



April 4, 2017

ENGROSSED HOUSE BILL No. 1470

DIGEST OF HB 1470 (Updated March 30, 2017 2:49 pm - DI 130)

Citations Affected: Noncode.

Synopsis: Government information. Urges the legislative council to assign to an appropriate study committee for study during the 2017 legislative interim the topics of: (1) whether to grant the general assembly and the legislative services agency authority to obtain information held by any government entity, regardless of the form of the information; and (2) issues concerning existing and anticipated operations of the management performance hub, an agency within the executive department of state government.

Effective: July 1, 2017.

**Ober, Mahan, McNamara,
Shackleford, Engleman, Pressel,
Miller D, Carbaugh, Cherry,
Young J, Huston**

(SENATE SPONSORS — HERSHMAN, RUCKELSHAUS)

January 18, 2017, read first time and referred to Committee on Government and Regulatory Reform.

February 7, 2017, amended, reported — Do Pass.

February 22, 2017, read second time, amended, ordered engrossed.

February 23, 2017, engrossed. Read third time, passed. Yeas 93, nays 0.

SENATE ACTION

February 27, 2017, read first time and referred to Committee on Commerce and Technology.

April 3, 2017, amended, reported favorably — Do Pass.

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April 4, 2017

First Regular Session of the 120th General Assembly (2017)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2016 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1470

A BILL FOR AN ACT concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. [EFFECTIVE JULY 1, 2017] (a) The general
2 assembly urges the legislative council to assign to an appropriate
3 study committee for study during the 2017 legislative interim
4 topics concerning:
5 (1) whether to grant to the general assembly and the
6 legislative services agency, on behalf of the general assembly,
7 authority to obtain information held by any Indiana
8 government entity, regardless of the form of the information;
9 (2) the role and duties of the management performance hub,
10 an agency within the executive department of state
11 government;
12 (3) the legal implications and other risks associated with the
13 management performance hub's data collection, data storage,
14 data sharing, and other operations; and
15 (4) the privacy, quality, and security issues relating to the
16 management performance hub's data collection, data storage,
17 data sharing, and other operations.
18 (b) This SECTION expires November 1, 2017.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred House Bill 1470, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 2-5-1.7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]:

Chapter 1.7. Access to Government Information by the General Assembly

Sec. 1. The definitions in IC 5-14-3.3 apply throughout this chapter.

Sec. 2. (a) As used in this chapter, "free accessibility" refers to the ability to do the following:

(1) Electronically view, copy, import, extract, or otherwise obtain a copy of government information electronically from a governmental entity without cost to the legislative services agency or the legislative department of state government.

(2) Inspect and copy or obtain a copy of all government information:

(A) from the original records of the governmental entity or web site owner containing the government information, as specified by the legislative services agency;

(B) regardless of the data tier under which the information is classified;

(C) in a format and on the schedule specified by the legislative services agency; and

(D) without cost to the legislative services agency or the legislative department of state government.

(b) The term does not include the ability to change information in the possession of the governmental entity.

Sec. 3. "Government information" refers to recorded information, regardless of the form or the media on which the information is recorded.

Sec. 4. "Governmental entity" refers to any of the following:

(1) The state.

(2) A state agency.

(3) A political subdivision.

(4) An agency of a political subdivision.

(5) A state educational institution.

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(6) A separate body corporate and politic.

(7) Any other entity established by Indiana law that performs a governmental function.

Sec. 5. To carry out the constitutional and statutory responsibilities of the legislative department of state government and the legislative services agency, the legislative department of state government, through the legislative services agency, shall have free accessibility to government information.

Sec. 6. Notwithstanding section 5 of this chapter, a governmental entity is not required to give the legislative services agency free accessibility until the legislative services agency requests free accessibility from the governmental entity. The legislative services agency may enter into an agreement with a government entity to establish the terms of the free accessibility. If the governmental entity and the legislative services agency are unable to agree on a matter regarding free accessibility, the requirements of the legislative services agency prevail, subject to section 7 of this chapter.

Sec. 7. (a) If information to which the legislative services agency will have free accessibility is subject to federal law, federal regulation, or federal executive order, the governmental entity shall do the following:

(1) Provide to the legislative services agency a description of the nature and scope of the restrictions or other conditions.

(2) Assist the legislative services agency with obtaining any approvals or waivers and comply with any conditions necessary to exercise free accessibility to the information.

(3) Provide free accessibility to the information to the legislative services agency to the full extent permitted by the applicable federal law, federal regulation, or federal executive order.

(b) If the legislative services agency accesses, inspects, or copies government information that is confidential, the legislative services agency shall maintain the confidentiality of that information as required by federal law, Indiana law, or both."

Page 1, line 15, delete "IC 5-14.5-1-15" and insert "IC 5-14-3.3-7".

Page 2, line 19, after "26." insert "Indiana".

