

[Second Reprint]

SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE, No. 727**

**STATE OF NEW JERSEY**  
**217th LEGISLATURE**

ADOPTED MAY 23, 2016

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**SYNOPSIS**

“New Jersey Open Data Initiative” to require certain information be provided on Internet to public and State agencies.

**CURRENT VERSION OF TEXT**

As reported by the Assembly State and Local Government Committee on September 19, 2016, with amendments.

(Sponsorship Updated As Of: 12/20/2016)

1 AN ACT requiring that certain information be provided on the  
2 Internet to the public and to State departments and agencies, and  
3 supplementing Title 52 of the Revised Statutes.  
4

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

7  
8 1. This act shall be known and may be cited as the “New Jersey  
9 Open Data Initiative.”  
10

11 2. The Legislature finds and declares:

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

17 b. The data generated by the Executive Branch of State  
18 government can spur economic development because it enables  
19 <sup>1</sup>**private-sector** private sector<sup>1</sup> companies to use such data to  
20 produce innovative and creative items and services that benefit the  
21 citizens of this State;

22 c. The efficient integration, management, and governance of  
23 data will greatly improve State government programs and the  
24 delivery of a wide range of services to New Jersey’s <sup>1</sup>**citizen**  
25 citizens<sup>1</sup>, thereby enhancing their lives.

26 d. At the same time, it is vitally important that the data held by  
27 one State agency be made readily available to other State agencies  
28 with a minimum of administrative hurdles, so that data shared  
29 across the Executive Branch <sup>1</sup>**contributes** contribute<sup>1</sup> to the  
30 effective and cost-efficient delivery of a wide range of government  
31 information and services; and

32 e. The Office of Information Technology, with the cooperation  
33 of the Department of the Treasury, is the appropriate agency to  
34 develop, coordinate, and oversee the presentation of government  
35 data to the public and the sharing of information among State  
36 government agencies so that the information and services those  
37 agencies provide can be delivered in the most efficient and cost-  
38 effective manner possible.  
39

40 3. As used in this act:

41 “Agency” means any of the principal departments of the  
42 Executive Branch, including the Department of the Treasury, and  
43 any division, office, board, bureau, commission, authority or entity

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Senate floor amendments adopted June 23, 2016.

<sup>2</sup> Assembly ASL committee amendments adopted September 19, 2016.

1 therein or allocated thereto to comply with the provisions of Article  
2 V, Section IV, paragraph 1 of the New Jersey Constitution.

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

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

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

22 <sup>2</sup>“Open data website” means either the unique, dedicated open  
23 data website implemented by the Chief Data Officer or an agency’s  
24 website upon which open datasets are hosted.<sup>2</sup>

25  
26 4. a. A Chief Data Officer shall be appointed by the Chief  
27 Technology Officer, after consultation with the State Treasurer.  
28 The Chief Data Officer, in cooperation with the State Treasurer,  
29 shall be responsible for overseeing and implementing <sup>1</sup>**the** a  
30 unique, dedicated<sup>1</sup> open data website <sup>1</sup>**established by each agency**  
31 and any additional or existing open data websites linked thereto by  
32 an agency<sup>1</sup>. The Chief Data Officer shall have the authority to:

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

36 (2) develop a dataset format standard to be used by all agencies  
37 in providing their datasets to the Chief Data Officer, or in making  
38 their data available on their own websites, and ensure that under the  
39 standard, the datasets shall be accessible in a non-proprietary,  
40 <sup>1</sup>**machine readable** machine-readable<sup>1</sup> format that is compliant  
41 with federal and State accessibility rules and requirements and  
42 implemented on a schedule deemed appropriate by the Chief Data  
43 Officer;

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

46 (4) provide such management and technical assistance as the  
47 Chief Data Officer deems necessary to ensure that there is ready

1 access to the open data and datasets available to the public and  
2 agencies; and

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

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

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

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

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

16 The State Treasurer and an agency may, pursuant to the  
17 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et  
18 seq.), adopt such rules and regulations as may be deemed necessary  
19 to effectuate the purposes of this act.  
20

21 5. a. Each agency shall either provide datasets to the Chief  
22 Data Officer, in a format determined thereby pursuant to section 4  
23 of P.L. , c. (C. )(pending before the Legislature as  
24 this bill), or create and maintain on the agency’s website links to the  
25 datasets hosted by the agency. Agencies that choose to host their  
26 open datasets on their own websites shall provide links to the Chief  
27 Data Officer for publication thereof on the dedicated website  
28 maintained for that purpose by that officer.

29 b. Each agency shall adopt policies that are consistent with the  
30 open data security and technical standards, policies, and practices  
31 established by the Chief Data Officer pursuant to section 4 of  
32 P.L. , c. (C. )(pending before the Legislature as this  
33 bill) that govern access to open data and datasets available on the  
34 open data website of the agency. In addition, each agency shall:

35 (1) create, maintain, and post <sup>2</sup>or have posted<sup>2</sup> on <sup>2</sup>**[its]** the<sup>2</sup>  
36 open data website an inventory of all its open data and datasets  
37 pursuant to the standards and timetables established by the Chief  
38 Data Officer;

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

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

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

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

3 A dataset that is licensed to the State by a person that is not an  
4 employee thereof or by an entity that is not a public entity shall not  
5 be made available to the public on the open data website <sup>2</sup>[of an  
6 agency]<sup>2</sup> until the dataset has been reviewed by the Attorney  
7 General pursuant to guidelines established thereby, and the person  
8 or entity licensing the data agrees to the public disclosure and to the  
9 form of such disclosure.

