STATE OF NEW YORK

6212

2023-2024 Regular Sessions

IN ASSEMBLY

April 3, 2023

Introduced by M. of A. SLATER -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the public officers law and the state technology law, in relation to establishing the open data law

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

Section 1. The public officers law is amended by adding a new article 6-B to read as follows:

ARTICLE 6-B
OPEN DATA LAW

Section 99-a. Short title.
99-b. Definitions.
99-c. Open data website.
99-d. Data working group.
99-e. Publication of data.
99-f. Participation by other state entities and political subdivisions.
99-g. Guidelines.
99-h. Reporting requirements.
99-i. Severability.

§ 99-a. Short title. This article shall be known and may be cited as the "open data law".

§ 99-b. Definitions. As used in this article, the following terms shall have the following meanings:

1. "Covered state entity" shall mean any state department, board, bureau, division, commission, committee, public authority, public corporation, council, office or other governmental entity performing a governmental or proprietary function for the state except the judiciary or the state legislature.

2. "Data" shall mean final versions of statistical or factual information that:

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

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(a) are in alphanumeric form reflected in a list, table, graph, chart or other non-narrative form, that can be digitally transmitted or processed;

(b) are regularly created or maintained by or on behalf of a covered state entity and are controlled by such entity; and

(c) record a measurement, transaction or determination related to the mission of the covered state entity.

The term "data" shall not include image files, such as designs, drawings, and photos or scanned copies of original documents; provided, however, that the term "data" shall include statistical or factual information about image files and geographic information system data.

3. "Data set" shall mean a named collection of related records maintained on a storage device, with the collection containing data organized or formatted in a specific or prescribed way, often in tabular form.

4. "Publishable state data" shall mean a comprehensive collection of interrelated data that is available for inspection by the public in accordance with any provision of law and is maintained on a computer system by, or on behalf of, a covered state entity. Such term shall not be publishable state data if making such data available on the open data website would violate statute or regulation, endanger the public health, safety or welfare, interfere with a criminal or civil investigation or impose an undue financial, operational, or administrative burden on a covered state entity or the state. Such term shall also not include:

(a) any portion of data to which a covered state entity may deny access pursuant to article six or six-A of this chapter or any other federal or state law, rule or regulation;

(b) any data set that contains a significant amount of data to which a covered state entity may deny access pursuant to article six or six-A of this chapter or any other provision of a federal or state law, and where removing such data would impose undue financial or administrative burden;

(c) data that reflects the internal deliberative process of a covered state entity including but not limited to negotiating positions, future procurements, or pending or reasonably anticipated legal or administrative proceedings;

(d) data stored on a covered state entity-owned personal computing device, or data stored on a portion of a network that has been exclusively assigned to a single covered state entity employee or a single covered state entity-owned or controlled computing device;

(e) materials that have been subject to copyright, patent, trademark, confidentiality agreements or trade secret protection;

(f) proprietary applications, computer code, software, operating systems or similar materials; or

(g) employment records, internal employee-related directories or lists, and facilities data, information technology, internal service-desk and other data related to internal covered state entity administration.

5. "Technical standard" shall mean:

(a) the common and repeated use of rules, conditions, guidelines or characteristics for products or related processes and production methods, and related management systems practices; and

(b) (i) the definition of terms; (ii) classification of components; (iii) delineation of procedures; (iv) specifications of dimensions, materials, performance, designs or operations; (v) measurement of quality and quantity in describing materials, processes, products, systems,

services or practices; (vi) test methods and sampling procedures; or (vii) descriptions of fit and measurements of size or strength.

§ 99-c. Open data website. 1. An online open data website for the collection and public dissemination of publishable state data is hereby established in the office of information technology services. The open data website shall be maintained at data.ny.gov or such other successor website maintained by, or on behalf of, the state, as deemed appropriate by the office of information technology services. The open data website will provide access to publishable state data that is owned, controlled, collected or otherwise maintained by covered state entities.

2. (a) The office of information technology services, in coordination with the committee for open government, and the data working group shall coordinate implementation and expansion of the open data website to facilitate the sharing of information.

(b) Within sixty days after the effective date of this article, each covered state entity shall designate a data coordinator, who shall have authority to make decisions or otherwise bind a covered state entity, have knowledge of data and resources in use by the entity, and shall be responsible for that covered state entity's compliance with this article.

§ 99-d. Data working group. Within forty-five days after the effective date of this article, the office of information technology services shall establish a data working group made up of representatives from the office of information technology services and the information security division of the office of information technology services, the office of general services, the division of budget, the committee on open government, a representative from the department of state with expertise in local governments and at least eight but no more than twelve data coordinators who shall represent an appropriate cross-section of covered state entities. Such data coordinators shall be chosen by the representative of the office of information technology services. The data working group shall assist the office of information technology services in carrying out its duties under this article.

§ 99-e. Publication of data. 1. All covered state entities shall make their publishable state data available on the open data website as follows:

(a) Within one year of the effective date of this article and thereafter, all publishable state data shall be accessible on the open data website. If a covered state entity cannot make all such publishable state data available on the open data website pursuant to this article, the covered state entity shall report to the office of information technology services which publishable state data that it is unable to make available, the reasons why it cannot do so and the date by which the covered state entity expects that such publishable state data will be available on the open data website.

(b) Such publishable state data shall be made available pursuant to this article and shall be in a format that permits automated processing and shall make use of appropriate technology to notify the public of all updates.

(c) Such publishable state data shall be updated as often as is necessary to preserve the integrity and usefulness of the data sets to the extent that the covered state entity regularly maintains or updates the publishable state data and the public shall be notified of such updates.

