
HOUSE BILL 2202

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By Representatives Carlyle, Pollet, Bergquist, Hudgins, and Riccelli

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1 AN ACT Relating to the establishment of an open data policy to
2 facilitate sharing and publication of government data; amending RCW
3 43.41A.120, 43.41A.010, 43.41A.125, and 43.41A.130; adding a new
4 chapter to Title 42 RCW; recodifying RCW 43.41A.120, 43.41A.125, and
5 43.41A.130; decodifying RCW 43.41A.135; and repealing RCW 43.41A.115.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** The legislature finds that new technologies
8 have dramatically changed both the way government conducts business and
9 the public's expectations about access to government information.
10 Accessible government data is a valuable resource that can be used by
11 citizens and businesses of the state to fuel entrepreneurship,
12 innovation, and scientific discovery. Furthermore, making government
13 data available online increases government transparency, effectiveness,
14 and accountability. It is the intent of the legislature to encourage
15 state and local government agencies that collect and create information
16 to do so in a manner that supports downstream information processing
17 and dissemination activities, ensuring that the default status of
18 government data is open.

1 **Sec. 2.** RCW 43.41A.120 and 2011 c 60 s 38 are each amended to read
2 as follows:

3 Unless the context requires otherwise, the definitions in this
4 section apply throughout this chapter.

5 (1)(a) "Data" means final versions of statistical or factual
6 information that:

7 (i) Are in alphanumeric form reflected in a list, table, graph,
8 chart, or other nonnarrative form, that can be digitally transmitted or
9 processed;

10 (ii) Are regularly created or maintained by or on behalf of an
11 agency and controlled by such agency; and

12 (iii) Record a measurement, transaction, or determination related
13 to the mission of the agency.

14 (b) As used in this subsection (1), "statistical or factual
15 information" does not include image files, such as designs, drawings,
16 maps, photos, or scanned copies of original documents, but it does
17 include geographic information system data and statistical or factual
18 information about such image files.

19 (2) "Data set" means a named collection of related records
20 maintained on a storage device, with the collection containing data
21 organized or formatted in a specific or prescribed way, often in
22 tabular form.

23 (3) "Local government" means every county, city, town, and every
24 other municipal or quasi-municipal corporation.

25 ((+2)) (4) "Office" means the office of the chief information
26 officer.

27 (5) "Open" means freely available, machine readable, and formatted
28 according to uniform technical standards to facilitate visibility and
29 reuse of publishable data.

30 (6) "Public data set" means data maintained on a computer system
31 by, or on behalf of, an agency that the agency is permitted, required,
32 or able to make available to the public. "Public data set" does not
33 include:

34 (a) Any portion of a data set to which an agency may deny access
35 pursuant to the public records act, chapter 42.56 RCW, or any other
36 provision of a federal or state law, rule, or regulation or local law;

37 (b) Any data set that contains a significant amount of data to

1 which an agency may deny access pursuant to (a) of this subsection, the
2 redaction of which would impose undue financial, operative, or
3 administrative burden on the agency;

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

8 (d) Data subject to copyright, patent, trademark, confidentiality
9 agreements, or trade secret protection;

10 (e) Proprietary applications, computer code, software, operating
11 systems, or similar materials; or

12 (f) Data related to internal agency administration, including
13 employment records, internal employee-related directories or lists, and
14 facilities data.

15 (7) "Public record" (~~means as defined~~) has the definitions in RCW
16 42.56.010 and chapter 40.14 RCW, and includes legislative records and
17 court records that are available for public inspection.

18 ~~((+3))~~ (8) "State agency" includes every state office, department,
19 division, bureau, board, and commission of the state, and each state
20 elected official who is a member of the executive department.

21 NEW SECTION. Sec. 3. OPEN DATA PORTAL. (1) The chief information
22 officer shall coordinate implementation and expansion of an open data
23 portal to facilitate the sharing and publication of government data in
24 an open format.

25 (2) Within ninety days of the effective date of this section, the
26 office shall:

27 (a) Publish draft uniform standards for the open format of data
28 submitted for publication on the open data portal and guidelines for
29 agencies to use in complying with this section; and

30 (b) Implement an online forum to solicit feedback from the public
31 and to encourage public discussion on open data policies and public
32 data set availability.

