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SENATE BILL NO. 830

Offered January 15, 2018

A BILL to amend the Code of Virginia by adding in Title 2.2 a chapter numbered 37.1, consisting of sections numbered 2.2-3715 through 2.2-3721, relating to Virginia Open Data Initiative Act.

Patron—Barker

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 2.2 a chapter numbered 37.1, consisting of sections numbered 2.2-3715 through 2.2-3721 as follows:

CHAPTER 37.1.

VIRGINIA OPEN DATA INITIATIVE ACT.

§ 2.2-3715. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Agency" means any authority, board, department, instrumentality, institution, agency, or other unit of state government. "Agency" does not include any county, city, or town or any local or regional governmental authority.

"Data" means final versions of statistical or factual information in alphanumeric form, in as granular form as possible, reflected in a list, table, graph, chart, map, or other non-narrative form that can be digitally transmitted or processed and regularly created or maintained by or on behalf of and owned by an agency that records a measurement, transaction, or determination related to the mission of that agency.

"Dataset" means a named collection of related, digitally stored data 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 method that is based on the dataset organization, but not including any data that is protected from disclosure under applicable federal or state law.

"Open data" means data that is collected by an agency that is not prohibited from being made available to the public or another agency by applicable laws, rules, regulations, policies, or other restrictions, requirements, or rights associated with such data, including contractual or other legal orders, restrictions, or requirements.

"Open data website" means either the unique, dedicated open data website implemented by an agency or an agency's website upon which datasets are hosted.

§ 2.2-3716. Appointment of Chief Data Officer; powers and duties.

A. The Governor shall appoint a Chief Data Officer of the Commonwealth to oversee the implementation of a unique, dedicated open data website and any additional or existing open data websites linked thereto by an agency.

B. The Chief Data Officer shall have the power and duty to:

1. Establish, in consultation with the Attorney General, procedures, standards, and best practices regarding the appropriate access and presentation of open data and datasets by each agency.

2. Develop a dataset format standard to be used by all agencies in providing their datasets to the Chief Data Officer, or in making their data available on their own websites, and ensure that under the standard, the datasets shall be accessible in a non-proprietary, machine-readable format that is compliant with federal and state accessibility rules and requirements and implemented on a schedule deemed appropriate by the Chief Data Officer.

3. Monitor and ensure compliance with the procedures, standards, and policies adopted pursuant to this chapter.

4. Provide such management and technical assistance as necessary to ensure ready access to the open data and datasets available to the public and agencies.

5. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) to carry out the provisions of this chapter.

6. Develop, in conjunction with the Chief Information Officer of the Commonwealth, a methodology to review and reconcile interagency disputes regarding access to open data and datasets and privacy issues.

§ 2.2-3717. Creation and maintenance of dedicated website.

The Chief Data Officer shall (i) create and maintain a unique, dedicated website that provides either datasets maintained and provided by agencies or searchable links to datasets hosted by agency websites, (ii) update datasets and links as they are provided by an agency, and (iii) monitor agency websites to

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59 ensure compliance with the policies and procedures established pursuant to this chapter.

60 **§ 2.2-3718. Agency to provide datasets or website link; adoption of policies; updates.**

61 A. Each agency shall either provide datasets to the Chief Data Officer or create and maintain on the
62 agency's website links to the datasets hosted by the agency. Agencies that choose to host their open data
63 and datasets on their own websites shall provide links to the Chief Data Officer for publication thereof
64 on the dedicated website maintained for that purpose.

65 B. Each agency shall adopt policies that are consistent with the open data security and technical
66 standards and policies established by the Chief Data Officer. In addition, each agency shall:

67 1. Create, maintain, and post or have posted on the open data website an inventory of all its open
68 data and datasets pursuant to the standards and timetables established by the Chief Data Officer;

69 2. Include on the open data website appropriate explanations about the open data, its format, how
70 often the open data and datasets are updated, and how notice regarding such updates can be obtained;
71 and

72 3. Assist users in gaining access to the open data and datasets of the agency through the deployment
73 of online access tools and the development and publication of application program interfaces.

74 C. Each agency shall update the open data and datasets on the timetable and in the manner
75 determined by the Chief Data Officer to effectuate the purposes of this chapter.

76 **§ 2.2-3719. Provision of open data and datasets; fees; warranties; limitations.**

77 A. Unless a fee is prescribed by law, open data and datasets shall be provided to the public without
78 cost. A dataset that is licensed to the state by a private entity, however, shall not be made available to
79 the public on the open data website until it has been reviewed by the Attorney General and the person
80 or entity licensing the data agrees to the public disclosure and to the form of such disclosure. Open
81 data and datasets made available by an agency on the open data website, unless subject to a disclosed
82 legal restriction, shall be treated as license-free, subject to reuse, and not subject to copyright
83 restrictions.

84 B. All open data and datasets shall be consistent with applicable state and federal laws related to
85 information security and privacy. The open data and datasets made available by an agency on the open
86 data website shall not include data that is not subject to public disclosure under such laws. Unless
87 specifically prohibited by a contract, open data and datasets containing data created or maintained by a
88 contractor under contract to, or licensed from, an agency shall be made available on the open data
89 website. Each such contract shall be subject to the provisions of this chapter and any applicable state
90 and federal law.

91 C. An agency shall not warrant the fitness for any particular purpose of any open data or datasets
92 presented on the open data website, nor shall an agency providing open data or a dataset on the open
93 data website be liable for any deficiencies in its completeness or accuracy. Each agency, pursuant to
94 standards and policies established by the Chief Data Officer, shall verify the accuracy of the open data
95 and datasets it makes available to the public on an open data website and, if possible, correct any
96 errors or inaccuracies discovered by the agency providing the open data or dataset, other agencies, or
97 the public.

98 D. Nothing in this section shall require an agency to make its open data and datasets available to
99 the public on an open data website upon the demand of the public. Requests for open data or datasets
100 not posted on the open data website are subject to the Freedom of Information Act (§ 2.2-3700 et seq.).

101 E. Unless contrary to specific policies or rules established by the Chief Data Officer, agencies shall
102 not require a user of an open data website to register or provide any user information as a condition to
103 obtaining the open data or datasets provided by the agency on an open data website.

104 **§ 2.2-3720. Cooperation among state agencies.**

105 Notwithstanding any rule, regulation, or statute to the contrary, agencies shall be actively
106 encouraged by the Chief Data Officer and the State Treasurer to share open data and datasets with
107 each other without formal agreements, provided that no existing laws regarding the security of personal,
108 private, and confidential information are violated.

109 **§ 2.2-3721. Report.**

110 The Chief Data Officer shall submit an annual report to the Governor and the General Assembly for
111 publication as a report document as provided in the procedures of the Division of Legislative Automated
112 Systems for the processing of legislative documents and reports. The chairman of the Board shall submit
113 to the Governor and the General Assembly an annual executive summary of the interim activity and
114 work of the Board no later than the first day of each regular session of the General Assembly. The
115 executive summary shall be submitted for publication as a report document as provided in the
116 procedures of the Division of Legislative Automated Systems for the processing of legislative documents
117 and reports and shall be posted on the General Assembly's website.

118 **2. That on or before December 31, 2019, the Chief Data Officer shall submit a written report to**
119 **the Governor and the General Assembly on (i) the progress made on the implementation of the**
120 **provisions of this act, (ii) the effectiveness in providing open data and datasets to the public and**

121 among agencies, and (iii) the feasibility of expanding the open data initiative to the legislative and
122 judicial branches of government.