

# House Bill 3399

Sponsored by Representative HUFFMAN

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires State Chief Information Officer by rule to require contracting agency that undertakes information technology initiative to provide in solicitation documents and public contract that contractor that supplies electronic database or structured collection of electronically stored data must supply contracting agency with capability to export data in nonproprietary open format and to redact from data information that contracting agency may not disclose.

Requires contractor to also supply contracting agency with document that describes in complete and detailed terms all tables and fields used to construct database or structured collection of electronically stored data and to assign all rights to document or execute irrevocable license to use, allow others to use, and prepare derivative works from document.

Provides that document is not subject to protection as trade secret or under any claim of confidentiality, is public record that is subject to disclosure and may not contain information that personally identifies any individual.

Becomes operative January 1, 2018.

Takes effect on 91st day after adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to requirements for procuring information technology initiatives that involve electronically  
3 stored data; and prescribing an effective date.

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

5 **SECTION 1. (1) As used in this section:**

6 (a) **"Contracting agency" has the meaning given that term in ORS 279A.010.**

7 (b) **"Information technology initiative" has the meaning given that term in ORS 291.035.**

8 (c) **"Procurement" has the meaning given that term in ORS 279A.010.**

9 (d) **"Public contract" has the meaning given that term in ORS 279A.010.**

10 (2) **The State Chief Information Officer by rule shall require a contracting agency that**  
11 **undertakes an information technology initiative to provide in solicitation documents for, and**  
12 **any public contract that results from, the information technology initiative that any con-**  
13 **tractor that supplies an electronic database or structured collection of electronically stored**  
14 **data as part of the information technology initiative must provide the contracting agency**  
15 **with:**

16 (a) **The capability, without needing to perform or obtain additional software programming**  
17 **or development, of:**

18 (A) **Exporting data into a nonproprietary electronic file in an open format such as a**  
19 **comma-delimited text file; and**

20 (B) **Redacting or removing from the electronic file described in subparagraph (A) of this**  
21 **paragraph specific data or data fields that contain information that a contracting agency**  
22 **may not disclose in response to a public records request; and**

23 (b) **A document that describes in complete and detailed terms all tables and fields the**  
24 **contractor used in constructing the electronic database or structured collection of electron-**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 ically stored data and information that is necessary to understand how the tables and fields  
2 interact and arrange or structure the data, along with which the contractor shall either:

3 (A) Execute an irrevocable assignment to the contracting agency of any and all of the  
4 contractor's rights, title and interest in the document, whether the rights, title or interest  
5 arises from copyright, patent, trade secret or any other state or federal intellectual property  
6 law or doctrine; or

7 (B) Grant to the contracting agency an irrevocable, nonexclusive, nontransferable, per-  
8 petual, royalty-free license to use the description, to authorize others to use the document  
9 and to prepare derivative works from the document.

10 (3) The document described in subsection (2)(b) of this section:

11 (a) Is not subject to classification or protection as a trade secret, notwithstanding the  
12 provisions of ORS 192.501 (2) or 646.461 (4);

13 (b) Is not subject to any claim of confidentiality;

14 (c) Is a public record that is not exempt or conditionally exempt from disclosure,  
15 notwithstanding any provision in ORS 192.410 to 192.505 or any court order or rule to the  
16 contrary;

17 (d) Is not subject to an injunction, damages or any other claim, action or remedy for  
18 actual or threatened misappropriation, notwithstanding any provision in ORS 646.461 to  
19 646.475; and

20 (e) May not contain any data or information that would personally identify any individual.

21 **SECTION 2.** Section 1 of this 2017 Act applies to a procurement that a contracting agency  
22 advertises or otherwise solicits or, if the contracting agency does not advertise or solicit the  
23 procurement, to a public contract into which a contracting agency enters on or after the  
24 operative date specified in section 3 of this 2017 Act.

25 **SECTION 3.** (1) Section 1 of this 2017 Act becomes operative January 1, 2018.

26 (2) The Attorney General, the Director of the Oregon Department of Administrative  
27 Services, the Director of Transportation and a contracting agency that adopts rules under  
28 ORS 279A.065 may adopt rules and take any other action before the operative date specified  
29 in subsection (1) of this section that is necessary to enable the Attorney General, the direc-  
30 tor or the contracting agency, on and after the operative date specified in subsection (1) of  
31 this section, to exercise all of the duties, functions and powers conferred on the Attorney  
32 General, the director or the contracting agency by section 1 of this 2017 Act.

33 **SECTION 4.** This 2017 Act takes effect on the 91st day after the date on which the 2017  
34 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.

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