
Government Operations & Elections Committee

HB 2202

Brief Description: Concerning the establishment of an open data policy to facilitate sharing and publication of government data.

Sponsors: Representatives Carlyle, Pollet, Bergquist, Hudgins and Riccelli.

Brief Summary of Bill

- Requires the Chief Information Officer to coordinate an Open Data Portal to facilitate open format publication of data maintained by, or on behalf of, executive branch state agencies.
- Requires the Office of the Chief Information Officer (OCIO) to publish draft uniform standards for the open format of data, implement an online public forum, post agency compliance plans, and provide technical guidance.
- Requires state executive branch agencies to designate a data coordinator and prepare a data catalog and proposed compliance plan.

Hearing Date: 1/24/14

Staff: Jasmine Vasavada (786-7301).

Background:

In 1972 the voters in the state of Washington adopted Initiative 276, requiring that most records maintained by state, county, city governments, and all special purpose districts be made available to members of the public. These provisions, now codified in Chapter 42.56 RCW, are known as the Public Records Act (PRA). The PRA applies to all state and local agencies and defines a "public record" broadly to include, among other things, "any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics". Many exemptions exist, targeted to protect from disclosure certain

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

information, the nondisclosure of which the legislature has deemed essential for the protection of interests such as personal privacy, confidentiality, security, law enforcement and investigative functions, and commercial competition.

State law also establishes procedures by which public agencies preserve, store, transfer, manage, retain, destroy, or dispose of public records. The Division of Archives and Records Management in the Office of the Secretary of State is tasked with managing, centralizing, and making available to the public various archival public records.

In 2011 the Office of the Chief Information Officer (OCIO) was created within the Office of Financial Management. The OCIO is responsible for the preparation and implementation of a strategic information technology plan and enterprise architecture for the state, as well as the development of statewide data security standards. The OCIO must establish standards and policies for enterprise architecture, educate and inform the state on information technology matters, and work to achieve standardization and consolidation of information technology infrastructure.

In May 2013 President Obama issued an executive order, "Making open and machine-readable the new default for government information". The executive order stated that after the federal government had made certain data available online on data.gov, entrepreneurs and innovators had utilized these resources to create a range of applications that had resulted in economic growth and job creation. It required the Office of Management and Budget, in consultation with the Chief Information Officer and others, to issue an Open Data Policy to advance the management of government information as an asset. The order established timelines to facilitate effective government-wide implementation. In making open and machine-readable the new default for government information, the order did not compel or authorize disclosure of privileged information, law enforcement information, national security information, personal information, or information the disclosure of which is prohibited by law.

State agencies in Washington post public data sets online via a number of different web portals. In addition to data.wa.gov, portals host data and reports from the Education Research and Data Center, state geospatial information, the Caseload Forecast Council, the Legislative Evaluation and Accountability Program Committee, and the Office of the Superintendent of Public Instruction. However, there is currently no requirement ensuring that the data is presented in open, machine-readable formats or that data be standardized in a manner that would facilitate the combination of information from different data sources.

Summary of Bill:

Open Data Portal.

The Chief Information Officer shall coordinate implementation and expansion of an Open Data Portal to facilitate the sharing and publication of government data in an open format. This duty is added to the list of powers, duties, and functions assigned to the Office of the Chief Information Officer (OCIO).

- "Open" means freely available, machine readable, and formatted according to uniform technical standards to facilitate visibility and reuse of publishable data.
- "Data" means final versions of statistical or factual information that are in alphanumeric form reflected in a list, table, graph, chart, or other non-narrative form, that can be

digitally transmitted or processed; are regularly created or maintained by or on behalf of an agency and controlled by such agency; and record a measurement, transaction, or determination related to the mission of the agency.

- "Statistical or factual information" does not include image files, such as designs, drawings, maps, photos, or scanned copies of original documents, but it does include geographic information system data and statistical or factual information about such image files.
- "State agency" or "agency" means every state office, department, division, bureau, board, and commission of the state, and each state elected official who is a member of the executive department.

The Open Data Portal must include a mechanism by which a member of the public who has identified deficiencies in a public data set can provide feedback to the OCIO about the deficiency. The OCIO must also conspicuously post legal policies on the Portal.

Duties of the OCIO.

The OCIO shall:

- **Publish draft uniform standards:** Publish draft uniform standards for the open format of data and guidelines for state agencies to use in cataloging their public data sets and making the data sets publicly available in an open format, within 90 days of the effective date of the act.
- **Implement an online forum:** Implement an online forum to solicit public feedback on open data policies and availability of public data sets, within 90 days of the effective date of the act. "Public data set" means data maintained on a computer system by, or on behalf of, an agency that the agency is permitted, required, or able to make available to the public. "Public data set" does not include: (a) any portion of a data set to which an agency may deny access pursuant to the Public Records Act or any other provision of a federal or state law, rule, or regulation or local law; (b) any data set that contains a significant amount of data to which an agency may deny access pursuant to other law or rule, where redacting the data set would impose undue financial, operative, or administrative burden on the agency; (c) data that reflects the internal deliberative process of an agency or agencies, including but not limited to negotiating positions, future procurements, or pending or reasonably anticipated legal or administrative proceedings; (d) data subject to copyright, patent, trademark, confidentiality agreements, or trade secret protection; (e) proprietary applications, computer code, software, operating systems, or similar materials; or (f) data related to internal agency administration, including employment records, internal employee-related directories or lists, and facilities data. Also, "public data set" is defined as data maintained by, or on behalf of, an executive branch agency that the agency is permitted, required or able to make available to the public, so this definition by its terms excludes data maintained by and on behalf of another branch of government.
- **Post agency compliance plans:** Post on the open data portal and submit to the governor and legislature an updated compliance plan, within one year and annually thereafter.
- **Provide technical guidance:** Provide technical guidance, assistance, and expertise to assist agencies and local governments in participating in the Open Data Portal. This includes authority to adopt rules, models, and guidelines.

Agency Compliance Plans.

Each agency shall:

- **Designate a data coordinator:** Designate a data coordinator with authority equivalent to that of a deputy director or division or department head to be responsible for the agency's compliance within 30 days of the effective date of the act.
- **Prepare a proposed compliance plan:** The compliance plan includes a catalog of the agency's public datasets and a timeline for making each data set publicly available in an open format, within 180 days of the effective date of the act. Agencies shall prioritize publication of data based on the extent to which information serves various objectives, such as the creation of economic opportunity or the increase of agency accountability and responsiveness. If there are public data sets not proposed to make public within five years, the agency must state the reasons for this.
- **Funding:** Within existing resources, agencies shall plan for and implement process for making public data sets available in an open format. Also, funding to meet the costs of preparation of data in open formats should come primarily from a range of public and private funding sources listed in existing statute. Agencies are encouraged to seek federal and private grants.

Effect on Local Governments.

The new requirements do not apply to local governments or outside of the executive branch of state government, but local governments are encouraged to prepare a catalog and timeline for publication of local government data and to submit the data to the OCIO for inclusion in the Open Data Portal, and the OCIO is required to provide technical guidance and assistance.

Legal Policies.

A disclaimer of state liability for any deficiencies in a public data set is included. No private right of action is created.

Other.

A reference to a 1996 policy task force report is removed. A pilot project for electronic access to public records is decodified, due to the project being time-delimited.

Appropriation: None.

Fiscal Note: Requested on January 14, 2014.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.