

GO ITEM #2  
October 29, 2012

**Worksession**

**MEMORANDUM**

October 25, 2012

TO: Government Operations and Fiscal Policy Committee

FROM: Amanda Mihill, Legislative Attorney *A. Mihill*

SUBJECT: **Worksession:** Bill 23-12, Administration – Open Government

Bill 23-12, Administration – Open Government, sponsored by Councilmembers Riemer and Andrews, Council President Berliner and Councilmembers Leventhal and Floreen, was introduced on July 31, 2012. A public hearing was held on September 18 at which 2 speakers supported the Bill (see testimony ©12).

This Bill would require an agency to make a public data set available on the Internet within 1 year of the effective date of this Bill. The public data set that an agency makes available must be accessible through a single web portal that is linked to [www.montgomerycountymd.gov](http://www.montgomerycountymd.gov) or any successor website maintained by, or on behalf of the County.

**Background**

The County is currently testing an open data website: [data.montgomerycountymd.gov](http://data.montgomerycountymd.gov). The goal of this initiative is to “increase public access to County data in an effort that supports government transparency, openness and innovation. Montgomery County's departments and agencies publish data on this website to provide County residents the ability to view, search, sort, filter download or build applications which access the County's high value data.” Information currently on that website include cable complaint data, election polling places, public school locations, and HHS facility locations.

**Issues for Committee Discussion**

**Executive comments** The Executive supports the intent of Bill 23-12 (©12). As noted in the testimony, Executive staff have been working with Councilmember Riemer on amendments. At the time this packet went to print, those amendments were not available, but staff will circulate them when they are available.

**MCCF recommended amendments.** At the public hearing, the Montgomery County Civic Federation supported Bill 23-12 and urged the adoption of several amendments (©13):

*Advisory Committee* MCCF recommends the County create an Open Government Data Quality/Utility Advisory Committee to provide guidance on data improvement, mechanisms for promoting use of the data, and priorities for advancing Open Government through increasing public access to government data sets. Council staff cautions Committee members about creating another advisory committee at this juncture. As Councilmembers will recall, last year the Council enacted Bill 32-11, Boards, Committees, and Commissions – Committee Evaluation and Review Board – Report. Bill 32-11 stated:

The County has many boards, committees, and commissions that provide a valuable service to the County with the work they perform. These boards, committees, and commissions require significant personnel and operating costs to function. In Fiscal Year 2011, the County spent an approximate \$1.4 million on personnel and operating costs to support the County's boards, committees, and commissions. While these boards, committees, and commissions provide a valuable service, there may be opportunities for consolidation.

Bill 32-11 gave the Committee Evaluation and Review Board (CERB), the advisory group appointed every 10 years to review and make recommendations on individual advisory committees and the committee structure as a whole, additional responsibilities to report on, including requiring CERB to review and make recommendations on certain advisory boards, committees, and commissions that request to be continued, and providing scenarios to reduce County staff time supporting boards, committees, and commissions. The CERB report is due to the Council and Executive in approximately 6 months. **Council staff recommendation:** Do not establish this advisory committee. After reviewing the CERB report that will address how advisory committees contribute to costs and employee workloads, and determining how Bill 23-12 is being implemented, the Council could introduce legislation establishing an advisory commission if one is warranted.

*Additional considerations* MCCF also made several observations about Bill 26-12 and noted that the bill did not:

- set priorities for data being release;
- establish requirements for metadata;
- promote the development of software applications;
- create a feedback mechanism to report errors and other concerns;
- provide incentives for agency participation; or
- provide resources to agencies to assure data quality or user documentation.

Many of these observations could be addressed in regulation and therefore **Council staff does not recommend** amending the bill for these purposes. Council staff also makes the following comments:

- Bill 23-12 does not set specific priorities for data inclusion, but does require agencies to prioritize data sets as part of the Compliance Plan and details a list of criteria that agencies must consider when prioritizing data sets (©8, lines 169-171 and 178-185).
- Bill 23-12 requires DTS to implement an online forum to solicit public feedback (©6, lines 117-119). This forum could certainly be used to report errors.
- Although the bill does not specifically provide resources to agencies to comply with its requirements, that is not unusual. If a department needs additional funds to comply with the requirements of Bill 23-12, the department can request a supplemental appropriation or request funds during the annual budget process.

This packet contains:

Bill 23-12

Legislative Request Report

Testimony

Circle #

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Bill No. 23-12  
Concerning: Administration – Open  
Government  
Revised: 7/27/2012 Draft No. 4  
Introduced: July 31, 2012  
Expires: January 31, 2014  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Councilmembers Riemer and Andrews, Council President Berliner and Councilmembers  
Leventhal and Floreen

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**AN ACT** to:

- (1) require the County to make certain public data sets available on a single web portal on the internet;
- (2) require the Department of Technology Services to develop a technical standards manual for publishing public data sets;
- (3) require the County to develop a Compliance Plan;
- (4) require the County to include on the single web portal, a website that includes certain information on requests submitted to the County under the Maryland Public Information Act and the County's response to that request;
- (5) require the Chief Administrative Officer to report to the Council on the Executive Branch's compliance with the Maryland Public Information Act; and
- (6) generally amend County law regarding administration.

