to

1 the public. A statewide policy of open data will streamline
2 intra-governmental and inter-governmental communication
3 and interoperability, permit the public to assist in
4 identifying efficient solutions for government, promote
5 innovative strategies for social progress, and create
6 economic opportunities;

7 (2) to establish protocols for State agencies to make
8 public data available online using open standards and a
9 process establishing statewide information technology
10 management standards, policies and governance principles
11 to enable the State to fully implement an open operating
12 standard while managing existing information technology
13 resources and capabilities with enhanced efficiency;

14 (3) to provide for coordinated strategic planning by
15 agencies with respect to application modernization,
16 information technology and telecommunication policy,
17 pursuant to a consistent statewide enterprise portfolio
18 strategy to maximize the amount of public data made
19 available and ensure compliance with this Act; and

20 (4) to establish, in accordance with Executive Order
21 2010-10, a policy under which each State agency will
22 evaluate cloud computing options before making any new
23 information technology or telecommunications investments.

24 Section 10. Definitions. As used in this Act:

25 "Cloud computing" has the meaning provided by Special

1 Publication 800-145 issued by the National Institute of
2 Standards and Technology of the United States Department of
3 Commerce.

4 "Data" means final versions of statistical or factual
5 information: (a) in alphanumeric form reflected in a list,
6 table, graph, chart, or other non-narrative form that can be
7 digitally transmitted or processed; and (b) regularly created
8 or maintained by or on behalf of and owned by an agency that
9 records a measurement, transaction, or determination related
10 to the mission of an agency. "Data" does not include
11 information provided to an agency by other governmental
12 entities, nor does it include image files, such as designs,
13 drawings, maps, photos, or scanned copies of original
14 documents, except that it does include statistical or factual
15 information about such image files and shall include geographic
16 information system data. "Data" does not include:

17 (1) data to which an agency may deny access pursuant to
18 any provision of a federal, State, or local law, rule, or
19 regulation, including, but not limited to, the Freedom of
20 Information Act;

21 (2) data that contains a significant amount of
22 information to which an agency may deny access pursuant to
23 any provision of a federal, State, or local law, rule, or
24 regulation and where redacting such protected data in order
25 to publish the unprotected elements would impose undue
26 financial or administrative burden on the agency;

1 (3) data that reflects the internal deliberative
2 process of an agency or agencies, including but not limited
3 to negotiating positions, future procurements, or pending
4 or reasonably anticipated legal or administrative
5 proceedings;

6 (4) data stored on an agency-owned personal computing
7 device, or data stored on a portion of a network that has
8 been exclusively assigned to a single agency employee or a
9 single agency owned or controlled computing device;

10 (5) materials subject to copyright, patent, trademark,
11 confidentiality agreements, or trade secret protection;

12 (6) proprietary applications, computer code, software,
13 operating systems, or similar materials;

14 (7) employment records, internal employee-related
15 directories or lists, facilities data, information
16 technology, internal service-desk and other data related
17 to internal agency administration; and

18 (8) any other data the publication of which is
19 prohibited by law.

20 "Grant funds" means any public funds dispensed by a grantor
21 agency to any person or entity for obligation, expenditure, or
22 use by that person or entity for a specific purpose or
23 purposes. Funds disbursed by the State Comptroller pursuant to
24 an appropriation made by the General Assembly to a named entity
25 or person are not grant funds for purposes of this Act. Funds
26 disbursed in accordance with a fee for service purchase of care

1 contract are not grant funds for purposes of this Act.

2 Neither the method by which funds are dispensed whether by
3 contract, agreement, grant subsidy, letter of credit, or any
4 other method nor the purpose for which the funds are used can
5 change the character of funds which otherwise would be
6 considered grant funds as defined in this Section.

7 "Grantee" means the person or entity which may use grant
8 funds.

9 "Grantor agency" means a State agency that dispenses grant
10 funds.

11 "Open operating standard" means a technical standard
12 developed and maintained by a voluntary consensus standards
13 body that is available to the public without royalty or fee.

