



Ohio Legislative Service Commission

Bill Analysis

Alyssa Bethel

Sub. H.B. 321*

130th General Assembly

(As Reported by H. State and Local Government)

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.
 - Requires a public office to state in its public records policy which public records the public office posts online, and requires a public office to submit this statement to the DataOhio Board.
 - Creates the 15-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 Public Records Act, requires a public office that posts a public record on its website, or on a public website maintained or authorized by the state, to post the record in an open format so that the public record, or the data contained in the

* This analysis was prepared before the report of the House State and Local Government Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

public record, is capable of being searched, viewed, and downloaded by the public, and is in a format that is machine readable.¹

The bill requires a public office to include in its public records policy a statement indicating which public records the public office posts online. If a public office does not post any public records online, the public office must include a statement indicating this in its public records policy. A public office must submit its statement to the DataOhio Board not later than 30 days after amending its public records policy to include the statement.²

The bill specifies that a public office is not required to post public records online. It also specifies that a public office's decision whether to post public records online is solely within the discretion of the public office, is final, and may not be modified except by the public office.³

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 law for the exercise of any function of government, but does not include the nonprofit corporation known as JobsOhio.⁴

- ♦ 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.⁵

- ♦ "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

¹ R.C. 149.43(G)(1).

² R.C. 149.43(G)(2).

³ R.C. 149.43(G)(3).

⁴ R.C. 149.011(A), not in the bill.

⁵ R.C. 149.43(A).



serves to document the organization, functions, policies, decisions, procedures, operations, or other activities of the office.⁶

♦ 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.)⁷

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 public offices offers an avenue toward open and transparent government, stimulates business innovation, and can help public offices become more effective. The bill declares that it is a public purpose and function of the state to 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.⁸ 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,"⁹ 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 used nationally and in other states;

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

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

⁶ R.C. 149.011(G), not in the bill.

⁷ R.C. 1306.01, not in the bill.

⁸ R.C. 149.62(B).

⁹ R.C. 149.62(A)(3).



(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.¹⁰

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.¹¹ 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 agency of a political subdivision, but does not include the nonprofit corporation known as JobsOhio.¹² The bill defines "public records" to have the same definition explained above in "**Definitions.**"

Board membership and organization

Under the bill, the DataOhio Board is composed of the following 15 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, the State Librarian, one member who represents data consumers to be appointed by the chairperson after the chairperson is selected, and three members who represent local governments to be appointed by the chairperson after the chairperson is 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, but are reimbursed for their actual and necessary expenses incurred in the performance of their duties.¹³

The bill requires the Board to select a chairperson from among its members. The chairperson must select a member of the Board to serve as the Board's secretary. The

¹⁰ R.C. 149.62(B).

¹¹ R.C. 149.62(A)(1).

¹² R.C. 149.011(B), not in the bill.

¹³ R.C. 149.62(C).



initial meeting of the Board must be held not later than 30 days after the bill's effective date. After its initial meeting, all meetings of the Board must be held at the call of the chairperson.

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.¹⁴

The State Library of Ohio must provide necessary meeting facilities to the Board.¹⁵

HISTORY

ACTION	DATE
Introduced	10-29-13
Reported, H. State & Local Gov't	---

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¹⁴ R.C. 149.62(E).

¹⁵ R.C. 149.62(D).

