

# Enrolled House Bill 3361

Sponsored by Representative NATHANSON, Senators THATCHER, ROBLAN; Representatives ALONSO LEON, BARNHART, BYNUM, FAHEY, MEEK, NEARMAN, SOLLMAN, WHISNANT

CHAPTER .....

AN ACT

Relating to open data standards.

Whereas information is a strategic asset of the state, its partners and the public that must be managed as a valuable state resource; and

Whereas information must be managed throughout its life cycle to promote openness and interoperability and to properly safeguard systems and information; and

Whereas managing information as an asset will increase operational efficiencies, reduce costs, improve service delivery, support mission needs, safeguard personal information and increase public access to valuable state information; and

Whereas state agencies possess great amounts of valuable information and reports on all aspects of life for Oregonians, including, but not limited to, health, business, public safety, labor, transportation, parks and recreation; and

Whereas new information technology has fundamentally changed the way people search for, and expect to find, information, and can aggregate large quantities of data to allow the state to provide information to the public with increasing efficiency and thoroughness; and

Whereas the state can use these powerful information technology tools to enhance public access to publishable data, thus making the state more transparent and promoting public trust; and

Whereas ensuring the quality and consistency of publishable data is essential to maintaining their value and utility; and

Whereas it is the intent of the Legislative Assembly to establish an open data policy for state agencies to post publishable data directly onto a central website and provide single-stop access to publishable data that are owned, controlled, collected or maintained by state agencies; now, therefore,

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1. Definitions. As used in sections 1 to 8 of this 2017 Act:**

**(1)(a) “Data” means final versions of statistical or factual information, including statistical or factual data about image files, that:**

**(A) Is in alphanumeric form reflected in a list, table, graph, chart or other nonnarrative form that can be digitally transmitted or processed;**

**(B) Is controlled by and regularly created or maintained by, or on behalf of, a state agency; and**

**(C) Records a measurement, transaction or determination related to the mission of the agency.**

(b) "Data" does not include image files, including but not limited to designs, drawings, photos and scanned copies of original documents.

(2) "Dataset" means a named collection of related records, maintained on a storage device, that contains data organized, formatted or structured in a specific or prescribed way.

(3) "Mosaic effect" means a situation in which information in an individual dataset, in isolation, may not pose a risk of identifying an individual, but when combined with other available information could pose such a risk.

(4)(a) "Publishable data" means all data and datasets collected by a state agency.

(b) "Publishable data" does not include:

(A) Data to which a state agency may deny access pursuant to any provision of a federal, state or local law, rule or regulation, or another applicable policy or restriction.

(B) Data that contain a significant amount of information to which a state agency may deny access pursuant to any provision of a federal, state or local law, rule or regulation.

(C) Data that reflect the internal deliberative process of a state agency, including but not limited to negotiating positions, future procurements or pending or reasonably anticipated legal or administrative proceedings.

(D) Data stored on a personal computing device owned by a state agency, or data stored on a portion of a network that has been exclusively assigned to a single agency employee or to a single computing device owned or controlled by a state agency.

(E) Materials subject to copyright, patent, trademark, confidentiality agreements or trade secret protection.

(F) Materials that have commercial value or the disclosure of which could reduce a state agency's competitive advantage.

(G) Proprietary applications, computer code, software, operating systems and similar materials.

(H) Employment records, internal employee directories or lists, facilities data, information technology and other data related to internal state agency administration.

(I) Any other data the publication of which is prohibited by law.

(5) "State agency" means the executive department, as defined in ORS 174.112, except that "state agency" does not include the Secretary of State or the State Treasurer.

**SECTION 2. Chief Data Officer; duties; rules.** (1) The State Chief Information Officer shall appoint a Chief Data Officer.

(2) The Chief Data Officer shall:

(a) Maintain a central web portal for the publication of publishable data under section 5 of this 2017 Act.

(b) Establish the open data standard as provided in section 3 of this 2017 Act.

(c) Prepare and publish the technical standards manual as provided in section 4 of this 2017 Act.

(d) Create an enterprise data inventory that accounts for all datasets used within agency information systems and that indicates whether each dataset may be made publicly available and if the dataset is currently available to the public. The enterprise data inventory is a public record.