10 All open data and datasets shall be consistent with applicable  
11 law, including P.L.1963, c.73 (C.47:1A-1 et seq.), commonly  
12 known as the open public records act, and other State and federal  
13 laws related to information security and privacy. The open data and  
14 datasets made available by an agency on <sup>2</sup>[its] the<sup>2</sup> open data  
15 website shall not include data that is not subject to public disclosure  
16 under such laws.

17 Open data and datasets made available by an agency on <sup>2</sup>[its]  
18 the<sup>2</sup> open data website, unless subject to a disclosed legal  
19 restriction, shall be treated as license-free, subject to reuse, and not  
20 subject to copyright restrictions.

21 Unless specifically prohibited by a contract, open data and  
22 datasets containing data created or maintained by a contractor under  
23 contract to, or licensed from, an agency shall be made available on  
24 the open data website <sup>2</sup>[of the agency or another agency]<sup>2</sup>. Each  
25 such contract shall be subject to the provisions of this act and any  
26 applicable federal and State law, including but not limited to,  
27 P.L.1963, c.73 (C.47:1A-1 et seq.), known commonly as the open  
28 public records act.

29  
30 6. An agency shall not warrant the fitness for any particular  
31 purpose of any open data or datasets presented on the open data  
32 website <sup>2</sup>[of that agency]<sup>2</sup>, nor shall an agency providing open data  
33 or a dataset on <sup>2</sup>[its] the<sup>2</sup> open data website be liable for any  
34 deficiencies in its completeness or accuracy, except when the  
35 agency's conduct would constitute gross negligence, willful and  
36 wanton misconduct, or intentional misconduct.

37 Each agency, pursuant to standards and policies established by  
38 the Chief Data Officer with the cooperation of the State Treasurer,  
39 shall verify the accuracy of the open data and datasets it makes  
40 available to the public on <sup>2</sup>[its] the<sup>2</sup> open data website and, if  
41 possible, correct any errors or inaccuracies discovered by the  
42 agency providing the open data or dataset, other agencies, or the  
43 public.

44 Nothing in this section shall require an agency to make its open  
45 data and datasets available to the public on <sup>2</sup>[its] the<sup>2</sup> open data  
46 website upon the demand of the public. Requests for open data or  
47 datasets not posted on <sup>2</sup>[an] the<sup>2</sup> open data website <sup>2</sup>[of an

1 agency<sup>2</sup> are subject to potential disclosure under P.L.1963, c.73  
2 (C.47:1A-1 et seq.), known commonly as the open public records  
3 act.

4 Unless contrary to specific policies or rules established by the  
5 Chief Data Officer, agencies shall not require a user of an open data  
6 website to register or provide any user information as a condition to  
7 obtaining the open data or <sup>2</sup>[data sets] datasets<sup>2</sup> provided by the  
8 agency on <sup>2</sup>[its] the<sup>2</sup> open data website.

9 Notwithstanding any <sup>2</sup>[rules] rule<sup>2</sup>, regulation or statute to the  
10 contrary, agencies shall be actively encouraged by the Chief Data  
11 Officer and the State Treasurer to share open data and datasets with  
12 each other without formal agreements, provided that no existing  
13 laws regarding the security of personal, private, and confidential  
14 information are violated. The sharing of personal, private, or  
15 confidential data shall be permitted only when in conformity with  
16 restrictions, established by the Chief Data Officer in cooperation  
17 with the Attorney General, to ensure that the data is used in a  
18 manner that is secure and in conformity with State law.

19

20 7. Nothing in P.L. , c. (C. )(pending before the  
21 Legislature as this bill) shall be construed as superseding the  
22 provisions of P.L.1963, c.73 (C.47:1A-1 et seq.), known commonly  
23 as the open public records act.

24

25 8. On the first day of the 24th month following the date of  
26 enactment of this act, P.L. , c. (C. )(pending before  
27 the Legislature as this bill), the Chief Technology Officer, after  
28 consultation with the State Treasurer, shall submit a written report  
29 to the Governor and, pursuant to section 2 of P.L.1991, c.164  
30 (C.52:14-19.1), to the Legislature discussing: a) the progress made  
31 on the implementation of the act; b) the act's effectiveness in  
32 providing open data and datasets to the public and among agencies  
33 compared with the providing and sharing of such data before the  
34 enactment of the act; c) the feasibility of requiring the Legislative  
35 and Judicial Branches to make open data and datasets available to  
36 the public and other agencies; and d) such other items as the Chief  
37 Technology Officer or the State Treasurer deems necessary. The  
38 report may include any recommendations for changes made by the  
39 Chief Technology Officer or the State Treasurer to P.L. ,  
40 c. (C. )(pending before the Legislature as this bill) or  
41 related sections of current law.

42

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