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# A BILL FOR AN ACT

RELATING TO OPEN DATA.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. In recent years, the idea that certain data  
2 should be freely available to everyone to use and republish as  
3 they wish, without restrictions from copyright, patents, or  
4 other mechanisms of control, has become prevalent. This  
5 concept, which is generally referred to as open data, applies to  
6 data that is already deemed public and made available  
7 electronically, such as on a website; it could include  
8 department, agency, and legislative data. Open data is not data  
9 that is governed by privacy, security, confidentiality or any  
10 protection of the law.

11           Open data is a top initiative of the chief information  
12 officer, as identified in the State of Hawaii Business and  
13 Information Technology/Information Resource Management  
14 Transformation Plan. The purpose of the initiative is to  
15 increase public awareness and access to data and information  
16 created by and available from state departments and agencies,  
17 enhance government transparency and accountability, encourage  
18 public engagement, and stimulate innovation with the development



1 of new analyses or applications based on the unique data  
2 provided by the State.

3 The State launched its open data site, data.hawaii.gov,  
4 with data sets being voluntarily provided by departments and  
5 agencies. The site incorporates data that was readily available  
6 in digital format and commonly requested by the public. The  
7 intent of this Act is to continue and ensure the efforts of the  
8 chief information officer in the multi-year, multi-phased  
9 program open data initiative. This Act is not intended to  
10 impede or delay state agencies' currently ongoing efforts to  
11 move data online. This Act is not intended to limit or expand a  
12 person's ability to access a public record under chapter 92F.  
13 This Act is not intended to create any new liability, and  
14 instead is intended to protect the state from any liability for  
15 making open data available to the public, except for gross  
16 negligence, wilful and wanton misconduct, or intentional  
17 misconduct.

18 SECTION 2. Chapter 27, Hawaii Revised Statutes, is amended  
19 by adding five new sections to part VII to be appropriately  
20 designated and to read as follows:

21 "§27-A Definitions. For purposes of this part:



1       "Data" means final versions of statistical or factual  
2 information:

3       (1) In alphanumeric form reflected in a list, table,  
4 graph, chart, or other non-narrative form, that can be  
5 digitally transmitted or processed; and

6       (2) Regularly created or maintained by or on behalf of and  
7 owned by an executive branch department that records a  
8 measurement, transaction, or determination related to  
9 the mission of that executive branch department.

10       "Data set" means a named collection of related records on  
11 an electronic storage device, with the collection containing  
12 individual data units organized or formatted in a specific and  
13 prescribed way, often in tabular form, and accessed by a  
14 specific access method that is based on the data set  
15 organization; provided that a data set shall not include any  
16 data that is protected from disclosure under applicable federal  
17 or state law, or contract, or data that is proprietary.

18       §27-B Electronic data set availability; updates. (a)

19 Each executive branch department shall use reasonable efforts to  
20 make appropriate and existing electronic data sets maintained by  
21 the department electronically available to the public through  
22 the State's open data portal at data.hawaii.gov or successor



1 website designated by the chief information officer; provided  
2 that:

3 (1) Nothing in this chapter shall require departments to  
4 create new electronic data sets or to make datasets  
5 available upon demand;

6 (2) Data licensed to the state by another person or entity  
7 shall not be made public under this chapter unless the  
8 person or entity licensing the data agrees to the  
9 public disclosure; and

10 (3) Proprietary and other information protected from  
11 disclosure by law or contract shall not be disclosed.

12 Such disclosure shall be consistent with the policies,  
13 procedures, and standards developed by the chief information  
14 officer and consistent with applicable law, including chapter  
15 92F and other state and federal laws related to security and  
16 privacy, and no personally identifiable information shall be  
17 posted online unless the identified individual has consented to  
18 the posting or the posting is necessary to fulfill the lawful  
19 purposes or duties of the department.

20 (b) Nothing in this chapter shall require the chief  
21 information officer to adopt rules pursuant to chapter 91 and  
22 nothing in this chapter shall supersede chapter 27G.



1        (c) Each department shall update its electronic data sets  
2 in the manner prescribed by the chief information officer and as  
3 often as is necessary to preserve the integrity and usefulness  
4 of the data sets to the extent that the department regularly  
5 maintains or updates the data sets.

6        **§27-C State liability for data sets.** Data sets shall be  
7 available for informational purposes only. The State does not  
8 warrant the fitness of any data set for a particular purpose and  
9 shall not be liable for any deficiencies in the completeness or  
10 accuracy of any data set, except where the State's conduct would  
11 constitute gross negligence, wilful and wanton misconduct, or  
12 intentional misconduct.

13        **§27-D Data set licensing.** The chief information officer  
14 may make the departments' electronic data sets on  
15 data.hawaii.gov available to third parties pursuant to a  
16 license, which may require the licensee to allow any user to  
17 copy, distribute, display, or create derivative works at no cost  
18 and with an appropriate level of conditions placed on the use.

19        **§27-E Data set policies and procedures.** (a) The chief  
20 information officer, in consultation with the office of  
21 information practices, shall develop policies and procedures to  
22 implement section 27-B, including standards to determine which



1 data sets are appropriate for online disclosure as provided in  
2 section 27-B; provided that the standards shall not require the  
3 departments to post information that is otherwise required to be  
4 disclosed under chapter 92F, but is personally identifiable  
5 information, information that may pose a personal or public  
6 security risk, is of minimal public interest, or is otherwise  
7 inappropriate for online disclosure as part of a data set.

8 (b) The policy and procedures shall include the following:

9 (1) Technical requirements with the goal of making data  
10 sets available to the greatest number of users and for  
11 the greatest number of applications, including  
12 whenever practicable, the use of machine readable,  
13 non-proprietary technical standards for web  
14 publishing; and

15 (2) Guidelines for departments to follow in making data  
16 sets available."

17 SECTION 3. There is appropriated out of the general  
18 revenues of the State of Hawaii the sum of \$100,000 or so much  
19 thereof as may be necessary for fiscal year 2013-2014 and the  
20 same sum or so much thereof as may be necessary for fiscal year  
21 2014-2015 for the office of information practices to establish  
22 one full-time equivalent (1.0 FTE) position, to promote open



1 data pursuant to this Act and chapter 92F, Hawaii Revised  
2 Statutes, the Uniform Information Practices Act (Modified).

3 The sums appropriated shall be expended by the office of  
4 information practices for the purposes of this Act.

5 SECTION 4. In codifying the new sections added by section  
6 2 of this Act, the revisor of statutes shall substitute  
7 appropriate section numbers for the letters used in designating  
8 the new sections in this Act.

9 SECTION 5. New statutory material is underscored.

10 SECTION 6. This Act shall take effect on July 1, 2013.



**Report Title:**

Open Data; Office of Information Management and Technology;  
Appropriation

**Description:**

Requires executive branch departments to make electronic data sets available to the public. Absolves the State from liability for certain deficiencies or incomplete data. Requires the Chief Information Officer to develop policies and procedures to implement the open data initiative. Appropriates funds. Effective July 1, 2013. (HB632 CD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

