

CHAPTER 2

AN ACT requiring that certain information be provided on the Internet to the public and to State departments and agencies, and supplementing Title 52 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.52:18A-234.1 Short title.

1. This act shall be known and may be cited as the “New Jersey Open Data Initiative.”

C.52:18A-234.2 Findings, declarations relative to provision of certain information on the Internet.

2. The Legislature finds and declares:

- a. It is in the interest of this State to increase public awareness of and access to the data created by and available from State agencies because such data can enhance transparency and accountability, encourage public engagement, and stimulate public policy and public service innovation;

- b. The data generated by the Executive Branch of State government can spur economic development because it enables private sector companies to use such data to produce innovative and creative items and services that benefit the citizens of this State;

- c. The efficient integration, management, and governance of data will greatly improve State government programs and the delivery of a wide range of services to New Jersey’s citizens, thereby enhancing their lives;

- d. At the same time, it is vitally important that the data held by one State agency be made readily available to other State agencies with a minimum of administrative hurdles, so that data shared across the Executive Branch contribute to the effective and cost-efficient delivery of a wide range of government information and services; and

- e. The Office of Information Technology, with the cooperation of the Department of the Treasury, is the appropriate agency to develop, coordinate, and oversee the presentation of government data to the public and the sharing of information among State government agencies so that the information and services those agencies provide can be delivered in the most efficient and cost-effective manner possible.

C.52:18A-234.3 Definitions relative to provision of certain information on the Internet.

3. As used in this act:

“Agency” means any of the principal departments of the Executive Branch, including the Department of the Treasury, and any division, office, board, bureau, commission, authority or entity therein or allocated thereto to comply with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution.

“Data” means final versions of statistical or factual information in alphanumeric form, in as granular form as possible, and reflected in a list, table, graph, chart, map, or other non-narrative form that can be digitally transmitted or processed, and regularly created or maintained by or on behalf of and owned by a State department or agency that records a measurement, transaction, or determination related to the mission of that State department or agency.

“Dataset” means a named collection of related, digitally-stored data with the collection containing individual data units organized or formatted in a specific and prescribed way, often in tabular form, and accessed by a specific access method that is based on the dataset organization, but not including any data that is protected from disclosure under applicable federal or State law.

“Open data” means data that is collected by an agency that is not prohibited from being made available to the public or another State agency by applicable laws, rules, regulations, policies, or other restrictions, requirements or rights associated with such data, including, but not limited to, contractual or other legal orders, restrictions or requirements.

“Open data website” means either the unique, dedicated open data website implemented by the Chief Data Officer or an agency’s website upon which open datasets are hosted.

C.52:18A-234.4 Chief Data Officer; appointment, authority, responsibilities; rules, regulations.

4. a. A Chief Data Officer shall be appointed by the Chief Technology Officer, after consultation with the State Treasurer. The Chief Data Officer, in cooperation with the State Treasurer, shall be responsible for overseeing and implementing a unique, dedicated open data website and any additional or existing open data websites linked thereto by an agency. The Chief Data Officer shall have the authority to:

(1) establish, in consultation with the Attorney General, procedures, standards, and best practices regarding the appropriate access and presentation of open data and datasets by each agency;

(2) develop a dataset format standard to be used by all agencies in providing their datasets to the Chief Data Officer, or in making their data available on their own websites, and ensure that under the standard, the datasets shall be accessible in a non-proprietary, machine-readable format that is compliant with federal and State accessibility rules and requirements and implemented on a schedule deemed appropriate by the Chief Data Officer;

(3) monitor and ensure compliance with the procedures, standards, and policies adopted pursuant to this act;

(4) provide such management and technical assistance as the Chief Data Officer deems necessary to ensure that there is ready access to the open data and datasets available to the public and agencies; and

(5) develop, in conjunction with the Attorney General, a methodology to review and reconcile inter-agency disputes regarding access to open data and datasets, and privacy issues.

b. The Chief Data Officer, with the cooperation of the State Treasurer, shall be responsible for:

(1) creating and maintaining a unique, dedicated website that either provides datasets maintained and provided by agencies or searchable links to datasets hosted by agency websites;

(2) updating datasets and links as they are provided by an agency; and

(3) monitoring agency websites to make certain they follow the policies and procedures established by the Chief Data Officer pursuant to this section.

The State Treasurer and an agency may, pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), adopt such rules and regulations as may be deemed necessary to effectuate the purposes of this act.

C.52:18A-234.5 Provision of information by agency.