33 (3) Within thirty days of the effective date of this section, each
34 agency shall designate a data coordinator who:

35 (a) Has authority equivalent to that of a deputy director or the
36 head of a division or department within the agency;

37 (b) Has knowledge of data and resources in use by the agency; and

1 (c) Is responsible for that agency's compliance with this chapter.
2 (4) Within one hundred eighty days of the effective date of this
3 section, each agency shall provide to the office a proposed compliance
4 plan, which shall include a catalog of the agency's public data sets
5 and a timeline for making each data set publicly available in an open
6 format.
7 (a) In establishing the timeline, the agency shall prioritize
8 publication of data based on the extent to which information:
9 (i) Can be used to increase agency accountability and
10 responsiveness;
11 (ii) Improves public knowledge of the agency and its operations;
12 (iii) Furthers the mission of the agency;
13 (iv) Creates economic opportunity; and
14 (v) Responds to a need or demand identified by public consultation.
15 (b) If the agency has identified public data sets that it has not
16 proposed to make public within five years of the effective date of this
17 section, the agency's work plan must state the reasons why the data
18 cannot be made available, and, to the extent practicable, the date by
19 which the agency believes that it will be made available on the open
20 data portal.
21 (5) No later than one year after the effective date of this
22 section, and annually thereafter, the office shall post on the open
23 data portal and submit to the governor and the legislature an updated
24 compliance plan. The update must include:
25 (a) Specific measures undertaken since the immediately preceding
26 update;
27 (b) Specific measures that will be undertaken before the next
28 update;
29 (c) An update to the list of public data sets, if necessary;
30 (d) Any changes to the prioritization of public data sets;
31 (e) Any update to the timeline for the inclusion of data sets on
32 the open data portal, if necessary; and
33 (f) If a public data set cannot be made available on the open data
34 portal within five years of the effective date of this section, the
35 reasons why it cannot and, to the extent practicable, the date by which
36 the agency believes that such public data set will be available on the
37 open data portal.

1 (6) Local governments are encouraged to prepare a catalog and
2 timeline for publication of local government public data sets and to
3 submit the data to the office for inclusion in the open data portal.

4 (7) The office shall provide technical guidance, assistance, and
5 expertise to assist agencies and local governments in participating in
6 the open data portal. This may include, but is not limited to,
7 adopting rules or providing models and guidelines for agencies to
8 follow when:

- 9 (a) Creating their data catalogs;
- 10 (b) Setting a schedule for initial and ongoing publication of data;
- 11 (c) Prioritizing data sets for publication;
- 12 (d) Identifying and reviewing public data sets, including
13 consultation with public records officers and other entities to ensure
14 confidential or otherwise nonpublic information is not disclosed; and
- 15 (e) Preparing data for publication in an open format pursuant to
16 the uniform standard established under this section.

17 NEW SECTION. **Sec. 4.** LEGAL POLICY. (1) Public data sets made
18 available on the open data portal are provided for informational
19 purposes.

20 (2) The open data portal must include a mechanism by which a member
21 of the public who has identified deficiencies in a public data set can
22 provide feedback to the office about the deficiency. The office may
23 transmit the feedback to the agency that owns or controls the data set.
24 If the agency deems the deficiency to be real and substantial, it may
25 post a notice of such deficiency on the open data portal.

26 (3) The state does not warranty the completeness, accuracy,
27 content, or fitness for any particular purpose or use of any public
28 data set made available on the open data portal, nor are any such
29 warranties to be implied or inferred with respect to the public data
30 sets furnished on the open data portal.

31 (4) The state is not liable for any deficiencies in the
32 completeness, accuracy, content, or fitness for any particular purpose
33 or use of any public data set, or application using the data set,
34 provided by any third party.

35 (5) Nothing in this chapter may be construed to create a private
36 right of action or claim on the part of any individual, entity, or

1 agency to enforce its provisions. Failure to comply with this chapter
2 does not result in liability to an agency.

3 (6) The office shall conspicuously publish on the open data portal
4 the legal policies set forth in this section.

5 **Sec. 5.** RCW 43.41A.010 and 2013 2nd sp.s. c 33 s 3 are each
6 amended to read as follows:

7 (1) The office of the chief information officer is created within
8 the office of financial management.

9 (2) Powers, duties, and functions assigned to the department of
10 information services as specified in this chapter shall be transferred
11 to the office of chief information officer as provided in this chapter.

12 (3) The primary duties of the office are:

13 (a) To prepare and lead the implementation of a strategic direction
14 and enterprise architecture for information technology for state
15 government;

16 (b) To enable the standardization and consolidation of information
17 technology infrastructure across all state agencies to support
18 enterprise-based system development and improve and maintain service
19 delivery;

20 (c) To establish standards and policies for the consistent and
21 efficient operation of information technology services throughout state
22 government;

23 (d) To establish statewide enterprise architecture that will serve
24 as the organizing standard for information technology for state
25 agencies;

26 (e) To educate and inform state managers and policymakers on
27 technological developments, industry trends and best practices,
28 industry benchmarks that strengthen decision making and professional
29 development, and industry understanding for public managers and
30 decision makers; and

31 (f) To coordinate implementation and expansion of the open data
32 portal established in sections 3 and 4 of this act.

