

Department of Legislative Services
 Maryland General Assembly
 2014 Session

FISCAL AND POLICY NOTE
 Revised

Senate Bill 644

(Senator Ferguson, *et al.*)

Education, Health, and Environmental Affairs

Health and Government Operations

State Government - Open Data Policy - Council on Open Data

This bill establishes the Council on Open Data, which is tasked with promoting the policy of the State that open data be machine readable and released to the public in ways that make the data easy to find, accessible, and usable, including through the use of open data portals.

The bill takes effect June 1, 2014.

Fiscal Summary

State Effect: General fund expenditures increase for the Department of Information Technology (DoIT) by \$119,900 in FY 2015, which reflects a 30-day start-up delay to hire one full-time open data program manager. Future years reflect the elimination of one-time costs, regular salary increases, and inflation. Any expense reimbursements for council members or participants, as well as staffing costs for the Governor’s StateStat Office are assumed to be minimal and absorbable within existing budgeted resources. To the extent that State procurement of data processing devices, systems, and software follows purchasing recommendations by the council, expenditures (all funds) for those items may increase. Revenues are not affected.

(in dollars)	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	119,900	118,600	124,000	129,700	135,700
Net Effect	(\$119,900)	(\$118,600)	(\$124,000)	(\$129,700)	(\$135,700)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Any expense reimbursements for council members or participants are assumed to be minimal and absorbable within existing budgeted resources. Local governments may benefit to the extent that open data proliferates in the State and the bill

succeeds in encouraging local governments to use open data portals established by the State. Revenues are not affected.

Small Business Effect: Potential meaningful. Some small businesses in the State rely on Maryland's existing open data to research and produce content for customers. The expansion of open data in the State could result in additional customers for these businesses or additional businesses opening.

Analysis

Bill Summary:

Definitions

The bill defines "data" as final versions of statistical or factual information that are in a specified form, provide specified types of information, and are regularly created or maintained by or on behalf of a governmental entity. The bill defines "data portal" as a website where governmental entities can post data sets and other data as identified by the council. The bill defines "open data" as data collected by a State entity that the entity is legally permitted, required, or able to make available to the public. "Open data" includes contractual or other legal orders, restrictions, or requirements. "Open data" does not include any data that, if released, would (1) violate the law; (2) endanger public health, safety, or welfare; (3) hinder governmental operations, including criminal and civil investigations; (4) impose undue financial, operational, or administrative burden on a State entity; or (5) disclose proprietary or confidential information.

Composition of the Council on Open Data

The 37-member council consists of several Executive department Secretaries and directors, as well as representatives from the Legislative Branch of State government. If a council member from the Executive Branch of State government is unable to attend a meeting, the member may designate the chief information officer or another senior management staff member of the agency or organization to attend. The Governor must appoint representatives from local governmental entities as well as representatives from academic, private, private utility, or nonprofit entities to serve on the council. Members appointed by the Governor serve a four-year term, except that some members may serve an initial three-year term to stagger the members of the council. At the end of a term, a member continues to serve until a successor is appointed and qualifies. A member may not serve more than two consecutive terms, and the Governor may remove a member for neglect of duty, incompetence, or misconduct. The Secretary of Information Technology is the chair of the council and the Director of the Governor's StateStat Office is the vice-chair.

A member of the council may not receive compensation as a member of the council but is entitled to reimbursement for travel expenses. Staffing responsibilities of the council are shared by DoIT, the Governor's StateStat Office, and any other staff designated by the Governor.

Council on Open Data Responsibilities

The bill establishes that it is the policy of the State that open data be machine readable and released to the public in ways that make the data easy to find, accessible, and usable, including through the use of open data portals. The council must meet at least twice each year and may establish workgroups as necessary to complete its duties. The Council on Open Data must promote the open data policy by:

- providing guidance and policy recommendations and, when appropriate, recommending legislation and regulations for (1) procedures, standards, and other deliverables for open data, including for open data portals; (2) promotion, advertising, and marketing of open data; and (3) best practices for sharing open data while taking into account privacy and security concerns;
- coordinating staff at each State entity for the development, maintenance, and use of open data and open data portals;
- identifying the collective cost of operating and investing in open data and funding mechanisms to support open data as well as advising the Governor and the General Assembly on budget matters related to open data;
- inviting and encouraging local entities and the Legislative and Judicial branches to (1) use open data portals established by State entities; (2) create their own open data portals; and (3) adopt policies consistent with the State policy on open data;
- establishing a plan to provide all open data to the public at no cost;
- advocating for sound records management and data preservation practices; and
- making recommendations to ensure that the purchase of new data processing devices, systems, and software by the State includes a review of compliance with the State open data policy and interoperability with current technology used by the State.