(d) Such publishable state data shall be made available without any registration requirement, license requirement or restrictions on their use provided that the department may require a third party providing to

the public any publishable state data, or application utilizing such publishable state data, to explicitly identify the source and version of the publishable state data, and a description of any modifications made to such publishable state data. Registration requirements, license requirements or restrictions as used in this section shall not include measures required to ensure access to publishable state data, to protect the open data website housing publishable state data from unlawful abuse or attempts to damage or impair use of the website, or to analyze the types of data being used to improve service delivery.

(e) Such publishable state data shall be accessible to external search capabilities.

2. (a) Publishable state data made available pursuant to this article is provided for informational purposes. The state does not warranty the completeness, accuracy, content or fitness for any particular purpose or use of any publishable state data made available on the open data website, nor are any such warranties to be implied or inferred with respect to the publishable state data furnished therein.

(b) The state shall not be liable for any deficiencies in the completeness, accuracy, content or fitness for any particular purpose or use of any publishable state data, or application utilizing such publishable state data, provided by any third party.

(c) This article shall not be construed to create a private right of action to enforce its provisions. Failure to comply with this article shall not result in liability to a covered state entity.

§ 99-f. Participation by other state entities and political subdivisions. State agencies and authorities and political subdivisions of the state other than covered state entities may submit data to the open data website for publication in accordance with this article. The office of information technology services shall assist such agencies and authorities and such political subdivisions to use the open data website. Such assistance shall include, but not be limited to, technical assistance, and accommodations shall be made for variations among such agencies and authorities and such political subdivisions' capacity and equipment. Nothing in this section shall be construed to compel such agencies and authorities and such political subdivisions to submit data to the open data website.

§ 99-g. Guidelines. Within one hundred eighty days of the effective date of this article, the office of information technology services, in consultation with the data working group, and the committee on open government, shall prepare and publish guidelines for the publishing of publishable state data in raw or unprocessed form through an open data website by covered state entities for the purpose of making public data available to the greatest number of users and for the greatest number of applications and shall, whenever practicable, use open standards for web publishing. Such guidelines shall identify the reasons why each technical standard was selected and for which types of data it is applicable and may recommend or require that data be published in more than one technical standard. The guidelines shall include a plan to adopt or utilize a web application programming interface that permits application programs to request and receive publishable state data directly from the web portal. Such guidelines shall be updated as necessary. Such guidelines shall also:

(a) provide models and guidance for covered state entities to follow when creating their data sets;

(b) provide guidance to covered state entities on setting a schedule for initial and ongoing publication of data on the open data website including but not limited to requiring:

(i) consultation with the directors and staff of the covered state entity's public affairs or public information, legal and freedom of information law offices;

(ii) prioritization of publication of data based on the extent to which the data can be used to increase the covered state entity's accountability and responsiveness, improve public knowledge of the entity and its operations, further the mission of the entity, create economic opportunity, or respond to a need or demand identified after public consultation;

(c) provide guidelines for identifying and reviewing publishable state data by covered state entities before publication;

(d) provide uniform standards for the format of data submitted for publication on the open data website;

(e) set forth the open data website terms of use;

(f) provide guidelines on participation by agencies and authorities other than covered state entities and participation by political subdivisions;

(g) provide guidance on the publication of narrative data, such as reports; and

(h) any other guidelines necessary for the implementation of this article.

§ 99-h. Reporting requirements. 1. Within eighteen months of the effective date of this article, the office of information technology services shall submit a compliance plan to the governor, the temporary president of the senate and the speaker of the assembly and shall make such plan available to the public on the open data website. Each covered state entity shall cooperate with the office of information technology services in its preparation of such plan. The plan shall include a summary description of publishable state data under the control of each covered state entity on or after the effective date of this article, and shall prioritize such publishable state data for inclusion on the open data website. If publishable state data cannot be made available on the open data website on or before December thirty-first, two thousand twenty-six, the plan shall state the reasons why such set or sets of data cannot be made available, and, to the extent practicable, the date by which the covered state entity that owns the data believes that it will be available on the open data website.

(2) For purposes of prioritizing publishable state data, agencies shall consider whether information embodied in the publishable state data: (a) can be used to increase covered state entities' accountability and responsiveness; (b) improves public knowledge of the covered state entity and its operations; (c) furthers the mission of the covered state entity; (d) creates economic opportunity; or (e) responds to a need or demand identified by public consultation.

(3) No later than July fifteenth, two thousand twenty-six and every July fifteenth thereafter, the office of information technology services shall submit and post on the web portal an update of the compliance plan to the governor, the temporary president of the senate and the speaker of the assembly until all publishable state data has been made available through an open data website in compliance with this article. Such update shall include the specific measures undertaken to make publishable state data available on the open data website since the immediately preceding update, specific measures that will be undertaken prior to the

next update, an update to the list of publishable state data and, if necessary, any changes to the prioritization of publishable state data. If publishable state data cannot be made available on the open data website on or before December thirty-first, two thousand twenty-eight, the update shall state the reasons why it cannot and, to the extent practicable, the date by which the covered state entity believes that such publishable state data will be available on the open data website.

§ 99-i. Severability. If any provision of this article or the application thereof to any person or circumstances is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of the article or the application thereof to other persons and circumstances.

§ 2. Section 103 of the state technology law is amended by adding a new subdivision 23 to read as follows:

23. To create and maintain the open data website and carry out the duties pursuant to article six-B of the public officers law.

§ 3. This act shall take effect on the ninetieth day after it shall have become a law.