By adding

Montgomery County Code  
Chapter 2, Administration  
Article XIV, Open Government  
Sections 2-152, 2-152, 2-153, 2-154, 2-155, 2-156, 2-157, and 2-158

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*

1           Sec. 1. Article XIV (Sections 2-152, 2-152, 2-153, 2-154, 2-155, 2-156,  
2 2-157, and 2-158) is added to Chapter 2 as follows:

3                                   Article XIV. Open Government

4 2-152. Title.

5           This Article is known as the "Montgomery County Open Government Act."

6 2-153. Definitions.

7           In this Article, the following words and phrases have the following meanings:

8           Agency means any office, department, division, board, committee,  
9 commission of the County government.

10          Data means the final version of digital information:

11           (a) (i) in a structured, statistical, or alphanumeric form (i.e., list,  
12 table, graph, chart, or other non-narrative form) that can  
13 be digitally transmitted or processed; or

14           (ii) in a unstructured, factual, or content form (i.e., fact sheet,  
15 memorandum, press release, compliance guidance,  
16 manual, or other narrative form) that can be digitally  
17 transmitted or processed; and

18           (b) regularly created or maintained by or on behalf of and owned  
19 by an agency that records a file, measurement, transaction, or  
20 determination related to the mission of an agency.

21          Data does not include any information provided to an agency by another  
22 government entity; or any image file, such as a design, drawing, map, photo,  
23 or scanned copy of an original document. Data includes statistical or factual  
24 information about the image file and geographic information system data.

25          Department means the Department of Technology Services.

26          Determination means any agency's final decision about a person, including:

27           (a) eligibility for services or benefits;

- 28           (b) issuing a permit;  
29           (c) registration, certification and licensing; and  
30           (d) liability for civil and criminal penalties.

31           Maryland Public Information Act or Act means the Maryland Public  
32           Information Act, codified at Sections 10-611 through 10-630 of the State  
33           Government Article of the Maryland Code.

34           Measurement means to quantify any characteristic of an observable event,  
35           occurrence, or object by comparison to a reference standard.

36           Open standard means a technical standard developed and maintained by a  
37           voluntary consensus standards body that is available to the public without  
38           royalty or fee.

39           Public data set means a comprehensive collection of interrelated data that is  
40           available for inspection by the public under any provision of law and is  
41           maintained on a computer system by, or on behalf of, an agency. Public  
42           data set does not include any portion of a data set that is not subject to  
43           disclosure under any Federal or State law, including the Maryland Public  
44           Information Act.

45           Technical standard means:

- 46           (a) the common and repeated use of a rule, condition, guideline, or  
47           characteristic for any product or related process and production  
48           method, and related management systems practice; and  
49           (b) (1) the definition of a term;  
50               (2) classification of a component;  
51               (3) delineation of a procedure;  
52               (4) specification of dimension, material, performance,  
53               design, or operation;

- 54                   (5) measurement of quality and quantity in describing any  
 55                   material, process, product, system, service, or practice;  
 56                   (6) test method and sampling procedure; or  
 57                   (7) description of fit and measurement of size or strength.

58           Transaction means any interaction between an agency and any person  
 59           related to the mission of an agency.

60           Voluntary consensus standards body means a domestic or international  
 61           organization that develops and maintains a technical standard that uses a  
 62           transparent deliberative process, permits the participation of any party, and  
 63           achieves general consensus, although not necessarily unanimity, of the  
 64           participating parties, including a process to attempt to resolve any difference  
 65           in viewpoint.

66    **2-154. Public data set availability.**

67           (a) An agency must make a public data set available on a single web  
 68           portal on the Internet within 1 year after this Article takes effect. If an  
 69           agency cannot make a public data set available, the agency must  
 70           report to Executive and Council:

- 71                   (1) which public data set it is unable to make available;  
 72                   (2) the reasons why the agency cannot make the public data set  
 73                   available; and  
 74                   (3) the date by which the agency expects the public data set to be  
 75                   available on the single web portal.

76           (b) Any public data set that an agency makes available on the Internet  
 77           must be accessible through a single web portal that is linked to  
 78           www.montgomerycountymd.gov or any successor website maintained  
 79           by, or on behalf of, the County.

