



Sen. Pamela J. Althoff

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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 Standards Act.

7 Section 5. Definitions. As used in this Act:

8 "Cloud computing" has the meaning provided by Special
9 Publication 800-145 issued by the National Institute of
10 Standards and Technology of the United States Department of
11 Commerce.

12 "Data" means final versions of statistical or factual
13 information: (a) in alphanumeric form reflected in a list,
14 table, graph, chart, or other non-narrative form that can be
15 digitally transmitted or processed; and (b) regularly created
16 or maintained by or on behalf of and owned by an agency that

1 records a measurement, transaction, or determination related
2 to the mission of an agency. "Data" does not include
3 information provided to an agency by other governmental
4 entities, nor does it include image files, such as designs,
5 drawings, maps, photos, or scanned copies of original
6 documents, except that it does include statistical or factual
7 information about such image files and shall include geographic
8 information system data. "Data" does not include:

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

13 (2) data that contains a significant amount of
14 information to which an agency may deny access pursuant to
15 any provision of a federal, State, or local law, rule, or
16 regulation;

17 (3) data that reflects the internal deliberative
18 process of an agency or agencies, including but not limited
19 to negotiating positions, future procurements, or pending
20 or reasonably anticipated legal or administrative
21 proceedings;

22 (4) data stored on an agency-owned personal computing
23 device, or data stored on a portion of a network that has
24 been exclusively assigned to a single agency employee or a
25 single agency owned or controlled computing device;

26 (5) materials subject to copyright, patent, trademark,

1 confidentiality agreements, or trade secret protection;

2 (6) proprietary applications, computer code, software,
3 operating systems, or similar materials;

4 (7) employment records, internal employee-related
5 directories or lists, facilities data, information
6 technology, internal service-desk and other data related
7 to internal agency administration; and

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

10 "Grant funds" means any public funds dispensed by a grantor
11 agency to any person or entity for obligation, expenditure, or
12 use by that person or entity for a specific purpose or purposes
13 and any funds disbursed by the State Comptroller pursuant to an
14 appropriation made by the General Assembly to a named entity or
15 person. Funds disbursed in accordance with a fee for service
16 purchase of care contract are not grant funds for purposes of
17 this Act.

18 Neither the method by which funds are dispensed whether by
19 contract, agreement, grant subsidy, letter of credit, or any
20 other method nor the purpose for which the funds are used can
21 change the character of funds which otherwise would be
22 considered grant funds as defined in this Section.

23 "Grantee" means the person or entity which may use grant
24 funds.

25 "Grantor agency" means a State agency that dispenses grant
26 funds.

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

4 "Public data" means all data that is collected by any unit
5 of State or local government in pursuance of that entity's
6 official responsibilities which is otherwise subject to
7 disclosure pursuant to the Freedom of Information Act, and is
8 not prohibited from disclosure pursuant to any other
9 contravening legal instrument, including, but not limited to, a
10 superseding provision of federal or State law or an injunction
11 from a court of competent jurisdiction.

12 "State agency" or "agency" has the meaning ascribed to the
13 term "agency" in Section 3.1 of the Executive Reorganization
14 Implementation Act.

15 "Strategic plan" means an organization's evaluation, over
16 a period of up to 5 years, of its strategy and direction,
17 including a framework for decision-making with respect to
18 resource allocation to achieve defined goals.

19 "Voluntary consensus standards body" means an organization
20 that plans, develops, establishes, or coordinates voluntary
21 consensus standards using agreed-upon procedures. A voluntary
22 consensus standards body has the following attributes:
23 openness; balance of interest; due process; an appeals process;
24 and consensus.

25 Section 10. Open operating standard.

1 (a) There is hereby established an open operating standard,
2 to be known as "Illinois Open Data", for the State of Illinois.
3 Under this open operating standard, each agency of State
4 government under the jurisdiction of the Governor shall make
5 available public data sets of public information. Any unit of
6 local government may adopt the State standard for itself.

7 (b) To implement this Act, the Office of the Governor may,
8 by rule, establish policies, standards, and guidance as
9 provided herein. The Illinois Administrative Procedure Act is
10 hereby expressly adopted and shall apply to all rules made
11 pursuant to this Act.

