

SENATE BILL 644

P3, P2, P1

4lr0705
CF HB 1260

By: **Senators Ferguson, Currie, Dyson, Jacobs, Jones–Rodwell, Klausmeier, Madaleno, Manno, Montgomery, and Raskin**

Introduced and read first time: January 30, 2014

Assigned to: Rules

Reassigned: Education, Health, and Environmental Affairs, February 5, 2014

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 11, 2014

CHAPTER _____

1 AN ACT concerning

2 **State Government – Open Data Policy – Council on Open Data**

3 FOR the purpose of establishing a State policy that open data be machine readable
4 and released to the public in certain ways; establishing a Council on Open Data;
5 providing for the composition, appointment, terms, chairs, and staffing of the
6 Council; prohibiting a member of the Council from receiving certain
7 compensation, but authorizing the reimbursement of certain expenses;
8 authorizing the Council to establish certain work groups; requiring the Council
9 to meet a certain number of times each year; requiring the Council to promote
10 the policy on open data by providing certain guidance and policy
11 recommendations, coordinating certain staff, identifying certain costs and
12 funding mechanisms and advising the Governor and General Assembly on
13 certain budget matters, inviting and encouraging certain entities and branches
14 of government to use certain portals, create certain portals, or adopt certain
15 policies, ~~and~~ establishing a certain plan for providing certain open data,
16 advocating for certain practices, and making certain recommendations on the
17 purchasing of certain data processing devices, systems, or software; requiring
18 the Council to establish certain purchasing guidelines for certain data
19 processing devices or systems before a certain date; requiring the Council to
20 report to the Governor and the General Assembly on or before a certain date
21 each year; ~~requiring certain State entities to use certain purchasing guidelines~~
22 ~~on or after a certain date;~~ specifying the terms of the initial members of the
23 Council; ~~providing for the application of certain provisions of this Act;~~ defining

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



certain terms; and generally relating to the establishment of a policy on open data and a Council on Open Data.

BY adding to

Article – State Government

Section 10–1401 through 10–1404 to be under the new subtitle “Subtitle 14. Open Data”

Annotated Code of Maryland

(2009 Replacement Volume and 2013 Supplement)

~~BY adding to~~

~~Article – State Finance and Procurement~~

~~Section 14–417~~

~~Annotated Code of Maryland~~

~~(2009 Replacement Volume and 2013 Supplement)~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – State Government

SUBTITLE 14. OPEN DATA.

10–1401.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “COUNCIL” MEANS THE COUNCIL ON OPEN DATA.

(C) (1) “DATA” MEANS FINAL VERSIONS OF STATISTICAL OR FACTUAL INFORMATION THAT:

(I) ARE IN ALPHANUMERIC OR GEOSPATIAL FORM REFLECTED IN A LIST, TABLE, GRAPH, CHART, MAP, OR OTHER NONNARRATIVE FORMAT THAT CAN BE DIGITALLY TRANSMITTED OR PROCESSED;

(II) ARE REGULARLY CREATED OR MAINTAINED BY OR ON BEHALF OF A GOVERNMENTAL ENTITY; AND

(III) RECORD A MEASUREMENT, TRANSACTION OR DETERMINATION OR PROVIDE INFORMATION ON GOVERNMENT SERVICES, INITIATIVES, AND RESOURCES RELATED TO THE MISSION OF THE COVERED GOVERNMENTAL ENTITY.

1 **(2) “DATA” DOES NOT INCLUDE DRAFT VERSIONS OF**
2 **STATISTICAL OR FACTUAL INFORMATION THAT ARE USED FOR INTERNAL**
3 **ANALYSIS BY A GOVERNMENTAL ENTITY.**

4 **(D) “DATA PORTAL” MEANS A WEB SITE WHERE GOVERNMENTAL**
5 **ENTITIES CAN POST DATA SETS AND OTHER DATA AS IDENTIFIED BY THE**
6 **COUNCIL.**

7 **(E) “DATA SET” MEANS A NAMED COLLECTION OF RELATED RECORDS**
8 **MAINTAINED ON A STORAGE DEVICE, WITH THE COLLECTION CONTAINING DATA**
9 **ORGANIZED OR FORMATTED IN A SPECIFIC OR PRESCRIBED WAY.**

