

# STATE OF NEW YORK

2432

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

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 for technology 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  
19 international. These standards include provisions requiring that owners  
20 of relevant intellectual property agree to make such intellectual prop-

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

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1 erty available on a non-discriminatory, royalty-free or reasonable  
2 royalty basis to all interested parties.

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

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

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

12 2-a. All records available pursuant to the provisions of this section  
13 shall be available in electronic form pursuant to the provisions of this  
14 section and in accordance with the provisions of section eighty-seven-a  
15 of this article.

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

18 § 87-a. State internet records policy. 1. (a) The committee on open  
19 government shall promulgate rules establishing an internet record policy  
20 for the state of New York no later than January third, two thousand  
21 twenty, for the purposes of making agency records available on the  
22 internet and ensuring agency compliance with the provisions of this  
23 article. Such policy shall include, but not be limited to, guidelines to  
24 assist agencies in classifying their records either as immediate, prior-  
25 ity, legacy or exempt pursuant to the agency compliance plan described  
26 in subdivision two of this section.

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

32 (c) Each state agency, in consultation with the office for technology  
33 and the committee on open government, shall review all records under its  
34 control and shall classify them as immediate, priority, legacy or exempt  
35 in accordance with the provisions of subdivision three of this section.

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

44 2. (a) Each state agency shall make its records available for  
45 inspection by the public on the internet through a single web portal  
46 pursuant to the timetable established by the agency in its agency  
47 compliance plan.

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

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

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

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

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

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

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

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

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

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

29 (c) records classified as legacy shall be available no later than July  
30 seventh, two thousand twenty-three;

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

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

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

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

42 (c) which are classified as legacy according to the provisions of this  
43 section and which are not available pursuant to provisions of this  
44 section on or after July seventh, two thousand twenty-three.

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

47 5-a. To establish, oversee, manage, coordinate and facilitate the  
48 planning, design and implementation of a single web portal for use by  
49 state agencies in making records available to the public as provided in  
50 section eighty-seven-a of the public officers law;

51 12-c. In consultation with the committee on open government, to  
52 prepare and publish a technical standards manual for the publishing of  
53 records on the internet by state agencies as provided in article six of  
54 the public officers law no later than January third, two thousand twen-  
55 ty-one, and shall base such manual on technical standards for web  
56 publishing and e-government that have been developed or adopted by

1 voluntary consensus standards bodies. Such manual shall be updated by  
2 the office, in conjunction with the committee on open government, as  
3 necessary. The office shall consult with voluntary consensus standards  
4 bodies and shall, when such participation is feasible, in the public  
5 interest and is compatible with agency and departmental missions,  
6 authorities, priorities, and budget resources, participate with such  
7 bodies in the development of technical standards. The office shall  
8 promulgate and adopt all necessary rules and regulations to ensure that  
9 state agencies publish their records on the internet in accordance with  
10 such technical standards manual;

11 § 6. This act shall take effect immediately.