14 "Public data" means all data that is collected by any unit
15 of State or local government in pursuance of that entity's
16 official responsibilities which is otherwise subject to
17 disclosure pursuant to the Freedom of Information Act, and is
18 not prohibited from disclosure pursuant to any other
19 contravening legal instrument, including, but not limited to, a
20 superseding provision of federal or State law or an injunction
21 from a court of competent jurisdiction.

22 "State agency" or "agency" has the meaning ascribed to the
23 term "agency" in Section 3.1 of the Executive Reorganization
24 Implementation Act.

25 "Strategic plan" means an organization's evaluation, over
26 a period of up to 5 years, of its strategy and direction,

1 including a framework for decision-making with respect to
2 resource allocation to achieve defined goals.

3 "Voluntary consensus standards body" means an organization
4 that plans, develops, establishes, or coordinates voluntary
5 consensus standards using agreed-upon procedures. A voluntary
6 consensus standards body has the following attributes:
7 openness; balance of interest; due process; an appeals process;
8 and consensus.

9 Section 15. Chief Information Officer; open operating
10 standard.

11 (a) There is created within the Office of the Governor a
12 Chief Information Officer for the State. The Chief Information
13 Officer shall serve at the pleasure of the Governor and shall
14 receive such compensation as the Governor shall determine. The
15 Chief Information Officer shall coordinate with each State
16 agency to develop, using any existing or newly available
17 resources and technology, appropriate systems to accurately
18 report public information. These systems shall include a module
19 that is specific to the management and administration of grant
20 funds.

21 (b) The Chief Information Officer shall establish an open
22 operating standard, to be known as "Illinois Open Data", for
23 the State of Illinois. Under this open operating standard, each
24 agency of State government under the jurisdiction of the
25 Governor shall make available public data sets of public

1 information. Any unit of local government may adopt the State
2 standard for itself.

3 (c) To implement this Act, the Chief Information Officer
4 shall, by rule, establish policies, standards, and guidance as
5 provided herein. The Illinois Administrative Procedure Act is
6 hereby expressly adopted and shall apply to all rulemaking by
7 the Chief Information Officer under this Act.

8 In addition, the Chief Information Officer shall
9 designate, with the approval of the Governor, a current
10 employee of State government to act, in addition to his or her
11 existing responsibilities, as the Deputy Chief Information
12 Officer for Open Data.

13 Section 20. Function; protocol and compliance.

14 (a) Public data sets agencies make available on the
15 Internet shall be accessible through a single web portal that
16 is linked to data.illinois.gov or any successor website
17 maintained by, or on behalf of, the State of Illinois. If an
18 agency cannot make all such public data sets available on the
19 single web portal, the agency shall report to the Chief
20 Information Officer the public data set or sets it is unable to
21 make available, the reasons why it cannot do so, and the date
22 by which the agency expects those data sets to be available on
23 the single web portal.

24 (b) Public data sets shall be made available in accordance
25 with technical standards published by the Chief Information

1 Officer. The technical standards shall be determined by the
2 Chief Information Officer, in consultation with the Deputy
3 Chief Information Officer for Open Data, subject matter experts
4 from all State agencies, and representatives of units of local
5 government, not-for-profit organizations specializing in
6 technology and innovation, the academic community, and other
7 interested groups as designated by the Chief Information
8 Officer.

9 (1) Public data sets shall be provided in a format that
10 permits automated processing and that makes use of
11 appropriate technology to notify the public of all updates.
12 The Chief Information Officer shall, by rule, establish
13 appropriate policies, procedures, and protocols for the
14 coordinated management of the State's information
15 technology resources. With the approval of the Office of
16 the Governor, the Chief Information Officer may designate
17 one or more persons to comprise the staff of the Office of
18 the Chief Information Officer in order to carry out the
19 duties set forth in this Act.

