

§§1-7 -
C.52:18A-234.1
to 52:18A-234.7
§8 - T&E
§9 - Note

P.L.2017, CHAPTER 2, *approved February 6, 2017*
Senate Committee Substitute (*Second Reprint*) for
Senate, No. 727

- 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 ¹~~private-sector~~ private sector¹ 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 ¹~~citizen~~
25 citizens¹, 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 ¹~~contributes~~ contribute¹ 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

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:

¹ Senate floor amendments adopted June 23, 2016.

² Assembly ASL committee amendments adopted September 19, 2016.

1 data to the public and the sharing of information among State
2 government agencies so that the information and services those
3 agencies provide can be delivered in the most efficient and cost-
4 effective manner possible.

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6 3. As used in this act:

7 “Agency” means any of the principal departments of the
8 Executive Branch, including the Department of the Treasury, and
9 any division, office, board, bureau, commission, authority or entity
10 therein or allocated thereto to comply with the provisions of Article
11 V, Section IV, paragraph 1 of the New Jersey Constitution.

12 “Data” means final versions of statistical or factual information
13 in alphanumeric form, in as granular form as possible, and reflected
14 in a list, table, graph, chart, map, or other non-narrative form that
15 can be digitally transmitted or processed, and regularly created or
16 maintained by or on behalf of and owned by a State department or
17 agency that records a measurement, transaction, or determination
18 related to the mission of that State department or agency.

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

25 “Open data” means data that is collected by an agency that is not
26 prohibited from being made available to the public or another State
27 agency by applicable laws, rules, regulations, policies, or other
28 restrictions, requirements or rights associated with such data,
29 including, but not limited to, contractual or other legal orders,
30 restrictions or requirements.

31 ²“Open data website” means either the unique, dedicated open
32 data website implemented by the Chief Data Officer or an agency’s
33 website upon which open datasets are hosted.²
34

35 4. a. A Chief Data Officer shall be appointed by the Chief
36 Technology Officer, after consultation with the State Treasurer.
37 The Chief Data Officer, in cooperation with the State Treasurer,
38 shall be responsible for overseeing and implementing ¹**[the] a**
39 unique, dedicated¹ open data website ¹**[established by each agency]**
40 and any additional or existing open data websites linked thereto by
41 an agency¹. The Chief Data Officer shall have the authority to:

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

45 (2) develop a dataset format standard to be used by all agencies
46 in providing their datasets to the Chief Data Officer, or in making
47 their data available on their own websites, and ensure that under the

1 standard, the datasets shall be accessible in a non-proprietary,
2 ¹**['machine readable']** machine-readable¹ format that is compliant
3 with federal and State accessibility rules and requirements and
4 implemented on a schedule deemed appropriate by the Chief Data
5 Officer;

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

8 (4) provide such management and technical assistance as the
9 Chief Data Officer deems necessary to ensure that there is ready
10 access to the open data and datasets available to the public and
11 agencies; and

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

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

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

20 (2) updating datasets and links as they are provided by an
21 agency; and

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

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

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30 5. a. Each agency shall either provide datasets to the Chief
31 Data Officer, in a format determined thereby pursuant to section 4
32 of P.L. , c. (C.)(pending before the Legislature as
33 this bill), or create and maintain on the agency’s website links to the
34 datasets hosted by the agency. Agencies that choose to host their
35 open datasets on their own websites shall provide links to the Chief
36 Data Officer for publication thereof on the dedicated website
37 maintained for that purpose by that officer.

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

44 (1) create, maintain, and post ²or have posted² on ²**['its']** the²
45 open data website an inventory of all its open data and datasets
46 pursuant to the standards and timetables established by the Chief
47 Data Officer;

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

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

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

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

13 A dataset that is licensed to the State by a person that is not an
14 employee thereof or by an entity that is not a public entity shall not
15 be made available to the public on the open data website ²[of an
16 agency]² until the dataset has been reviewed by the Attorney
17 General pursuant to guidelines established thereby, and the person
18 or entity licensing the data agrees to the public disclosure and to the
19 form of such disclosure.

