



Sen. Pamela J. Althoff

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1 AMENDMENT TO HOUSE BILL 1040

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 "Open operating standard" means a technical standard

1 developed and maintained by a voluntary consensus standards
2 body that is available to the public without royalty or fee.

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

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

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

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

24 Section 10. Chief Information Officer; open operating
25 standard.

1 (a) There is created within the Office of the Governor a
2 Chief Information Officer for the State. The Chief Information
3 Officer shall be a person qualified by training and experience
4 to perform the duties required by this Act. The Chief
5 Information Officer shall be appointed by the Governor, by and
6 with the advice and consent of the Senate. The term of office
7 of the Chief Information Officer shall expire on the third
8 Monday of January in odd numbered years, provided that he or
9 she shall hold office until a successor is appointed and
10 qualified. The initial term of the Chief Information Officer
11 shall begin on January 20, 2014. The annual salary of the Chief
12 Information Officer is \$120,000.

13 Any vacancy occurring in the office of the Chief
14 Information Officer shall be filled in the same manner as the
15 original appointment. In case of a vacancy during the recess of
16 the Senate, the Governor shall make a temporary appointment
17 until the next meeting of the Senate, when the Governor shall
18 nominate some person to fill the office, and any person so
19 nominated who is confirmed by the Senate shall hold office
20 during the remainder of the term and until his or her successor
21 is appointed and qualified.

22 During the absence or inability to act of the Chief
23 Information Officer, or in the case of a vacancy in the office
24 of Chief Information Officer, until a successor is appointed
25 and qualified, the Governor may designate some person as Acting
26 Chief Information Officer to execute the powers and discharge

1 the duties vested by law in that office. A person who is
2 designated as an Acting Chief Information Officer shall not
3 continue in office for more than 60 calendar days unless the
4 Governor files a message with the Secretary of the Senate
5 nominating that person to fill the office. After 60 calendar
6 days, the office is considered vacant and shall be filled only
7 under this Section and pursuant to the law applicable to making
8 appointments. No person who has been appointed by the Governor
9 to serve as Chief Information Officer shall, except at the
10 Senate's request, be designated again as an Acting Chief
11 information Officer at the same session of that Senate, subject
12 to the provisions of this Section.

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

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

26 (c) To implement this Act, the Chief Information Officer

1 shall, by rule, establish policies, standards, and guidance as
2 provided herein. The Illinois Administrative Procedure Act is
3 hereby expressly adopted and shall apply to all rulemaking by
4 the Chief Information Officer under this Act.

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

10 Section 15. Function; protocol and compliance.

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

21 (b) Public data sets shall be made available in accordance
22 with technical standards published by the Chief Information
23 Officer. The technical standards shall be determined by the
24 Chief Information Officer, in consultation with the Deputy
25 Chief Information Officer for Open Data, subject matter experts

1 from all State agencies, and representatives of units of local
2 government, not-for-profit organizations specializing in
3 technology and innovation, the academic community, and other
4 interested groups as designated by the Chief Information
5 Officer.

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

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

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

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

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

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

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

1 receive public data sets directly from the web portal. The
2 manual and related policies may be updated as necessary.

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

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

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

24 (2) a summary explanation of how its plans, charters,
25 budgets, capital expenditures, contracts, and other
26 related documents and information for each information

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

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

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

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

14 Section 20. Grant information reporting.

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

24 (1) the name of the grantor agency;

25 (2) the name of the grantee;

1 (3) a short description of the purpose of the award of
2 grant funds;

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

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

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

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

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

17 Section 25. Open data legal policies.

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

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

25 (c) Open data legal policy. The use of the public data

1 provided under this Act is subject to the following:

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

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

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

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

17 Section 30. General provisions.

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

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

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

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

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