20 (2) Public data sets shall be updated as often as is
21 necessary to preserve the integrity and usefulness of the
22 data sets, to the extent that the agency regularly
23 maintains or updates the public data set.

24 (3) Public data sets shall be made available without
25 any registration requirement, license requirement, or
26 restrictions on their use provided that the agency may

1 require a third party providing to the public any public
2 data set, or application utilizing such data set, to
3 explicitly identify the source and version of the public
4 data set and a description of any modifications made to
5 such public data set. Registration requirements, license
6 requirements, or restrictions as used in this Section shall
7 not include measures designed or required to ensure access
8 to public data sets, to protect the single website housing
9 public data sets from unlawful abuse or attempts to damage
10 or impair use of the website, or to analyze the types of
11 data being used to improve service delivery.

12 (4) Public data sets shall be accessible to external
13 search capabilities.

14 (c) Within 60 days of the effective date of this Act, the
15 Chief Information Officer shall prepare and publish: (1) a
16 technical standards manual for the publishing of public data
17 sets in raw or unprocessed form through a single web portal by
18 State agencies for the purpose of making public data available
19 to the greatest number of users and for the greatest number of
20 applications and shall, whenever practicable, use open
21 standards for web publishing and e-government; and (2) as
22 needed, portfolio management policies for ensuring compliance
23 with the requirements of this Act.

24 The manual shall identify the reasons why each technical
25 standard was selected and for which types of data it is
26 applicable, and may recommend or require that data be published

1 in more than one technical standard. The manual shall include a
2 plan to adopt or utilize a web application programming
3 interface that permits application programs to request and
4 receive public data sets directly from the web portal. The
5 manual and related policies may be updated as necessary.

6 (d) The Chief Information Officer shall consult with units
7 of local government, not-for-profit organizations with a
8 specialization in technology and innovation, agencies of other
9 states, academic institutions, and voluntary consensus
10 standards bodies, and, when such participation is feasible, in
11 the public interest, and compatible with agency and
12 departmental missions, authorities, and priorities,
13 participate with such bodies in the development of technical
14 and open standards.

15 (e) Within 120 days of the effective date of this Act, each
16 State agency shall submit a compliance plan, together with a
17 draft long-term strategic enterprise application plan
18 consistent with this Act, to the Office of the Governor and
19 shall make such plan available to the public on the
20 data.illinois.gov web portal. Each State agency shall
21 collaborate with the Governor's Office and the Chief
22 Information Officer in formulating its plan. The plan shall
23 include:

- 24 (1) a summary description of public data sets under the
25 control of each State agency on or after the effective date
26 of this Act; and

1 (2) a summary explanation of how its plans, charters,
2 budgets, capital expenditures, contracts, and other
3 related documents and information for each information
4 technology and telecommunications project it proposes to
5 undertake can be utilized to support Illinois Open Data and
6 related savings and efficiencies. The plan shall
7 prioritize public data sets for inclusion on the single web
8 portal on or before December 31, 2014, in accordance with
9 the standards provided for in subsections (b) and (c) of
10 this Section.

11 (f) For purposes of prioritizing public data sets, State
12 agencies shall consider whether information embodied in the
13 public data set: (1) can be used to increase agency
14 accountability and responsiveness; (2) improves public
15 knowledge of the agency and its operations; (3) furthers the
16 mission of the agency; (4) creates economic opportunity; (5) is
17 received via the on-line forum for inclusion of particular
18 public data sets; or (6) responds to a need or demand
19 identified by public consultation.

20 (g) No later than July 1, 2014 and every July 1 thereafter,
21 the Chief Information Officer shall post on the web portal an
22 update of the compliance plan. Each update shall include the
23 specific measures undertaken to make public data sets available
24 on the single web portal since the immediately preceding
25 update, specific measures that will be undertaken prior to the
26 next update, an update to the list of public data sets if

1 necessary, any changes to the prioritization of public data
2 sets, and an update to the timeline for the inclusion of data
3 sets on the single web portal if necessary.

