



Ohio Legislative Service Commission

Bill Analysis

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H.B. 321

130th General Assembly
(As Introduced)

Reps. Duffey and C. Hagan, Amstutz, Blair, Henne, Landis, Roegner, Schuring, Sears, Stinziano, Terhar, Bishoff

BILL SUMMARY

- Specifies, in the Public Records Act, requirements for posting public records online, if a public office posts public records on its, or on the state's, website.
 - Authorizes the records commission of a public office to claim for the public office a qualified exemption from the online posting requirements.
 - Creates the 13-member DataOhio Board, which is required to make recommendations to the General Assembly regarding online public record access.
 - Requires the DataOhio Board to deliver a report of its findings and recommendations to the General Assembly not later than March 31 each year.
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CONTENT AND OPERATION

Posting public records on websites

The bill, in the statute known as the Public Records Act, requires a public office that posts a public record on its website, or on a public website maintained by the state, to post the record in an open format so that the public record, or the data contained in the public record, is capable of being searched, viewed, and downloaded by the public, and is in a format that is machine readable, unless the public office is able to claim a qualified exemption from this requirement.¹ A public office may claim a qualified exemption from the bill's requirement, for a subset or an entire category of records, for

¹ R.C. 149.43(G)(1).

any of the following reasons, if the records commission claims the qualified exemption and amends the public office's record retention policy to reflect that claim:

- Technical ability: The office lacks the technical ability to post the public records in an open format.
- Resources: The office lacks the financial or other resources to post the records in an open format.
- Public policy: Conforming to the uniform standards is contrary to the public policy of the public office.

A qualified exemption claimed under the bill is not subject to a challenge. But an Ohio resident may petition the public office to explain its claim to the qualified exemption.

Records commissions

Continuing law creates a records commission in each county, municipal corporation, township, school district, educational service center, library, and special taxing district.² It appears that the qualified exemption created by the bill may only be claimed by those aforementioned political subdivisions, and not by a state agency or other public institution that does not have a records commission, and not by a county that has a county automatic data processing board³ in lieu of a county records commission.

Generally, a county or municipal records commission adopts rules for the retention and disposal of records of the county or municipal corporation, and reviews applications for one-time disposal of obsolete records and schedules of records retention and disposition submitted by county or municipal offices. A township, school district, educational service center, library, or special taxing district records commission reviews applications for one-time disposal of obsolete records and schedules of records retention and disposition submitted by employees, respectively, of the school district, educational service center, library, or special taxing district, or by township offices. Records commissions are required to dispose of records under a procedure prescribed by continuing law.⁴

² R.C. 149.38, 149.39, 149.41, 149.411, 149.412, and 149.42, not in the bill.

³ R.C. 307.847, not in the bill.

⁴ R.C. 149.381, not in the bill.



Definitions

The following definitions apply to the bill's website posting provision:

- ♦ "Public office" includes any state agency, public institution, political subdivision, or other organized body, office, agency, institution, or entity established by Ohio laws for the exercise of any function of government, but does not include the nonprofit corporation known as JobsOhio.⁵

- ♦ A "public record" is a "record" kept by any public office, including, but not limited to, state, county, city, village, township, and school district units, and records pertaining to the delivery of educational services by an alternative school in Ohio kept by the nonprofit or for-profit entity operating the alternative school. "Public record" does not include numerous categories of records listed in the Public Records Act, e.g., medical records or trial preparation records, or records excluded elsewhere in the Revised Code.⁶

- ♦ "Records" includes any document, device, or item, regardless of physical form or characteristic, including an "electronic record," created or received by or coming under the jurisdiction of any public office of the state or its political subdivisions, which serves to document the organization, functions, policies, decisions, procedures, operations, or other activities of the office.⁷

- ♦ An "electronic record" is a record created, generated, sent, communicated, received, or stored by electronic means. ("Electronic" relates to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.)⁸

DataOhio Board

Board's duties

The bill creates the DataOhio Board, which is required to make recommendations to the General Assembly regarding online access to public records and data. The bill states that the General Assembly recognizes that public-use data from government agencies offers an avenue toward open and transparent government, stimulates business innovation, and can help government agencies become more effective. The bill declares that it is a public purpose and function of the state to

⁵ R.C. 149.011(A), not in the bill.

⁶ R.C. 149.43(A).

⁷ R.C. 149.011(G), not in the bill.

⁸ R.C. 1306.01, not in the bill.



facilitate the ability of the public easily to find, download, and use data sets that are generated and held by the state government and other public offices.⁹ With these goals in mind, the General Assembly creates the DataOhio Board to do all of the following:

(1) Recommend categories of public records that state agencies and local governments should make available to the public online in an "open format,"¹⁰ meaning that the public record, or the data contained in the public record, is capable of being searched, viewed, and downloaded by the public, and is in a format that is machine readable;

(2) Recommend technology standards for open data use in Ohio that reflect the most current standards nationally and within other states;

(3) Recommend accounting standards for financial data in the state to facilitate comparison across governmental units and services;

(4) Recommend metadata definitional standards for nonfinancial data in the state to facilitate comparison and use of this data across governmental units; and

(5) Consider creation by the state of data.ohio.gov, an online catalog of data sets made available by state agencies and local governments, as well as collaboration with efforts underway at the federal and state levels.

The DataOhio Board must deliver a report of its findings and recommendations to the General Assembly not later than one year after the bill's effective date, and thereafter must deliver such a report by March 31 each year.¹¹

Under the provision of the bill creating the DataOhio Board, "local government" means bodies corporate and politic responsible for governmental activities only in geographical areas smaller than that of the state.¹² And a "state agency" includes every department, bureau, board, commission, office, or other organized body established by the constitution and laws of Ohio for the exercise of any function of state government, including any state-supported institution of higher education, the General Assembly, any legislative agency, any court or judicial agency, or any political subdivision or

⁹ R.C. 149.62(B).

¹⁰ R.C. 149.62(A)(3).

¹¹ R.C. 149.62(B).

¹² R.C. 149.62(A)(1).

agency of a political subdivision, but does not include the nonprofit corporation known as JobsOhio.¹³

The bill does not define "public records" for purposes of the provision of the bill that creates the DataOhio Board. But the definition of "record" given above in "**Definitions**," applies to the provision.

Board membership and organization

Under the bill, the DataOhio Board is composed of the following 13 members or their designees: the Governor, Attorney General, Auditor of State, Secretary of State, Treasurer of State, Speaker of the House of Representatives, President of the Senate, Minority Leader of the House of Representatives, Minority Leader of the Senate, Chancellor of the Ohio Board of Regents, and three members who represent local governments to be appointed by the chairperson after the chairperson has been selected. The Board also must consist of one or more ex officio, nonvoting members or their designees appointed by the chairperson after the chairperson is selected. Members of the Board serve without compensation.¹⁴

The bill requires that the Board select a chairperson from among its members. The chairperson must select a member of the Board to serve as the Board's secretary. All meetings of the Board must be held at the call of the chairperson, but the Board must hold its initial meeting not later than 30 days after the bill's effective date.

The presence of a majority of the members of the Board constitutes a quorum for the conduct of its business. The concurrence of at least a majority of the Board members is necessary for any action to be taken by the Board.¹⁵

The Director of Administrative Services must provide necessary meeting facilities to the Board.

HISTORY

ACTION	DATE
Introduced	10-29-13

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¹³ R.C. 149.011(B), not in the bill.

¹⁴ R.C. 149.62(C).

¹⁵ R.C. 149.62(C).