Page 2, delete lines 20 through 42, begin a new paragraph and insert:

"Sec. 1. (a) As used in this chapter, "agency" refers to any agency, authority, board, bureau, commission, department, division, office, or other unit of state government in the executive,



including the administrative, department of state government established by any of the following:

- (1) The Constitution of the State of Indiana.
 - (2) An Indiana statute.
 - (3) An administrative rule.
 - (4) An executive order.
- (b) The term does not include the following:
- (1) The legislative department of state government.
 - (2) The judicial department of state government.
 - (3) The Indiana finance authority created by IC 4-4-11-4.
 - (4) A political subdivision.
 - (5) A state educational institution.

Sec. 2. As used in this chapter, "continuous process improvement" means a management methodology that combines tools to improve process speed and reduce waste with data driven project analysis to provide products and services with improved quality at lower cost.

Sec. 3. As used in this chapter, "data" has the meaning set forth in IC 5-14-3.3-1.

Sec. 4. As used in this chapter, "MPH" refers to the management and performance hub established by section 8 of this chapter.

Sec. 5. As used in this chapter, "OMB" refers to the office of management and budget established by IC 4-3-22-3.

Sec. 6. As used in this chapter, "political subdivision" has the meaning set forth in IC 36-1-2-13.

Sec. 7. As used in this chapter, "state data" has the meaning set forth in IC 5-14-3.3-12.

Sec. 8. The management and performance hub is established within the OMB.

Sec. 9. (a) The governor shall appoint a chief data officer, who serves at the pleasure of the governor.

- (b) The chief data officer shall do the following:
- (1) Serve as the executive head of the MPH.
 - (2) Advise agencies and political subdivisions regarding best practices concerning the creation and maintenance of data.
 - (3) Coordinate data analytics and transparency master planning for the state and provide leadership regarding data analytics and transparency.

Sec. 10. The MPH shall do the following:

- (1) Establish and maintain a program to collect, analyze, and exchange data in carrying out the powers and duties of the



OMB and the powers and duties of the agency or entity sharing the data. In carrying out this program, the MPH may, in accordance with IC 4-1-6 and IC 5-14-3, obtain state data from each agency.

(2) In accordance with IC 4-1-6 and IC 5-14-3, establish and maintain a program to make data available to agencies, political subdivisions, researchers, and public consumption, subject to the following:

(A) In addition to the requirements of IC 4-1-6-8.6, a research request submission must be accompanied by written approval from an applicable institutional review board or similar entity, as determined by the MPH.

(B) A program established and maintained under this chapter must include policies governing access to data held by the MPH under this chapter. Data may be made available only in accordance with applicable confidentiality and disclosure laws.

(3) Establish privacy and quality policies for state data that comply with all applicable Indiana and federal laws, rules, and policies.

(4) In accordance with standards developed by the office of technology established by IC 4-13.1-2-1, establish and maintain a program to ensure the security of state data under this chapter.

(5) Conduct operational and procedural audits of agencies.

(6) Perform financial planning and design and implement efficiency projects.

(7) Advise and assist each agency to identify and implement continuous process improvement in state government.

(8) Carry out such other responsibilities as may be designated by the director of the OMB or the chief data officer.

Sec. 11. Each agency shall do the following:

(1) In a manner determined by the MPH, make available to the MPH the state data the MPH requires under this chapter.

(2) Make the MPH a party to any contractual agreement that will generate state data.

(3) As requested by the MPH, make available personnel with technical expertise to facilitate sharing of state data.

Sec. 12. (a) Title to any state data that is obtained by the MPH under section 11 of this chapter and that is unchanged by the MPH remains with the agency sharing the state data.

(b) Title to state data that is obtained by the MPH under section



11 of this chapter and that the MPH has changed in a substantive manner is vested in the MPH.

Sec. 13. The MPH is considered to be an agent of the agency sharing state data and is an authorized receiver of state data under the statutory or administrative law that governs the state data. Interagency data sharing under this chapter does not constitute a disclosure or release under any statutory or administrative law that governs the state data.

Sec. 14. (a) The MPH shall prescribe a form to be used to memorialize the sharing of data under this chapter.

(b) The form prescribed under subsection (a) shall be:

(1) completed by the agency or other entity described in section 15 of this chapter; and

(2) signed by the administrative head of the agency or other entity.

(c) A data sharing form completed and signed under subsection (b) constitutes the agreement required by any statutory or administrative law that governs the data. No additional documentation may be required to share data under this chapter.

Sec. 15. (a) The MPH may accept data from any of the following:

(1) The legislative department of state government.

(2) The judicial department of state government.

(3) A state educational institution.

(4) A political subdivision.

(5) Any other individual or person.

(b) Title to any data received by the MPH under this section is vested in the MPH."

Delete pages 3 through 27, begin a new paragraph and insert:

"SECTION 3. IC 5-14-3.3 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]:

Chapter 3.3. Government Data

Sec. 1. As used in this chapter, "data" means electronically recorded information.

Sec. 2. "Data owner" means a governmental entity that creates or gathers data from other sources and stores that data for its governmental purposes.

Sec. 3. "Data tier" refers to a classification of government data according to any limitations on the access to that data as determined by the management and performance hub under IC 4-3-26-10(3).



