

## ACT 263

H.B. NO. 632

A Bill for an Act Relating to Open Data.

*Be It Enacted by the Legislature of the State of Hawaii:*

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

Open data is a top initiative of the chief information officer, as identified in the State of Hawaii Business and Information Technology/Information Resource Management Transformation Plan. The purpose of the initiative is to increase public awareness and access to data and information created by and available from state departments and agencies, enhance government transparency and accountability, encourage public engagement, and stimulate innovation with the development of new analyses or applications based on the unique data provided by the State.

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

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

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

“Data” means final versions of statistical or factual information:

- (1) In alphanumeric form reflected in a list, table, graph, chart, or other non-narrative form, that can be digitally transmitted or processed; and
- (2) Regularly created or maintained by or on behalf of and owned by an executive branch department that records a measurement, transaction, or determination related to the mission of that executive branch department.

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

**§27-B Electronic data set availability; updates.** (a) Each executive branch department shall use reasonable efforts to make appropriate and existing electronic data sets maintained by the department electronically available to the public through the State’s open data portal at [data.hawaii.gov](http://data.hawaii.gov) or successor website designated by the chief information officer; provided that:

- (1) Nothing in this chapter shall require departments to create new electronic data sets or to make datasets available upon demand;
- (2) Data licensed to the state by another person or entity shall not be made public under this chapter unless the person or entity licensing the data agrees to the public disclosure; and
- (3) Proprietary and other information protected from disclosure by law or contract shall not be disclosed.

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

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

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

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

**§27-D Data set licensing.** The chief information officer may make the departments’ electronic data sets on [data.hawaii.gov](http://data.hawaii.gov) available to third parties

pursuant to a license, which may require the licensee to allow any user to copy, distribute, display, or create derivative works at no cost and with an appropriate level of conditions placed on the use.

**§27-E Data set policies and procedures.** (a) The chief information officer, in consultation with the office of information practices, shall develop policies and procedures to implement section 27-B, including standards to determine which data sets are appropriate for online disclosure as provided in section 27-B; provided that the standards shall not require the departments to post information that is otherwise required to be disclosed under chapter 92F, but is personally identifiable information, information that may pose a personal or public security risk, is of minimal public interest, or is otherwise inappropriate for online disclosure as part of a data set.

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

- (1) Technical requirements with the goal of making data sets available to the greatest number of users and for the greatest number of applications, including whenever practicable, the use of machine readable, non-proprietary technical standards for web publishing; and
- (2) Guidelines for departments to follow in making data sets available.”

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2013-2014 and the same sum or so much thereof as may be necessary for fiscal year 2014-2015 for the office of information practices to establish one full-time equivalent (1.0 FTE) position, to promote open data pursuant to this Act and chapter 92F, Hawaii Revised Statutes, the Uniform Information Practices Act (Modified).

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

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

SECTION 5. New statutory material is underscored.<sup>1</sup>

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

(Approved July 3, 2013.)

**Note**

1. Edited pursuant to HRS §23G-16.5.