10 **(F) “GOVERNMENTAL ENTITY” MEANS A STATE OR LOCAL ENTITY.**

11 **(G) (1) “LOCAL ENTITY” MEANS A COUNTY, MUNICIPAL**
12 **CORPORATION, BICOUNTY OR MULTICOUNTY AGENCY, PUBLIC AUTHORITY,**
13 **SPECIAL TAXING DISTRICT, OR OTHER POLITICAL SUBDIVISION OR UNIT OF A**
14 **POLITICAL SUBDIVISION OF THIS STATE.**

15 **(2) “LOCAL ENTITY” INCLUDES BOARDS OF EDUCATION AND**
16 **LIBRARY BOARDS THAT RECEIVE FUNDING FROM THE STATE.**

17 **(H) “MAPPING AND GEOGRAPHIC INFORMATION SYSTEMS PORTAL”**
18 **MEANS A WEB SITE THAT PROVIDES:**

19 **(1) DATA REGARDING SERVICES PROVIDED BY AND POLICY**
20 **INITIATIVES OF GOVERNMENTAL ENTITIES; AND**

21 **(2) OTHER DATA PROVIDED IN GEOSPATIAL FORM AS IDENTIFIED**
22 **BY THE COUNCIL.**

23 **(I) (1) “OPEN DATA” MEANS DATA THAT, CONSISTENT WITH ANY**
24 **APPLICABLE LAWS, RULES, REGULATIONS, ORDINANCES, RESOLUTIONS,**
25 **POLICIES, OR OTHER RESTRICTIONS INCLUDING REQUIREMENTS OR RIGHTS**
26 **ASSOCIATED WITH THE DATA, A STATE ENTITY:**

27 **(I) HAS COLLECTED; AND**

28 **(II) IS PERMITTED, REQUIRED, OR ABLE TO MAKE**
29 **AVAILABLE TO THE PUBLIC.**

30 **(2) “OPEN DATA” INCLUDES CONTRACTUAL OR OTHER LEGAL**
31 **ORDERS, RESTRICTIONS, OR REQUIREMENTS.**

(3) "OPEN DATA" DOES NOT INCLUDE DATA THAT IF MADE PUBLIC WOULD:

(I) VIOLATE ANOTHER LAW OR REGULATION THAT PROHIBITS THE DATA FROM BEING MADE PUBLIC;

(II) ENDANGER THE PUBLIC HEALTH, SAFETY, OR WELFARE;

(III) HINDER THE OPERATION OF GOVERNMENT, INCLUDING CRIMINAL AND CIVIL INVESTIGATIONS; ~~OR~~

(IV) IMPOSE AN UNDUE FINANCIAL, OPERATIONAL, OR ADMINISTRATIVE BURDEN ON A STATE ENTITY; OR

(V) DISCLOSE PROPRIETARY OR CONFIDENTIAL INFORMATION.

(J) "OPEN DATA PORTAL" MEANS A MAPPING AND GEOGRAPHIC INFORMATION SYSTEMS PORTAL OR DATA PORTAL.

(K) "STATE ENTITY" MEANS A DEPARTMENT, A BOARD, A COMMISSION, AN AGENCY, OR A SUBUNIT IN THE EXECUTIVE BRANCH OF STATE GOVERNMENT.

10-1402.

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.

10-1403.

(A) THERE IS A COUNCIL ON OPEN DATA.

(B) THE COUNCIL CONSISTS OF THE FOLLOWING 37 MEMBERS:

(1) THE SECRETARY OF AGRICULTURE;

(2) THE SECRETARY OF THE ENVIRONMENT;

(3) THE SECRETARY OF NATURAL RESOURCES;

(4) THE SECRETARY OF PLANNING;

1 (5) THE SECRETARY OF TRANSPORTATION;

2 (6) THE SECRETARY OF HOUSING AND COMMUNITY
3 DEVELOPMENT;

4 (7) THE SECRETARY OF BUSINESS AND ECONOMIC
5 DEVELOPMENT;

6 (8) THE SECRETARY OF GENERAL SERVICES;

7 (9) THE STATE SUPERINTENDENT OF SCHOOLS;

8 (10) THE SECRETARY OF HEALTH AND MENTAL HYGIENE;

