

---

---

# 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, or any pre-existing  
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 bill is not intended to  
10 impede or delay state agencies' currently ongoing efforts to  
11 move data online. This bill is not intended to create any new  
12 liability, and instead is intended to protect the state from any  
13 liability for making open data available to the public, except  
14 for gross negligence, wilful and wanton misconduct, or  
15 intentional misconduct.

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

19 "§27- Electronic data set availability; updates. (a)  
20 Each executive branch department shall use reasonable efforts to  
21 make appropriate and existing electronic data sets maintained by  
22 the department electronically available to the public through



1 the State's open data portal at data.hawaii.gov or successor  
2 website designated by the chief information officer; provided  
3 that nothing in this chapter shall require departments to create  
4 new electronic data sets or to make datasets available upon  
5 demand; and provided further that data licensed to the state by  
6 another person or entity shall not be made public under this  
7 chapter unless the person or entity licensing the data agrees to  
8 the public disclosure. Such disclosure shall be consistent with  
9 the policies, procedures, and standards developed by the chief  
10 information officer and consistent with applicable law,  
11 including laws related to security and privacy, and no  
12 personally identifiable information shall be posted online  
13 unless the posting has been consented to by the individual or is  
14 necessary to fulfill the lawful purposes or duties of the  
15 department. Nothing in this chapter shall require the chief  
16 information officer to adopt rules pursuant to chapter 91 and  
17 nothing in this chapter shall supersede chapter 27G.

18 (b) Each department shall update its electronic data sets  
19 in the manner prescribed by the chief information officer and as  
20 often as is necessary to preserve the integrity and usefulness  
21 of the data sets to the extent that the department regularly  
22 maintains or updates the data sets.



1        (c) For purpose of this part:

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

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

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

11        "Data set" means a named collection of related records on  
12 an electronic storage device, with the collection containing  
13 individual data units organized or formatted in a specific and  
14 prescribed way, often in tabular form, and accessed by a  
15 specific access method that is based on the data set  
16 organization.

17        "Open data" means data made available in electronic form  
18 via the internet or similar means to the public for use and  
19 republication without restriction, including but not limited to  
20 data maintained by state agencies or the state legislature;  
21 provided that open data does not include data that is governed  
22 by privacy, security, or any pre-existing protection of the law.



1        §27-        State liability for data sets. Data sets shall be  
2 available for informational purposes only. The State shall not  
3 be liable for any deficiencies in the completeness or accuracy  
4 of any data set, except where the State's conduct would  
5 constitute gross negligence, wilful and wanton misconduct, or  
6 intentional misconduct, and does not warrant its fitness for any  
7 particular use.

8        §27-        Data set licensing. The chief information officer  
9 may make the departments' electronic data sets on  
10 data.hawaii.gov available to third parties pursuant to a  
11 license, which may require the licensee to allow any user to  
12 copy, distribute, display, or create derivative works at no cost  
13 and with an appropriate level of conditions placed on the use.

14        §27-        Data set policies and procedures. (a) The chief  
15 information officer, in consultation with the office of  
16 information practices, shall develop policies and procedures to  
17 implement the open data initiative, including standards to  
18 determine which data sets are appropriate for public disclosure.  
19 In making this determination, the chief information officer, in  
20 consultation with the office of information practices and the  
21 information security and privacy council, shall balance the  
22 benefits of publicly available data sets with the need to



1 protect information that is proprietary, confidential, protected  
2 from disclosure by law or contract, or otherwise inappropriate  
3 for disclosure as part of a data set.

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

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

11 (2) Guidelines for departments to follow in making data  
12 sets available."

13 SECTION 3. There is appropriated out of the general  
14 revenues of the State of Hawaii the sum of \$                    or so  
15 much thereof as may be necessary for fiscal year 2013-2014 and  
16 the same sum or so much thereof as may be necessary for fiscal  
17 year 2014-2015 for the office of information practices to  
18 establish            FTE positions, to promote open data pursuant to  
19 this Act and chapter 92F, the Uniform Information Practices Act  
20 (Modified).

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



1 SECTION 4. There is appropriated out of the general  
2 revenues of the State of Hawaii the sum of \$ or so much  
3 thereof as may be necessary for fiscal year 2013-2014 and the  
4 same sum or so much thereof as may be necessary for fiscal year  
5 2014-2015 for departments and agencies to provide open data  
6 coordinators to implement the purposes of this Act and chapter  
7 92F, the Uniform Information Practices Act (Modified).

8 The sums appropriated shall be expended by the department  
9 of accounting and general services for the purposes of this Act.

10 SECTION 5. New statutory material is underscored.

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



**Report Title:**

Open Data; Office of Information Management and Technology

**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 HD2)

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