(e) Provide information protection and privacy guidance for state agencies.

(f) Establish an enterprise data and information strategy.

(g) Identify ways to use and share existing data for business intelligence and predictive analytic opportunities.

(h) Identify strategies to combine internal and external data sources.

(i) Establish statewide data governance and policy area data governance and provide guidance for agencies about data governance efforts.

(j) Oversee the delivery of education and standards to state agencies regarding data quality, master data management and data life cycle management.

(k) Form an advisory group to assist the Chief Data Officer in carrying out the duties described in this section and in establishing an enterprise memorandum of understanding for interagency data sharing.

(L) Submit a biennial report to a committee or interim committee of the Legislative Assembly related to information management and technology on:

(A) The status of agency posting of publishable data; and

(B) The status of data sharing within and between agencies, enabling cross-agency analysis to provide information for public purposes, including but not limited to program design and budgeting decisions.

(3) The Chief Data Officer may establish and maintain an online forum to solicit feedback from the public and to encourage discussion on the open data standard and publishable data available on the web portal.

(4) The State Chief Information Officer may adopt rules necessary to implement sections 1 to 8 of this 2017 Act.

**SECTION 3. Open data standard.** (1) The Chief Data Officer appointed under section 2 of this 2017 Act shall establish an open data standard for state agencies publishing publishable data on the web portal maintained under section 2 of this 2017 Act. A local or tribal government may adopt the standard. The standard must include:

(a) A format that permits public notification of updates whenever possible.

(b) Requirements to update publishable data as often as is necessary to preserve the integrity and usefulness of publishable data.

(c) The availability of publishable data without registration or license requirements or restrictions on the use of publishable data. As used in this paragraph, “registration or license requirements or restrictions on the use of publishable data” does not include measures designed or required to ensure access to publishable data, to protect the web portal from abuse or attempts to damage or impair the use of the web portal, or to analyze the types of publishable data being accessed to improve service delivery.

(d) The ability to electronically search publishable data using external information technology.

(2) In establishing the open data standard, the Chief Data Officer shall consult with subject matter experts from state agencies, organizations specializing in technology and innovation, the academic community and other interested groups designated by the Chief Data Officer. Whenever feasible, the Chief Data Officer shall consult with these entities in the development of technical and open standards.

(3) The Chief Data Officer may adopt rules to implement the open data standard.

**SECTION 4. Technical standards manual.** (1) The Chief Data Officer appointed under section 2 of this 2017 Act shall prepare and publish a technical standards manual for publishing data through the web portal maintained under section 2 of this 2017 Act. The manual must:

(a) Enable state agencies to make publishable data available to the greatest number of users and for the greatest number of applications and emphasize that state agencies must, whenever practicable, use open data standards for web publishing in a machine-readable format.

(b) Identify the policy for each technical standard and specify which types of data the standard applies to, and may recommend or require that publishable data be published in more than one technical standard.

(c) Include a plan to adopt or utilize a web application programming interface that permits application programs to request and receive publishable data directly from the web portal.

(2) The Chief Data Officer shall update the manual as necessary.

**SECTION 5. Release of publishable data on web portal; exemptions.** (1) A state agency that releases publishable data shall release the data on the web portal maintained under

section 2 of this 2017 Act in accordance with the open data standard and technical standards manual established by the Chief Data Officer under sections 3 and 4 of this 2017 Act. If a state agency cannot make all publishable data available on the web portal, the state agency shall report to the Chief Data Officer all publishable data that the agency is unable to make available and state the reasons why the agency is unable to make the data available and the date by which the agency expects the publishable data to be made available on the portal.

(2) The State Chief Information Officer shall adopt rules allowing a state agency to request an exemption from the requirements of subsection (1) of this section when:

(a) The release of publishable data would subject the agency's information systems to a substantial risk of cyberattack; or

(b) The state agency is purchasing software or vendor services and industry practices do not support downstream processing and dissemination activities.

