



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 enterprise application plan" means a
16 comprehensive program developed by a State agency,
17 articulating both principles and goals related to the
18 application of its services and programs to the current and
19 future needs of enterprise in Illinois.

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

24 "Voluntary consensus standards body" means an organization
25 that plans, develops, establishes, or coordinates voluntary
26 consensus standards using agreed-upon procedures. A voluntary

1 consensus standards body has the following attributes:
2 openness; balance of interest; due process; an appeals process;
3 and consensus.

4 Section 10. Open operating standard.

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

11 (b) To implement this Act, the Office of the Governor may,
12 by rule, establish policies, standards, and guidance as
13 required herein. The Illinois Administrative Procedure Act is
14 hereby expressly adopted and shall apply to all rules made
15 pursuant to this Act.

16 Section 15. Function; protocol and compliance.

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

1 which the agency expects those data sets to be available on the
2 single web portal.

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

11 (1) Public data sets shall be provided in a format that
12 permits public notification of all updates whenever
13 possible. The Office of the Governor shall, by rule, in
14 consultation with subject matter experts from interested
15 State agencies, establish appropriate policies,
16 procedures, and protocols for the coordinated management
17 of the State's information technology resources.

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

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

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

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

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

20 The manual shall identify the reasons why each technical
21 standard was selected and for which types of data it is
22 applicable, and may recommend or require that data be published
23 in more than one technical standard. The manual shall include a
24 plan to adopt or utilize a web application programming
25 interface that permits application programs to request and
26 receive public data sets directly from the web portal. The

1 manual and related policies may be updated as necessary.

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

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

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

22 (2) a summary explanation of how its plans, charters,
23 budgets, capital expenditures, contracts, and other
24 related documents and information for each information
25 technology and telecommunications project it proposes to
26 undertake can be utilized to support Illinois Open Data and

1 related savings and efficiencies. The plan shall
2 prioritize public data sets for inclusion on the single web
3 portal on or before December 31, 2014, in accordance with
4 the standards provided for in subsections (b) and (c) of
5 this Section.

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

15 (g) Consistent with both the Executive Order 10 (2010)
16 directive requiring State agencies to limit information
17 technology expenditures by increasing the use of cloud
18 computing where appropriate, and with the initiatives and
19 standards announced in the United States Department of Homeland
20 Security publication "Federal Cloud Computing Strategy" dated
21 February 8, 2011, all State agencies are required to evaluate
22 safe, secure cloud computing options, before making any new
23 information technology or telecommunications investments, and,
24 if feasible, adopt appropriate cloud computing solutions. Each
25 State agency shall re-evaluate its technology sourcing
26 strategy to include consideration and use of cloud computing

1 solutions as part of the budget process.

2 Section 20. Grant information reporting.

3 (a) Each grantor agency that is authorized to award grant
4 funds to an entity other than the State of Illinois shall
5 coordinate with the Office of the Governor to periodically
6 provide for publication, at data.illinois.gov or any other
7 publicly accessible website designated by the Governor's
8 Office, of data sets containing information regarding awards of
9 grant funds that the grantor agency has made during the
10 previous fiscal year. The data sets shall include, at a
11 minimum, the following:

- 12 (1) the name of the grantor agency;
- 13 (2) the name of the grantee;
- 14 (3) a short description of the purpose of the award of
15 grant funds;
- 16 (4) the amount of each award of grant funds;
- 17 (5) the date of each award of grant funds; and
- 18 (6) the duration of each award of grant funds.

19 In addition, each grantor agency shall make best efforts,
20 with available resources and technology, to make available in
21 the data sets any other data that is relevant to its award of
22 grant funds.

23 (b) Data not subject to the requirements of this Section
24 include, but are not limited to, data to which a State agency
25 may deny access pursuant to any provision of a federal, State,

1 or local law, rule, or regulation, as well as data that contain
2 a significant amount of data to which a State agency may deny
3 access pursuant to any provision of a federal, State, or local
4 law, rule, or regulation.

5 Section 25. Open data legal policies.

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

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

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

15 (1) Public data sets made available on the web portal
16 are provided for informational purposes only. The State
17 does not warrant the completeness, accuracy, content, or
18 fitness for any particular purpose or use of any public
19 data set made available on the web portal, nor are any such
20 warranties to be implied or inferred with respect to the
21 public data sets furnished under this Act.

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

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

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

5 Section 30. General provisions.

6 (a) To the extent that any Executive Order, Administrative
7 Order, Intergovernmental or Interagency Agreement (to which
8 the State of Illinois or one of its executive branch agencies
9 is a party), or other policy, procedure, or protocol conflicts
10 with, contradicts, or is inconsistent with any provision of
11 this Act, that conflicting, contradicting, or inconsistent
12 Order, Agreement, policy, procedure, or protocol is hereby
13 expressly revoked, repealed, and superseded.

14 (b) Nothing in this Act shall be construed to contravene
15 any State or federal law or any collective bargaining
16 agreement.

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

19 Section 40. Repealer. This Act is repealed on January 21,
20 2019.

21 Section 99. Effective date. This Act takes effect upon
22 becoming law, except that Section 20 takes effect on January 1,

1 2014.".