9 (11) THE SECRETARY OF INFORMATION TECHNOLOGY;

10 (12) THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL
11 SERVICES;

12 (13) THE SECRETARY OF STATE POLICE;

13 (14) THE DIRECTOR OF ASSESSMENTS AND TAXATION;

14 (15) THE SECRETARY OF BUDGET AND MANAGEMENT;

15 (16) THE ADJUTANT GENERAL OF THE MILITARY DEPARTMENT;

16 (17) THE DIRECTOR OF THE MARYLAND EMERGENCY
17 MANAGEMENT AGENCY;

18 (18) THE SECRETARY OF LABOR, LICENSING, AND REGULATION;

19 (19) THE SECRETARY OF HUMAN RESOURCES;

20 (20) THE DIRECTOR OF THE GOVERNOR'S STATESTAT OFFICE;

21 (21) THE GOVERNOR'S HOMELAND SECURITY ADVISOR;

22 (22) THE EXECUTIVE DIRECTOR OF THE GOVERNOR'S OFFICE OF
23 CRIME CONTROL AND PREVENTION;

24 (23) THE EXECUTIVE DIRECTOR OF THE MARYLAND INSTITUTE
25 FOR EMERGENCY MEDICAL SERVICES SYSTEMS;

1 (24) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF
2 LEGISLATIVE SERVICES;

3 (25) THE STATE ARCHIVIST;

4 ~~(25)~~ (26) ONE MEMBER OF THE SENATE OF MARYLAND,
5 APPOINTED BY THE PRESIDENT OF THE SENATE;

6 ~~(26)~~ (27) ONE MEMBER OF THE HOUSE OF DELEGATES OF
7 MARYLAND, APPOINTED BY THE SPEAKER OF THE HOUSE;

8 ~~(27) ONE REPRESENTATIVE OF THE JUDICIAL BRANCH,~~
9 ~~APPOINTED BY THE CHIEF JUDGE OF THE MARYLAND COURT OF APPEALS;~~

10 (28) FIVE ELECTED OFFICIALS OR EMPLOYEES FROM LOCAL
11 ENTITIES WHO HAVE KNOWLEDGE OF AND INTEREST IN OPEN DATA, APPOINTED
12 BY THE GOVERNOR IN ACCORDANCE WITH SUBSECTIONS (D) AND (E) OF THIS
13 SECTION; AND

14 (29) FIVE MEMBERS FROM THE PRIVATE, PRIVATE UTILITY,
15 ACADEMIC, OR NONPROFIT SECTORS WHO HAVE KNOWLEDGE OF AND INTEREST
16 IN OPEN DATA, APPOINTED BY THE GOVERNOR IN ACCORDANCE WITH
17 SUBSECTION (E) OF THIS SECTION.

18 (C) IF A MEMBER OF THE COUNCIL LISTED IN SUBSECTION (B)(1)
19 THROUGH (24) OF THIS SECTION IS UNABLE TO ATTEND A MEETING OF THE
20 COUNCIL, THE MEMBER MAY DESIGNATE THE CHIEF INFORMATION OFFICER
21 OR ANOTHER SENIOR MANAGEMENT STAFF MEMBER OF THE AGENCY OR
22 ORGANIZATION TO ATTEND THE MEETING.

23 (D) OF THE FIVE ELECTED OFFICIALS OR EMPLOYEES FROM LOCAL
24 ENTITIES APPOINTED BY THE GOVERNOR UNDER SUBSECTION (B)(28) OF THIS
25 SECTION, ONE SHALL REPRESENT EACH OF THE FOLLOWING GROUPS OF
26 COUNTIES:

27 (1) ALLEGANY COUNTY, FREDERICK COUNTY, GARRETT
28 COUNTY, AND WASHINGTON COUNTY;

29 (2) CAROLINE COUNTY, CECIL COUNTY, DORCHESTER COUNTY,
30 KENT COUNTY, QUEEN ANNE'S COUNTY, SOMERSET COUNTY, TALBOT
31 COUNTY, WICOMICO COUNTY, AND WORCESTER COUNTY;

32 (3) ANNE ARUNDEL COUNTY, CALVERT COUNTY, CHARLES
33 COUNTY, AND ST. MARY'S COUNTY;

1 (4) MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY;
2 AND

3 (5) BALTIMORE CITY, BALTIMORE COUNTY, CARROLL COUNTY,
4 HARFORD COUNTY, AND HOWARD COUNTY.

