

# STATE OF NEW YORK

2432--A

2019-2020 Regular Sessions

## IN SENATE

January 24, 2019

Introduced by Sen. SERRANO -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- recommitted to the Committee on Investigations and Government Operations in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public officers law, in relation to requiring public disclosure of certain state agency materials; and to amend the state technology law, in relation to authorizing the office of information technology services to publish a technical standards manual for the publishing of records on the internet by state agencies

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act shall be known as and may be cited as the "Open  
2 New York Act".

3 § 2. Section 86 of the public officers law is amended by adding four  
4 new subdivisions 6, 7, 8 and 9 to read as follows:

5 6. "Consensus" means general agreement, but not necessarily unanimity,  
6 and includes a process for attempting to resolve objections by inter-  
7 ested parties, as long as all comments have been fairly considered.

8 7. "Technical standard" means (a) the common and repeated use of  
9 rules, conditions, guidelines or characteristics for products or related  
10 processes and production methods, and related management systems prac-  
11 tices and (b) the definition of terms; classification of components,  
12 delineation of procedures; specifications of dimensions, materials,  
13 performance, designs or operations; measurement of quality and quantity  
14 in describing materials, processes, products, systems, services or prac-  
15 tices; test methods and sampling procedures; or descriptions of fit and  
16 measurements of size or strength.

17 8. "Voluntary consensus standards" means standards developed or  
18 adopted by voluntary consensus standards bodies, both domestic and

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 international. These standards include provisions requiring that owners  
2 of relevant intellectual property agree to make such intellectual prop-  
3 erty available on a non-discriminatory, royalty-free or reasonable  
4 royalty basis to all interested parties.

5 9. "Voluntary consensus standards bodies" means domestic or interna-  
6 tional organizations which plan, develop, establish, or coordinate  
7 voluntary consensus standards using agreed-upon procedures.

8 § 3. The opening paragraph of paragraph (c) of subdivision 1 of  
9 section 87 of the public officers law, as added by chapter 223 of the  
10 laws of 2008, is amended and a new subdivision 2-a is added to read as  
11 follows:

12 In determining the actual cost of reproducing a physical copy of a  
13 record, an agency may include only:

14 2-a. All records available pursuant to the provisions of this section  
15 shall be available in electronic form pursuant to the provisions of this  
16 section and in accordance with the provisions of section eighty-seven-a  
17 of this article.

18 § 4. The public officers law is amended by adding a new section 87-a  
19 to read as follows:

20 § 87-a. State internet records policy. 1. (a) The committee on open  
21 government shall promulgate rules establishing an internet record policy  
22 for the state of New York no later than January third, two thousand  
23 twenty-one, for the purposes of making agency records available on the  
24 internet and ensuring agency compliance with the provisions of this  
25 article. Such policy shall include, but not be limited to, guidelines to  
26 assist agencies in classifying their records either as immediate, prior-  
27 ity, legacy or exempt pursuant to the agency compliance plan described  
28 in subdivision two of this section.

29 (b) The committee on open government shall consult with the office of  
30 information technology services regarding the preparation, publication  
31 and periodic updating of a technical standards manual for the publishing  
32 of records on the internet by state agencies as provided in subdivision  
33 twelve-c of section one hundred three of the state technology law.

34 (c) Each state agency, in consultation with the office of information  
35 technology services and the committee on open government, shall review  
36 all records under its control and shall classify them as immediate,  
37 priority, legacy or exempt in accordance with the provisions of subdivi-  
38 sion three of this section.

39 (d) Each state agency, in consultation with the office of information  
40 technology services and the committee on open government, shall submit  
41 an agency compliance plan to the governor and the legislature no later  
42 than January third, two thousand twenty-two. Such plan shall describe  
43 how such agency intends to achieve full compliance with the provisions  
44 of this section by July seventh, two thousand twenty-five, and shall  
45 include an accounting of all records under the control of the agency and  
46 how such records have been classified pursuant to subdivision two of  
47 this section.

48 2. (a) Each state agency shall make its records available for  
49 inspection by the public on the internet through a single web portal  
50 pursuant to the timetable established by the agency in its agency  
51 compliance plan.