**SECTION 6. Information management by state agencies.** (1) A state agency shall manage information as a strategic asset throughout the information's life cycle. To improve the management of information resources and reinforce the state's presumption of openness, an agency shall:

(a) Collect or create information in a way that supports downstream processing and dissemination activities, including:

(A) Using machine-readable and open formats;

(B) Using data standards approved by the Chief Data Officer in the collection and creation of information in order to promote data interoperability and openness;

(C) Ensuring information stewardship through the use of open licenses; and

(D) Using common core and extensible metadata.

(b) Build information systems to support interoperability and information accessibility.

(c) Strengthen data management and release practices to ensure agency data assets are managed and maintained throughout the assets' life cycle by:

(A) Adopting effective data asset portfolio management approaches.

(B) Creating and maintaining an inventory of agency information resources to be included in the enterprise data inventory.

(C) Creating and maintaining a public data listing, including datasets that can be made publicly available but that have not yet been released.

(D) Establishing a process to engage with customers and the public to help facilitate and prioritize data release.

(E) Clarifying roles and responsibilities for promoting efficient and effective data release practices.

(d) Strengthen measures to ensure that privacy and confidentiality are fully protected and that data are properly secured.

(e) Account for the mosaic effect of data aggregation.

(f) Incorporate new interoperability and openness requirements into core agency processes.

(2) A state agency shall integrate the following minimum requirements into the project planning documentation and technical design for all new information systems and systems preparing for modernization, as appropriate:

(a) System designs must be scalable and flexible and must facilitate the extraction of data in multiple formats, using standards and specifications in the system design that promote industry best practices for data sharing, and separation of data from the application layer to maximize data reuse opportunities;

(b) All data outputs of the associated system must meet the requirements described in paragraph (a) of this subsection; and

(c) Data schemata and dictionaries must be documented and shared with internal partners and the State Chief Information Officer.

(3)(a) A state agency's use of proprietary software may not diminish the ability of the public to inspect and copy a public record.

(b) A state agency may not enter into a contract for the creation of a public records database that impairs the ability of the public to inspect or copy the public records of the state agency, including but not limited to the documentation described in subsection (2)(c) of this section.

**SECTION 7. Purpose of data; limitation of liability; publishable data in public domain.** (1) Publishable data available on the web portal maintained under section 2 of this 2017 Act is provided for informational purposes only. The state does not warrant the completeness, accuracy, content or fitness for any particular purpose or use of publishable data made available on the web portal. No warranties may be implied or inferred with respect to the publishable data made available on the web portal.

(2) The state is not liable for any deficiencies in the completeness, accuracy, content or fitness for any particular purpose or use of publishable data made available on the web portal or by any third-party application utilizing publishable data.

(3) All publishable data is in the public domain for purposes of applicable copyright laws.

(4) The Chief Data Officer shall post the text of subsections (1) to (3) of this section on the web portal home page.

**SECTION 8. Obligations of state agency under public records law.** Sections 1 to 8 of this 2017 Act do not supersede any obligation imposed on a state agency by ORS 192.410 to 192.505.

**SECTION 9.** The Secretary of State and the State Treasurer shall by rule adopt for each respective office requirements related to data that are the same as, or are similar to, the requirements established by sections 1 to 8 of this 2017 Act and by rules adopted by the State Chief Information Officer or the Chief Data Officer under sections 1 to 8 of this 2017 Act.

**SECTION 10.** The Chief Data Officer shall first publish the manual described in section 4 of this 2017 Act on or before November 5, 2018.

**SECTION 11.** In addition to and not in lieu of any other appropriation, there is appropriated to the Oregon Department of Administrative Services, for the biennium beginning July 1, 2017, out of the General Fund, the amount of \$261,854, for the position of the Chief Data Officer established in section 2 of this 2017 Act.

**SECTION 12.** Sections 5 and 6 of this 2017 Act become operative on May 1, 2019.

**SECTION 13.** Section 6 (3)(b) of this 2017 Act applies to contracts entered into on or after the effective date of this 2017 Act.

**SECTION 14.** The section captions used in this 2017 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2017 Act.

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**Passed by House July 5, 2017**

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

**Passed by Senate July 7, 2017**

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Peter Courtney, President of Senate

**Received by Governor:**

.....M,....., 2017

**Approved:**

.....M,....., 2017

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Kate Brown, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2017

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Dennis Richardson, Secretary of State