Sec. 4. "Executive state agency" refers to an agency within the executive (including the administrative) department of state government.

Sec. 5. "Governmental entity" refers to any of the following:

- (1) An executive state agency.**
- (2) A political subdivision.**
- (3) An agency of a political subdivision.**
- (4) A state educational institution.**

Sec. 6. "Government web site" refers to an Internet web site that is established for a governmental entity.

Sec. 7. "Machine readable" refers to a format in which data can be easily processed by a computer without human intervention while ensuring that semantic meaning is not lost.

Sec. 8. "OMB" refers to the office of management and budget established by IC 4-3-22-3.

Sec. 9. "Open format" means a technical format based on an underlying open standard that is:

- (1) not encumbered by restrictions that would impede use or reuse; and**
- (2) maintained by a standards organization.**

Sec. 10. "Political subdivision" has the meaning set forth in IC 36-1-2-13.

Sec. 11. "State agency" refers to an "agency" as defined in IC 4-3-26-1.

Sec. 12. "State data" means any data created, received, maintained, or stored by or otherwise in the control of an agency.

Sec. 13. "Web site owner" refers to the governmental entity that:

- (1) establishes and maintains a government web site; and**
- (2) is responsible for the content of that site.**

Sec. 14. Except as provided in this chapter or in another statute, the standards stated in this chapter apply to government data.

Sec. 15. A governmental entity should strive to make the data it keeps in a machine readable and open format.

Sec. 16. Except as otherwise specifically provided in this chapter or another statute, this chapter does not require a governmental entity to record information or expend resources for the purpose of computer programming to make or convert data to a format required under this chapter.

Sec. 17. A government web site may disclose government data only in accordance with IC 4-1-6 and IC 5-14-3.

Sec. 18. A web site owner and its officers, officials, and



employees are immune from any civil liability for posting confidential information if the information was posted in reliance on a determination made by a data owner about the confidentiality of information on the government web site.

Sec. 19. Except as specifically provided in IC 4-5-10-2, IC 4-13.1-2-4, IC 5-14-3-3.5, IC 5-14-3-3.6, or another statute, a web site owner may not charge a fee for access to the data on the web site.

Sec. 20. (a) This section applies to a data owner only if an Indiana statute requires the data owner to submit data to a web site owner.

(b) A web site owner may require the data owner to submit the data in an electronic format on a prescribed form.

(c) A data owner shall include a link on the data owner's Internet web site to the Internet web site of the web site owner to which the data owner is required to submit data."

Page 28, delete lines 1 through 12.

Page 32, line 6, delete "IC 5-14.5-2-6" and insert "**IC 5-14-3.3-18**".

Page 32, delete lines 9 through 11.

Page 33, line 29, delete "IC 5-14.5-1-15" and insert "**IC 5-14-3.3-7**".

Page 34, delete lines 3 through 42.

Delete pages 35 through 36.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1470 as introduced.)

MAHAN

Committee Vote: yeas 8, nays 0.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1470 be amended to read as follows:

Page 2, delete lines 10 through 12, begin a new paragraph and insert:

"Sec. 3. "Government information" refers to any information created, received, maintained, or stored by or otherwise in the control of a governmental entity, regardless of the form or the media on which the information is recorded."

Page 2, delete lines 27 through 36, begin a new paragraph and

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insert:

"Sec. 6. (a) Notwithstanding section 5 of this chapter, a governmental entity is not required to give the legislative services agency free accessibility until the legislative services agency requests free accessibility from the governmental entity.

(b) The legislative services agency may enter into an agreement with a government entity to establish the terms of the free accessibility.

(c) Except as otherwise specifically provided in this chapter or another statute, this chapter does not require a governmental entity to record information or expend additional resources for the purpose of computer programming to make or convert information to a format required under this chapter.

(d) Free accessibility is subject to the policies, limits, and procedures that the legislative council may establish."

Page 4, line 5, delete "and".

Page 4, line 29, delete "and".

Page 4, line 37, delete "and".

Page 5, line 11, delete "and IC 5-14-3," and insert ",".

Page 5, line 15, after "subdivisions," insert "**and**".

Page 5, line 15, after "and" insert "**for**".

Page 6, between lines 10 and 11, begin a new paragraph and insert:

"(c) Requests made in accordance with IC 5-14-3 for state data to which the MPH does not have title must be directed to the agency sharing the state data. The MPH may not fulfill such a request."

Page 6, line 34, delete "Any other individual or" and insert "A".

Page 6, line 34, delete "." and insert "(as defined in IC 5-22-2-20)".

Page 7, line 6, delete "and".

Page 7, line 33, delete "an" and insert "**a state**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1470 as printed February 7, 2017.)

OBER



COMMITTEE REPORT

Madam President: The Senate Committee on Commerce and Technology, to which was referred House Bill No. 1470, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT concerning state and local administration.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1470 as reprinted February 23, 2017.)

MESSMER, Chairperson

Committee Vote: Yeas 9, Nays 0.