5 (E) (1) THIS SUBSECTION APPLIES TO MEMBERS OF THE COUNCIL
6 APPOINTED UNDER SUBSECTION (B)(28) AND (29) OF THIS SECTION.

7 (2) THE TERM OF A MEMBER IS ~~2~~ 4 YEARS, EXCEPT THAT FIVE
8 MEMBERS MAY SERVE AN INITIAL 3-YEAR TERM AS REQUIRED BY THE TERMS
9 PROVIDED FOR STAGGERED MEMBERS OF THE COUNCIL ON JULY 1, 2014.

10 (3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE
11 UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

12 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN
13 SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS
14 APPOINTED AND QUALIFIES.

15 (5) A MEMBER MAY NOT SERVE MORE THAN TWO CONSECUTIVE
16 TERMS.

17 (6) THE GOVERNOR MAY REMOVE A MEMBER FOR NEGLECT OF
18 DUTY, INCOMPETENCE, OR MISCONDUCT.

19 (F) A MEMBER OF THE COUNCIL MAY NOT RECEIVE COMPENSATION
20 BUT IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD
21 STATE TRAVEL REGULATIONS AS PROVIDED IN THE STATE BUDGET.

22 (G) (1) THE SECRETARY OF INFORMATION TECHNOLOGY IS THE
23 CHAIR OF THE COUNCIL.

24 (2) THE DIRECTOR OF THE GOVERNOR'S STATESTAT OFFICE IS
25 THE VICE CHAIR OF THE COUNCIL.

26 (H) THE STAFFING RESPONSIBILITIES OF THE COUNCIL SHALL BE
27 SHARED BY THE DEPARTMENT OF INFORMATION TECHNOLOGY, THE
28 GOVERNOR'S STATESTAT OFFICE, AND ANY OTHER STAFF DESIGNATED BY THE
29 GOVERNOR.

30 (I) THE COUNCIL MAY ESTABLISH WORKGROUPS AS NECESSARY TO
31 COMPLETE THE DUTIES OF THE COUNCIL.

1 (J) THE COUNCIL SHALL MEET AT LEAST TWICE EACH YEAR.
2 10-1404.

3 (A) THE COUNCIL SHALL PROMOTE THE POLICY ESTABLISHED UNDER §
4 10-1402 OF THIS SUBTITLE BY:

5 (1) PROVIDING GUIDANCE AND POLICY RECOMMENDATIONS AND
6 WHEN APPROPRIATE RECOMMEND LEGISLATION AND REGULATIONS FOR:

7 (I) PROCEDURES, STANDARDS, AND OTHER DELIVERABLES
8 FOR OPEN DATA, INCLUDING FOR OPEN DATA PORTALS;

9 (II) PROMOTION, ADVERTISING, AND MARKETING OF OPEN
10 DATA; AND

11 (III) BEST PRACTICES FOR SHARING OPEN DATA WHILE
12 TAKING INTO ACCOUNT PRIVACY AND SECURITY CONCERNS;

13 (2) COORDINATING THE APPROPRIATE STAFF AT EACH STATE
14 ENTITY FOR THE DEVELOPMENT, MAINTENANCE, AND USE OF OPEN DATA AND
15 OPEN DATA PORTALS;

16 (3) (I) IDENTIFYING THE COLLECTIVE COST OF OPERATING
17 AND INVESTING IN OPEN DATA AND FUNDING MECHANISMS TO SUPPORT OPEN
18 DATA; AND

19 (II) ADVISING THE GOVERNOR AND GENERAL ASSEMBLY
20 ON BUDGET MATTERS RELATED TO OPEN DATA;

21 (4) INVITING AND ENCOURAGING LOCAL ENTITIES AND THE
22 LEGISLATIVE AND JUDICIAL BRANCHES TO:

23 (I) USE OPEN DATA PORTALS ESTABLISHED BY STATE
24 ENTITIES;