33 (4) In the case of institutions of higher education, the powers of
34 the office and the provisions of this chapter apply to business and
35 administrative applications but do not apply to (a) academic and
36 research applications; and (b) medical, clinical, and health care
37 applications, including the business and administrative applications

1 for such operations. However, institutions of higher education must
2 disclose to the office any proposed academic applications that are
3 enterprise-wide in nature relative to the needs and interests of other
4 institutions of higher education. Institutions of higher education
5 shall provide to the chief information officer sufficient data and
6 information on proposed expenditures on business and administrative
7 applications to permit the chief information officer to evaluate the
8 proposed expenditures pursuant to RCW 43.88.092(3).

9 (5) The legislature and the judiciary, which are constitutionally
10 recognized as separate branches of government, are strongly encouraged
11 to coordinate with the office and participate in shared services
12 initiatives and the development of enterprise-based strategies, where
13 appropriate. Legislative and judicial agencies of the state shall
14 submit to the chief information officer information on proposed
15 information technology expenditures to allow the chief information
16 officer to evaluate the proposed expenditures on an advisory basis.

17 **Sec. 6.** RCW 43.41A.125 and 1996 c 171 s 5 are each amended to read
18 as follows:

19 Within existing resources and consistent with section 3 of this
20 act, state agencies shall plan for and implement processes for making
21 information available electronically and for making public data sets
22 available in an open format. Public demand and agencies' missions and
23 goals shall drive the selection and priorities for government
24 information to be made available electronically. When planning for
25 increased public electronic access, agencies should determine what
26 information the public wants and needs most. Widespread public
27 electronic access does not mean that all government information is able
28 to be made available electronically.

29 (1) In planning for and implementing electronic access, state
30 agencies shall:

31 (a) Where appropriate, plan for electronic public access and two-
32 way electronic interaction when acquiring, redesigning, or rebuilding
33 information systems;

34 (b) Focus on providing electronic access to current information,
35 leaving archival material to be made available digitally as resources
36 allow or as a need arises;

1 (c) Coordinate technology planning across agency boundaries in
2 order to facilitate electronic access to vital public information;

3 (d) Develop processes to determine which information the public
4 most wants and needs;

5 (e) Develop and employ methods to readily withhold or mask
6 nondisclosable data.

7 (2) In planning or implementing electronic access and two-way
8 electronic interaction and delivery technologies, state agencies and
9 local governments are encouraged to:

10 (a) Increase their capabilities to receive information
11 electronically from the public and to transmit forms, applications, and
12 other communications and transactions electronically;

13 (b) Use technologies allowing public access throughout the state
14 that allow continuous access twenty-four hours a day, seven days per
15 week, involve little or no cost to access, and are capable of being
16 used by persons without extensive technological ability; and

17 (c) Consider and incorporate wherever possible ease of access to
18 electronic technologies by persons with disabilities. In planning and
19 implementing new public electronic access projects, agencies should
20 consult with people who have disabilities, with disability access
21 experts, and the general public.

22 ~~((3) The final report of the public information access policy task
23 force, "Encouraging Widespread Public Electronic Access to Public
24 Records and Information Held by State and Local Governments," shall
25 serve as a major resource for state agencies and local governments in
26 planning and providing increased access to electronic public records
27 and information.))~~

28 **Sec. 7.** RCW 43.41A.130 and 1996 c 171 s 12 are each amended to
29 read as follows:

30 Funding to meet the costs of providing access, including the
31 building of the necessary information systems, the digitizing of
32 information, ~~((developing))~~ the preparation of data in open and
33 machine-readable formats, the development of the ability to mask
34 nondisclosable information, and maintenance and upgrade of information
35 access systems should come primarily from state and local
36 appropriations, federal dollars, grants, private funds, cooperative
37 ventures among governments, nonexclusive licensing, and public/private

1 partnerships. Agencies should not offer customized electronic access
2 services as the primary way of responding to requests or as a primary
3 source of revenue. Fees for staff time to respond to requests, and
4 other direct costs may be included in costs of providing customized
5 access.

6 Agencies and local governments are encouraged to pool resources and
7 to form cooperative ventures to provide electronic access to government
8 records and information. State agencies are encouraged to seek federal
9 and private grants for projects that provide increased efficiency and
10 improve government delivery of information and services, including
11 projects that facilitate or expedite the inclusion of all public data
12 sets in the open data portal.

13 NEW SECTION. Sec. 8. RCW 43.41A.115 (Electronic access to public
14 records--Findings--Intent) and 1996 c 171 s 1 are each repealed.

15 NEW SECTION. Sec. 9. RCW 43.41A.120, 43.41A.125, and 43.41A.130
16 are each recodified as sections in the new chapter created in section
17 11 of this act.

18 NEW SECTION. Sec. 10. RCW 43.41A.135 is decodified.

19 NEW SECTION. Sec. 11. Sections 1, 3, and 4 of this act constitute
20 a new chapter in Title 42 RCW.

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