5. a. Each agency shall either provide datasets to the Chief Data Officer, in a format determined thereby pursuant to section 4 of P.L.2017, c.2 (C.52:18A-234.4), or create and maintain on the agency’s website links to the datasets hosted by the agency. Agencies that choose to host their open datasets on their own websites shall provide links to the Chief Data

Officer for publication thereof on the dedicated website maintained for that purpose by that officer.

b. Each agency shall adopt policies that are consistent with the open data security and technical standards, policies, and practices established by the Chief Data Officer pursuant to section 4 of P.L.2017, c.2 (C.52:18A-234.4) that govern access to open data and datasets available on the open data website of the agency. In addition, each agency shall:

(1) create, maintain, and post or have posted on the open data website an inventory of all its open data and datasets pursuant to the standards and timetables established by the Chief Data Officer;

(2) include on the open data website appropriate explanations about the open data, its format, how often the open data and datasets are updated, and how notice regarding such updates can be obtained; and

(3) assist users to gain access to the open data and datasets of the agency through the deployment of online access tools, and the development and publication of application program interfaces.

Each agency shall update the open data and datasets on the timetable and in the manner determined by the Chief Data Officer to effectuate the purposes of this act.

Unless a fee is required by law, open datasets shall be provided to the public by an agency without cost to the public.

A dataset that is licensed to the State by a person that is not an employee thereof or by an entity that is not a public entity shall not be made available to the public on the open data website until the dataset has been reviewed by the Attorney General pursuant to guidelines established thereby, and the person or entity licensing the data agrees to the public disclosure and to the form of such disclosure.

All open data and datasets shall be consistent with applicable law, including P.L.1963, c.73 (C.47:1A-1 et seq.), commonly known as the open public records act, and other State and federal laws related to information security and privacy. The open data and datasets made available by an agency on the open data website shall not include data that is not subject to public disclosure under such laws.

Open data and datasets made available by an agency on the open data website, unless subject to a disclosed legal restriction, shall be treated as license-free, subject to reuse, and not subject to copyright restrictions.

Unless specifically prohibited by a contract, open data and datasets containing data created or maintained by a contractor under contract to, or licensed from, an agency shall be made available on the open data website. Each such contract shall be subject to the provisions of this act and any applicable federal and State law, including but not limited to, P.L.1963, c.73 (C.47:1A-1 et seq.), known commonly as the open public records act.

C.52:18A-234.6 Agency to not warrant fitness of information, immunity from liability.

6. An agency shall not warrant the fitness for any particular purpose of any open data or datasets presented on the open data website, nor shall an agency providing open data or a dataset on the open data website be liable for any deficiencies in its completeness or accuracy, except when the agency's conduct would constitute gross negligence, willful and wanton misconduct, or intentional misconduct.

Each agency, pursuant to standards and policies established by the Chief Data Officer with the cooperation of the State Treasurer, shall verify the accuracy of the open data and datasets it makes available to the public on the open data website and, if possible, correct any

errors or inaccuracies discovered by the agency providing the open data or dataset, other agencies, or the public.

Nothing in this section shall require an agency to make its open data and datasets available to the public on the open data website upon the demand of the public. Requests for open data or datasets not posted on the open data website are subject to potential disclosure under P.L.1963, c.73 (C.47:1A-1 et seq.), known commonly as the open public records act.

Unless contrary to specific policies or rules established by the Chief Data Officer, agencies shall not require a user of an open data website to register or provide any user information as a condition to obtaining the open data or datasets provided by the agency on the open data website.

Notwithstanding any rule, regulation or statute to the contrary, agencies shall be actively encouraged by the Chief Data Officer and the State Treasurer to share open data and datasets with each other without formal agreements, provided that no existing laws regarding the security of personal, private, and confidential information are violated. The sharing of personal, private, or confidential data shall be permitted only when in conformity with restrictions, established by the Chief Data Officer in cooperation with the Attorney General, to ensure that the data is used in a manner that is secure and in conformity with State law.

C.52:18A-234.7 Construction of act.

7. Nothing in P.L.2017, c.2 (C.52:18A-234.1 et seq.) shall be construed as superseding the provisions of P.L.1963, c.73 (C.47:1A-1 et seq.), known commonly as the open public records act.

8. On the first day of the 24th month following the date of enactment of this act, P.L.2017, c.2 (C.52:18A-234.1 et seq.), the Chief Technology Officer, after consultation with the State Treasurer, shall submit a written report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature discussing: a) the progress made on the implementation of the act; b) the act's effectiveness in providing open data and datasets to the public and among agencies compared with the providing and sharing of such data before the enactment of the act; c) the feasibility of requiring the Legislative and Judicial Branches to make open data and datasets available to the public and other agencies; and d) such other items as the Chief Technology Officer or the State Treasurer deems necessary. The report may include any recommendations for changes made by the Chief Technology Officer or the State Treasurer to P.L.2017, c.2 (C.52:18A-234.1 et seq.) or related sections of current law.

9. This act shall take effect on the 90th day following the date of enactment. An agency may take such anticipatory administrative action in advance of the effective date as may be necessary for the implementation of this act.

Approved February 6, 2017.