25 (II) CREATE THEIR OWN OPEN DATA PORTALS; AND

26 (III) ADOPT POLICIES CONSISTENT WITH THE POLICY
27 ESTABLISHED UNDER § 10-1402 OF THIS SUBTITLE; ~~AND~~

28 (5) ESTABLISHING A PLAN FOR PROVIDING ALL OPEN DATA TO
29 THE PUBLIC AT NO COST;

1 **(6) ADVOCATING FOR SOUND RECORDS MANAGEMENT AND DATA**
2 **PRESERVATION PRACTICES; AND**

3 **(7) MAKING RECOMMENDATIONS TO ENSURE THAT THE**
4 **PURCHASE OF NEW DATA PROCESSING DEVICES, SYSTEMS, AND SOFTWARE BY**
5 **THE STATE INCLUDES A REVIEW OF COMPLIANCE WITH THE OPEN DATA POLICY**
6 **ESTABLISHED UNDER § 10-1402 OF THIS SUBTITLE AND INTEROPERABILITY**
7 **WITH CURRENT TECHNOLOGY USED BY THE STATE.**

8 **~~(b) ON OR BEFORE JANUARY 1, 2015, THE COUNCIL SHALL ESTABLISH~~**
9 **~~PURCHASING GUIDELINES FOR A STATE ENTITY TO USE WHEN BUYING OR~~**
10 **~~PROCURING THE CREATION OF DATA PROCESSING DEVICES OR SYSTEMS THAT~~**
11 **~~ENHANCE ACCESSING, STORING, AND TRANSFERRING OPEN DATA.~~**

12 **~~(c)~~ (B) ON OR BEFORE JANUARY 10 OF EACH YEAR, THE COUNCIL**
13 **SHALL REPORT TO THE GOVERNOR AND THE GENERAL ASSEMBLY, IN**
14 **ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE**
15 **ACTIVITIES OF THE COUNCIL FOR THE PREVIOUS YEAR AND ANY**
16 **RECOMMENDATIONS FOR LEGISLATION.**

17 **~~Article State Finance and Procurement~~**

18 **~~14-417.~~**

19 **~~ON OR AFTER JANUARY 1, 2015, WHEN A STATE ENTITY BUYS OR~~**
20 **~~PROCURES A DATA PROCESSING DEVICE OR SYSTEM, THE STATE ENTITY SHALL~~**
21 **~~USE PURCHASING GUIDELINES THAT ENHANCE ACCESSING, STORING, AND~~**
22 **~~TRANSFERRING OPEN DATA AS ESTABLISHED IN ACCORDANCE WITH §~~**
23 **~~10-1404(b) OF THE STATE GOVERNMENT ARTICLE.~~**

24 SECTION 2. AND BE IT FURTHER ENACTED, That the initial terms of the
25 members of the Council on Open Data that were appointed by the Governor in 2014 as
26 required by ~~§ 10-1402(b)(28) and (29)~~ **§ 10-1403(b)(28) and (29)** of the State
27 Government Article, as enacted by Section 1 of this Act, shall expire as follows:

28 (1) three members appointed under ~~§ 10-1402(b)(28)~~ **§ 10-1403(b)(28)**
29 of the State Government Article and two members appointed under ~~§ 10-1402(b)(29)~~ **§**
30 **10-1403(b)(29)** of the State Government Article in ~~2016~~ **2018**; and

31 (2) two members appointed under ~~§ 10-1402(b)(28)~~ **§ 10-1403(b)(28)** of
32 the State Government Article and three members appointed under ~~§ 10-1402(b)(29)~~ **§**
33 **10-1403(b)(29)** of the State Government Article in 2017.

34 **~~SECTION 3. AND BE IT FURTHER ENACTED, That § 14-417 of the State~~**
35 **~~Finance and Procurement Article as enacted by Section 1 of this Act shall be construed~~**

1 ~~to apply only prospectively to the purchase of new data processing devices and systems~~
2 ~~as they are needed and may not be applied or interpreted to have any effect on or~~
3 ~~application to any procurement of a data processing device or system before January 1,~~
4 ~~2015, or require the purchase of a new data processing device or system until~~
5 ~~replacement of a data processing device or system in use on January 1, 2015, is~~
6 ~~necessary.~~

7 SECTION ~~4~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
8 effect June 1, 2014.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.