4 (h) Consistent with both the Executive Order 10 (2010)
5 directive requiring State agencies to limit information
6 technology expenditures by increasing the use of cloud
7 computing where appropriate, and with the initiatives and
8 standards announced in the United States Department of Homeland
9 Security publication "Federal Cloud Computing Strategy" dated
10 February 8, 2011, all State agencies are required to evaluate
11 safe, secure cloud computing options, before making any new
12 information technology or telecommunications investments, and,
13 if feasible, adopt appropriate cloud computing solutions. Each
14 State agency shall re-evaluate its technology sourcing
15 strategy to include consideration and use of cloud computing
16 solutions as part of the budget process.

17 Section 22. Grant information reporting.

18 (a) Each grantor agency that is authorized to award grant
19 funds to an entity other than the State of Illinois shall
20 coordinate with the Chief Information Officer of the State to
21 periodically provide for publication, at data.illinois.gov or
22 any other publicly accessible website designated by the Chief
23 Information Officer, of data sets containing information
24 regarding awards of grant funds that the grantor agency has
25 made during the previous fiscal year. The data sets shall

1 include, at a minimum, the following:

2 (1) the name of the grantor agency;

3 (2) the name of the grantee;

4 (3) a short description of the purpose of the award of
5 grant funds;

6 (4) the amount of each award of grant funds;

7 (5) the date of each award of grant funds; and

8 (6) the duration of each award of grant funds.

9 In addition, each grantor agency shall make best efforts,
10 with available resources and technology, to make available in
11 the data sets any other data that is relevant to its award of
12 grant funds.

13 (b) Data not subject to the requirements of this Section
14 include, but are not limited to, data to which a State agency
15 may deny access pursuant to any provision of a federal, State,
16 or local law, rule, or regulation, as well as data that contain
17 a significant amount of data to which a State agency may deny
18 access pursuant to any provision of a federal, State, or local
19 law, rule, or regulation where redacting that data in order to
20 publish the data would impose an undue financial or
21 administrative burden.

22 Section 25. Open data legal policies.

23 (a) The Chief Information Officer shall conspicuously
24 publish the open data legal policies contained in subsection
25 (c) of this Section on the web portal.

1 (b) The Chief Information Officer may establish and
2 maintain an on-line forum to solicit feedback from the public
3 and to encourage public discussion on open data policies and
4 public data set availability on the web portal.

5 (c) Open data legal policy. The use of the public data
6 provided under this Act is subject to the following:

7 (1) Public data sets made available on the web portal
8 are provided for informational purposes only. The State
9 does not warrant the completeness, accuracy, content, or
10 fitness for any particular purpose or use of any public
11 data set made available on the web portal, nor are any such
12 warranties to be implied or inferred with respect to the
13 public data sets furnished under this Act.

14 (2) The State is not liable for any deficiencies in the
15 completeness, accuracy, content, or fitness for any
16 particular purpose or use of any public data set or any
17 third party application utilizing such data set.

18 (3) Nothing in this Act shall be construed to create a
19 private right of action to enforce its provisions.

20 (4) All public data sets shall be entirely in the
21 public domain for purposes of federal copyright law.

22 Section 30. General provisions.

23 (a) To the extent that any Executive Order, Administrative
24 Order, Intergovernmental or Interagency Agreement (to which
25 the State of Illinois or one of its executive branch agencies

1 is a party), or other policy, procedure, or protocol conflicts
2 with, contradicts, or is inconsistent with any provision of
3 this Act, that conflicting, contradicting, or inconsistent
4 Order, Agreement, policy, procedure, or protocol is hereby
5 expressly revoked, repealed, and superseded.

6 (b) Nothing in this Act shall be construed to contravene
7 any State or federal law or any collective bargaining
8 agreement.

9 Section 35. Severability. The provisions of this Act are
10 severable under Section 1.31 of the Statute on Statutes.

11 Section 99. Effective date. This Act takes effect upon
12 becoming law, except that Section 22 takes effect on January 1,
13 2014.".