20 All open data and datasets shall be consistent with applicable
21 law, including P.L.1963, c.73 (C.47:1A-1 et seq.), commonly
22 known as the open public records act, and other State and federal
23 laws related to information security and privacy. The open data and
24 datasets made available by an agency on ²[its] the² open data
25 website shall not include data that is not subject to public disclosure
26 under such laws.

27 Open data and datasets made available by an agency on ²[its]
28 the² open data website, unless subject to a disclosed legal
29 restriction, shall be treated as license-free, subject to reuse, and not
30 subject to copyright restrictions.

31 Unless specifically prohibited by a contract, open data and
32 datasets containing data created or maintained by a contractor under
33 contract to, or licensed from, an agency shall be made available on
34 the open data website ²[of the agency or another agency]². Each
35 such contract shall be subject to the provisions of this act and any
36 applicable federal and State law, including but not limited to,
37 P.L.1963, c.73 (C.47:1A-1 et seq.), known commonly as the open
38 public records act.

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40 6. An agency shall not warrant the fitness for any particular
41 purpose of any open data or datasets presented on the open data
42 website ²[of that agency]², nor shall an agency providing open data
43 or a dataset on ²[its] the² open data website be liable for any
44 deficiencies in its completeness or accuracy, except when the
45 agency's conduct would constitute gross negligence, willful and
46 wanton misconduct, or intentional misconduct.

1 Each agency, pursuant to standards and policies established by
2 the Chief Data Officer with the cooperation of the State Treasurer,
3 shall verify the accuracy of the open data and datasets it makes
4 available to the public on ²~~its~~ the² open data website and, if
5 possible, correct any errors or inaccuracies discovered by the
6 agency providing the open data or dataset, other agencies, or the
7 public.

8 Nothing in this section shall require an agency to make its open
9 data and datasets available to the public on ²~~its~~ the² open data
10 website upon the demand of the public. Requests for open data or
11 datasets not posted on ²~~an~~ the² open data website ²~~of an~~
12 ~~agency~~² are subject to potential disclosure under P.L.1963, c.73
13 (C.47:1A-1 et seq.), known commonly as the open public records
14 act.

15 Unless contrary to specific policies or rules established by the
16 Chief Data Officer, agencies shall not require a user of an open data
17 website to register or provide any user information as a condition to
18 obtaining the open data or ²~~data sets~~ datasets² provided by the
19 agency on ²~~its~~ the² open data website.

20 Notwithstanding any ²~~rules~~ rule², regulation or statute to the
21 contrary, agencies shall be actively encouraged by the Chief Data
22 Officer and the State Treasurer to share open data and datasets with
23 each other without formal agreements, provided that no existing
24 laws regarding the security of personal, private, and confidential
25 information are violated. The sharing of personal, private, or
26 confidential data shall be permitted only when in conformity with
27 restrictions, established by the Chief Data Officer in cooperation
28 with the Attorney General, to ensure that the data is used in a
29 manner that is secure and in conformity with State law.

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

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36 8. On the first day of the 24th month following the date of
37 enactment of this act, P.L. , c. (C.)(pending before
38 the Legislature as this bill), the Chief Technology Officer, after
39 consultation with the State Treasurer, shall submit a written report
40 to the Governor and, pursuant to section 2 of P.L.1991, c.164
41 (C.52:14-19.1), to the Legislature discussing: a) the progress made
42 on the implementation of the act; b) the act's effectiveness in
43 providing open data and datasets to the public and among agencies
44 compared with the providing and sharing of such data before the
45 enactment of the act; c) the feasibility of requiring the Legislative
46 and Judicial Branches to make open data and datasets available to

1 the public and other agencies; and d) such other items as the Chief
2 Technology Officer or the State Treasurer deems necessary. The
3 report may include any recommendations for changes made by the
4 Chief Technology Officer or the State Treasurer to P.L. ,
5 c. (C.)(pending before the Legislature as this bill) or
6 related sections of current law.

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

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