

## RESOLUTION 11-10-2016

### DIGEST

#### Government: Open Data Required for Public Access to Information

Adds Government Code section 6272 to require all executive branch departments to use an open data format and publish on the California open data portal.

### TEXT OF RESOLUTION

**RESOLVED** that the Conference of California Bar Associations recommends that legislation be sponsored to add Government Code section 6272 to read as follows:

1 §6272

2 (a) Definitions. For purposes of this section:

3 (1) "Data" means final versions of statistical or factual information:

4 (A) In alphanumeric form reflected in a list, table, graph, chart, or another non-narrative  
5 form, that can be digitally transmitted or processed; and

6 (B) Regularly created or maintained by or on behalf of and owned by an executive branch  
7 department that records a measurement, transaction, or determination related to the mission of  
8 that executive branch department.

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

14 (b) Electronic data set availability; updates.

15 (1) Each executive branch department shall make appropriate and existing electronic  
16 data sets maintained by the department electronically available to the public through the State's  
17 open data portal at data.ca.gov or successor website designated by the chief information officer;  
18 provided that:

19 (A) Nothing in this section shall require departments to create new electronic data sets or  
20 to make datasets available upon demand;

21 (B) Data licensed to the state by another person or entity shall not be made public under  
22 this chapter unless the person or entity licensing the data agrees to the public disclosure; and

23 (C) Proprietary and other information protected from disclosure by law or contract shall  
24 not be disclosed.

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

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

33 (c) Data sets shall be available for informational purposes only. The State does not  
34 warrant the fitness of any data set for a particular purpose and shall not be liable for any

35 deficiencies in the completeness or accuracy of any data set, except where the State's conduct  
36 would constitute gross negligence, willful and wanton misconduct, or intentional misconduct.

37 (d) The chief information officer may make the departments' electronic data sets on  
38 data.ca.gov available to third parties under a license, which may require the licensee to allow any  
39 user to copy, distribute, display, or create derivative works at no cost and with an appropriate  
40 level of conditions placed on the use.

41 (e) Data set policies and procedures.

42 (1) The chief information officer, in consultation with the office of information practices,  
43 shall develop policies and procedures to implement section (b), including standards to determine  
44 which data sets are appropriate for online disclosure as provided in section (b); provided that the  
45 standards shall not require the departments to post information that is otherwise required to be  
46 disclosed but is personally identifiable information, information that may pose a personal or  
47 public security risk, is of minimal public interest, or is otherwise inappropriate for online  
48 disclosure as part of a data set.

49 (2) The policy and procedures shall include the following:

50 (A) Technical requirements with the goal of making data sets available to the greatest  
51 number of users and for the greatest number of applications, including whenever practicable, the  
52 use of machine readable, non-proprietary technical standards for web publishing; and

53 (B) Guidelines for departments to follow in making data sets available

(Proposed new language underlined; language to be deleted stricken)

**PROPONENT:** San Diego County Bar Association

## **STATEMENT OF REASONS**

The Problem: When information is made public, the format is very important. Open data provides a format that is easily accessible and readable by machines. California has an open data portal, data.ca.gov but unfortunately does not make much use of it. With other open data system proposals, privacy concerns are raised about people's personally identifying information.

The Solution: This resolution requires executive departments to use the open data portal to make public information available in the easiest format. Additionally, this resolution protects privacy by prohibiting personal identifying information absent consent from the individual or necessity to fulfill the department's duties.

## **IMPACT STATEMENT**

This proposed resolution does not affect any other law, statute or rule.

## **CURRENT OR PRIOR RELATED LEGISLATION**

SB 573 (2015), SB 1002 (2012). This resolution does not affect any other law, statute, or rule.

**AUTHOR AND/OR PERMANENT CONTACT:** Ben Rudin, 3830 Valley Centre Dr., Ste. 705 #231, San Diego, CA 92130, (858) 761-6417, ben\_rudin@hotmail.com.

**RESPONSIBLE FLOOR DELEGATE:** Ben Rudin

## **RESOLUTIONS COMMITTEE RECOMMENDATION**

### **APPROVE IN PRINCIPLE**

#### History:

No similar resolutions found.

#### Reasons:

This resolution adds Government Code section 6272 to require all executive branch departments to use an open data format and publish on the California open data portal. This resolution should be approved in principle because California agencies should migrate their data management to formats that are more accessible, useful, and informative to the public, researchers and policy makers.

All government agencies collect and store data, but much of this critical public asset is underutilized because it is maintained in formats that are not easily accessed, searched, or analyzed. Often times, public data is locked in PDFs and other propriety, non-machine-readable formats, making it difficult to share and use the information. The concept of open data is one that engenders and expands trust required between government and the public. Giving the public and other stakeholders access to the government's raw data allows it to be used, manipulated and rearranged in ways that meet the most compelling needs of the data consumer--most commonly for research, cataloguing, developing policy, or establishing trends. This is particularly valuable for media outlets, research enterprises, and government entities who utilize, compare, contrast and look for trends in the massive quantities of data that the government currently collects, maintains and publishes in static and statistically moribund reports. This also provides the opportunity for software developers, both public and private, to create applications that can serve the public and advance the common good.

It should be recognized that California already has a robust open data movement. The California Health and Human Services Agency hosts an extensive open data portal for health and wellness data. The Department of Justice also recently launched their own open data website. The resolution is not inconsistent with this and other statewide efforts to improve the availability of data and information to the public. Moreover, the resolution's goal of a statewide information officer is also consistent with other efforts. This resolution is similar to Senate Bill 573 (2015-2016 Reg. Sess.), which was held on suspense in Assembly Appropriations. As such, while the resolution may face similar cost hurdles should it become a bill, the policy underlying the need for greater access to data already captured by public sector entities is sound.