12 (c) The Office of the Governor shall coordinate with each
13 State agency to develop, using any existing or newly available
14 resources and technology, appropriate systems to accurately
15 report public information. These systems shall include a module
16 that is specific to the management and administration of grant
17 funds.

18 Section 15. Function; protocol and compliance.

19 (a) Public data sets that are made available on the
20 Internet by agencies shall be accessible through a single web
21 portal that is linked to data.illinois.gov or any successor
22 website maintained by, or on behalf of, the State of Illinois.
23 If an agency cannot make all such public data sets available on
24 the single web portal, the agency shall report to the Office of
25 the Governor the public data set or sets it is unable to make

1 available, the reasons why it cannot do so, and the date by
2 which the agency expects those data sets to be available on the
3 single web portal.

4 (b) Public data sets shall be made available in accordance
5 with technical standards published by the Office of the
6 Governor. The technical standards shall be determined by the
7 Office of the Governor, in consultation with the subject matter
8 experts from all State agencies and representatives of units of
9 local government, not-for-profit organizations specializing in
10 technology and innovation, the academic community, and other
11 interested groups as designated by the Office of the Governor.

12 (1) Public data sets shall be provided in a format that
13 permits automated processing and that makes use of
14 appropriate technology to notify the public of all updates.
15 The Office of the Governor shall, by rule, establish
16 appropriate policies, procedures, and protocols for the
17 coordinated management of the State's information
18 technology resources.

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

23 (3) Public data sets shall be made available without
24 any registration requirement, license requirement, or
25 restrictions on their use provided that the agency may
26 require a third party providing to the public any public

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

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

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

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

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

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

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

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

25 (2) a summary explanation of how its plans, charters,
26 budgets, capital expenditures, contracts, and other

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

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

18 (g) No later than July 1, 2014 and every July 1 thereafter,
19 the Office of the Governor shall post on the web portal an
20 update of the compliance plan. Each update shall include the
21 specific measures undertaken to make public data sets available
22 on the single web portal since the immediately preceding
23 update, specific measures that will be undertaken prior to the
24 next update, an update to the list of public data sets if
25 necessary, any changes to the prioritization of public data
26 sets, and an update to the timeline for the inclusion of data

1 sets on the single web portal if necessary.

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

15 Section 20. Grant information reporting.

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

25 (1) the name of the grantor agency;

- 1 (2) the name of the grantee;
- 2 (3) a short description of the purpose of the award of
- 3 grant funds;
- 4 (4) the amount of each award of grant funds;
- 5 (5) the date of each award of grant funds; and
- 6 (6) the duration of each award of grant funds.

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

11 (b) Data not subject to the requirements of this Section
12 include, but are not limited to, data to which a State agency
13 may deny access pursuant to any provision of a federal, State,
14 or local law, rule, or regulation, as well as data that contain
15 a significant amount of data to which a State agency may deny
16 access pursuant to any provision of a federal, State, or local
17 law, rule, or regulation.

18 Section 25. Open data legal policies.

19 (a) The Office of the Governor shall conspicuously publish
20 the open data legal policies contained in subsection (c) of
21 this Section on the web portal.

22 (b) The Office of the Governor may establish and maintain
23 an on-line forum to solicit feedback from the public and to
24 encourage public discussion on open data policies and public
25 data set availability on the web portal.

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

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

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

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

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

18 Section 30. General provisions.

19 (a) To the extent that any Executive Order, Administrative
20 Order, Intergovernmental or Interagency Agreement (to which
21 the State of Illinois or one of its executive branch agencies
22 is a party), or other policy, procedure, or protocol conflicts
23 with, contradicts, or is inconsistent with any provision of
24 this Act, that conflicting, contradicting, or inconsistent
25 Order, Agreement, policy, procedure, or protocol is hereby

1 expressly revoked, repealed, and superseded.

2 (b) Nothing in this Act shall be construed to contravene
3 any State or federal law or any collective bargaining
4 agreement.

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

7 Section 40. Repealer. This Act is repealed on January 21,
8 2019.

9 Section 99. Effective date. This Act takes effect upon
10 becoming law, except that Section 20 takes effect on January 1,
11 2014.".