52 (b) All records shall be available on a permanent basis, in machine-  
53 readable and unprocessed electronic format and in their complete form,  
54 except for those records or portions of records classified as exempt  
55 pursuant to subdivision three of this section.

1 (c) All records shall be available to the public without any registra-  
2 tion requirement, license requirement, fees, or restrictions on their  
3 use unless otherwise provided by law.

4 3. State agency records shall be classified as follows:

5 (a) immediate: any record in possession of an agency as of the effec-  
6 tive date of this section and any record such agency acquires or creates  
7 after such effective date through January third, two thousand twenty-  
8 two, that can be made available on the internet pursuant to the  
9 provisions of section eighty-seven of this article within thirty days of  
10 the agency acquiring or creating such record shall be classified as  
11 immediate. Agencies should make best efforts to classify as many records  
12 as immediate as is possible. Any record acquired or created after Janu-  
13 ary third, two thousand twenty-four, shall be classified as immediate,  
14 and shall be made available pursuant to the provisions of section eight-  
15 y-seven of this article in as close to real-time as possible;

16 (b) legacy: any record that, due to its size or complexity, or due to  
17 technology constraints, cannot be made available on the internet pursu-  
18 ant to the provisions of section eighty-seven of this article by July  
19 seventh, two thousand twenty-five, shall be classified as legacy. Agen-  
20 cies shall make best efforts to avoid placing records into the legacy  
21 classification;

22 (c) priority: any record that is not classified as immediate, legacy  
23 or exempt shall be classified as priority; or

24 (d) exempt: any record or portion of a record which is not required to  
25 be disclosed pursuant to the provisions of subdivision two of section  
26 eighty-seven of this article shall be classified as exempt.

27 4. State agency records shall be made available on the internet  
28 according to the following schedule:

29 (a) records classified as immediate shall be available no later than  
30 July fourth, two thousand twenty-two;

31 (b) records classified as priority shall be available no later than  
32 July second, two thousand twenty-three;

33 (c) records classified as legacy shall be available no later than July  
34 seventh, two thousand twenty-four;

35 (d) records or portions of records specified as exempt shall be exempt  
36 from the provisions of this section.

37 5. Notwithstanding the provisions of paragraph (c) of subdivision one  
38 of section eighty-seven of this article, no fees may be charged for  
39 physical copies of records:

40 (a) which are classified as immediate according to the provisions of  
41 this section and which are not available pursuant to provisions of this  
42 section on or after July fourth, two thousand twenty-two;

43 (b) which are classified as priority according to the provisions of  
44 this section and which are not available pursuant to provisions of this  
45 section on or after July second, two thousand twenty-three; or

46 (c) which are classified as legacy according to the provisions of this  
47 section and which are not available pursuant to provisions of this  
48 section on or after July seventh, two thousand twenty-four.

49 § 5. Section 103 of the state technology law is amended by adding two  
50 new subdivisions 5-a and 12-c to read as follows:

51 5-a. To establish, oversee, manage, coordinate and facilitate the  
52 planning, design and implementation of a single web portal for use by  
53 state agencies in making records available to the public as provided in  
54 section eighty-seven-a of the public officers law;

55 12-c. In consultation with the committee on open government, to  
56 prepare and publish a technical standards manual for the publishing of

1 records on the internet by state agencies as provided in article six of  
2 the public officers law no later than January third, two thousand twen-  
3 ty-two, and shall base such manual on technical standards for web  
4 publishing and e-government that have been developed or adopted by  
5 voluntary consensus standards bodies. Such manual shall be updated by  
6 the office, in conjunction with the committee on open government, as  
7 necessary. The office shall consult with voluntary consensus standards  
8 bodies and shall, when such participation is feasible, in the public  
9 interest and is compatible with agency and departmental missions,  
10 authorities, priorities, and budget resources, participate with such  
11 bodies in the development of technical standards. The office shall  
12 promulgate and adopt all necessary rules and regulations to ensure that  
13 state agencies publish their records on the internet in accordance with  
14 such technical standards manual;

15 § 6. This act shall take effect immediately.