By January 10 of each year, the council must report to the Governor and the General Assembly on its activities in the previous year and any recommendations for legislation.

Current Law: Executive Order 01.01.2012.04, One Maryland – One Map: Maryland Integrated Map, established an executive committee to implement the Maryland Integrated Map (MD iMap). This program promotes the sharing of State geospatial data and services to all participants in the MD iMAP program. The order also required the cooperation of State departments, agencies, commissions, and boards with the executive committee in implementing the provisions of the executive order.

Executive Order 01.01.2012.18, Maryland's Open Data Initiative, established an Open Data Working Group to promote open data policies in the State. The order required all participating executive departments to designate an employee as the Open Data Officer to coordinate the working group's efforts in creating and establishing an open data portal at <http://data.maryland.gov>. The portal is required to contain information on the State's open government efforts and includes a catalog that lists all data sets released by any State department. The website is required to include a mechanism for the public to give feedback on published information and provide input on other data sets that should be prioritized for publication.

Background: In December 2009, the White House issued the Open Government Directive, which required federal agencies to immediately take steps to improve transparency, participation, and collaboration in their activities and affairs. The purpose of this directive was to bridge the gap between the American people and the federal government by making as much information as possible publicly available. The directive had four primary goals: (1) publishing government information online; (2) improving the quality of government information; (3) creating and institutionalizing a culture of open government; and (4) creating an enabling policy framework for open government.

The memorandum released with the directive notes that information maintained by the government is a national asset. It further asserts that, by providing as much information and data as possible and ensuring it is in an easy to access and use form, citizens are able to be more informed about what the government is doing and more likely to participate in the policymaking process. The memorandum also states that, in addition to connecting citizens to the government, open data allows agencies and other governmental entities to collaborate and cooperate with one another more efficiently. Since the directive, many cities, jurisdictions, and states across the nation have established open data policies and created open data portals to more easily share government data and information with citizens.

Currently, the State's open data portal is operational and contains more than 300 data sets related to topics such as the health of the Chesapeake Bay, smoking, violent crime, energy costs across various states, unemployment, and birth statistics.

State Expenditures: Although DoIT and the Governor's StateStat Office are currently implementing the executive orders with existing staff, to fully implement the bill, DoIT needs one additional staff member. Thus, general fund expenditures increase by \$119,904 in fiscal 2015, which reflects a 30-day start-up delay and the cost of hiring one full-time open data program manager to (1) manage the relationships with open data vendors; (2) supervise DoIT staff; (3) develop and maintain standards for governmental units posting data and metadata; (4) provide technical support to governmental units posting data and metadata; (5) coordinate with agencies to establish workflows for data

updates; (6) assist with the development and maintenance of web applications that use data.maryland.gov; and (7) staff the Open Data Council. Future year expenditures reflect inflation, employee turnover, and the elimination of one-time costs.

Regular Position	1
Salary and Fringe Benefits	\$114,954
Start-up Costs	4,370
Ongoing Operating Expenses	<u>580</u>
Total FY 2015 State Expenditures	\$119,904

DoIT advises that, to the extent the council is successful in encouraging the proliferation of open data across the State, expenditures likely increase in future years for additional cloud services and data storage. This impact has not been factored into the estimate.

Additional Information

Prior Introductions: None.

Cross File: HB 1260 (Delegate Barve, *et al.*) - Health and Government Operations.

Information Source(s): Department of Information Technology, Maryland Department of Planning, Baltimore City, Harford and Montgomery counties, Department of Legislative Services

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