- 80 (c) A public data set must be made available as specified in technical  
81 standards identified by Method 2 regulation.
- 82 (d) A public data set must be in a format that permits automated  
83 processing and must make use of appropriate technology to notify the  
84 public of all updates.
- 85 (e) A public data set must be updated as often as is necessary to preserve  
86 the integrity and usefulness of the data set to the extent that the  
87 agency regularly maintains or updates the public data set.
- 88 (f) A public data set must be made available without any registration or  
89 license requirement or restriction on use. However, the Department  
90 may require a third party providing to the public any public data set,  
91 or application utilizing that data set, to explicitly identify the source  
92 and version of the public data set and describe any modification made  
93 to that data set. In this Section, registration or license requirement or  
94 restriction does not include any measure required to:
- 95 (1) assure access to a public data set;  
96 (2) protect the single web site housing a public data set from  
97 unlawful abuse or an attempt to damage or impair use of the  
98 web site; or  
99 (3) analyze the type of data being used to improve service delivery.
- 100 (g) A public data set must be accessible to external search capabilities.
- 101 (h) Nothing in this Article prohibits an agency from: (1) voluntarily  
102 disclosing information not otherwise defined as data; or (2) making  
103 voluntarily disclosed information accessible through the single web  
104 portal.
- 105 (i) After a public data set has been available on the web portal for 6  
106 months, an agency must not change or terminate collection of data or

107 remove the data set from public access without the approval of the  
108 Chief Administrative Officer or the Chief Administrative Officer's  
109 designee.

- 110 (j) The Chief Administrative Officer must assign appropriate staff to  
111 manage the public data sets.

112 **2-155. Web portal administration.**

113 (a) The Department may take reasonable measures to maintain bandwidth  
114 availability of the web portal.

115 (b) The Department must conspicuously publish the open data legal  
116 policy in Section 2-156 on the web portal.

117 (c) The Department must implement an on-line forum to solicit public  
118 feedback and encourage public discussion on open data policies and  
119 public data set availability on the web portal.

120 (d) An agency must consider any request that it receives through the on-  
121 line forum to include a particular public data set when making any  
122 determination as to priority for public data set inclusion on the single  
123 web portal.

124 **2-156. Open data legal policy.**

125 (a) A public data set made available on the web portal is provided for  
126 informational purposes. The County does not warranty the  
127 completeness, accuracy, content, or fitness for any particular purpose  
128 or use of any public data set made available on the web portal, and no  
129 warranty is implied with respect to any public data set on the web  
130 portal.

131 (b) The County is not liable for any deficiency in the completeness,  
132 accuracy, content, or fitness for any particular purpose or use of any

133 public data set, or application utilizing the data set, provided by any  
134 third party.

- 135 (c) This Article does not create a private right of action to enforce its  
136 provisions. Failure to comply with this Article must not result in  
137 liability to an agency.

138 **2-157. Internet data set policy and technical standards.**

- 139 (a) Within 180 days after this Article takes effect, the Department must  
140 prepare and publish a technical standards manual for the publishing of  
141 a public data set in raw or unprocessed form through a single web  
142 portal by an agency to make public data available to the greatest  
143 number of users and for the greatest number of applications. The  
144 manual:

- 145 (1) must use open standards for web publishing and e-government,  
146 whenever practicable;
- 147 (2) must identify the reason why each technical standard was  
148 selected and to which types of data it applies;
- 149 (3) may recommend or require that data be published in more than  
150 one technical standard; and
- 151 (4) must include a plan to adopt or utilize a web application  
152 programming interface that permits application programs to  
153 request and receive public data sets directly from the web  
154 portal.

- 155 (b) The Department must update the manual as necessary.

- 156 (c) The Department must consult with appropriate voluntary consensus  
157 standards bodies and, when participation is feasible, in the public  
158 interest, and is compatible with agency and departmental missions,

159 authorities, and priorities, participate with such bodies in the  
 160 development of technical and open standards.

161 **2-158. Agency Compliance Plan.**

162 (a) Within 18 months after this Article takes effect, the Department must  
 163 submit a Compliance Plan to the Executive and Council and must  
 164 make the Plan available to the public on the web portal. Each agency  
 165 must cooperate with the Department in its preparation of the Plan.  
 166 The Plan must:

- 167 (1) include a summary description of a public data set under the  
 168 control of each agency on or after this Article takes effect;  
 169 (2) prioritize the public data sets for inclusion on the single web  
 170 portal on or before December 31, 2018, under the standards  
 171 adopted by the Department under Section 2-157; and  
 172 (3) create a timeline for their inclusion on the single web portal

173 (b) If a public data set cannot be made available on the single web portal  
 174 on or before December 31, 2018, the Plan must state the reason why  
 175 the set cannot be made available, and, to the extent practicable, the  
 176 date by which the agency believes that it will be available on the  
 177 single web portal.

178 (c) To prioritize public data sets, an agency must consider whether  
 179 information embodied in the public data set:

- 180 (1) can be used to increase agency accountability and  
 181 responsiveness;  
 182 (2) improves public knowledge of the agency and its operations;  
 183 (3) further the mission of the agency;  
 184 (4) creates economic opportunity; or  
 185 (5) responds to a need or demand identified by public consultation.

- 186 (d) No later than July 15, 2014, and every July 15 thereafter, the  
 187 Department must submit, and post on the web portal, an update of the  
 188 Compliance Plan to the Executive and Council until all public data  
 189 sets have been made available through a single web portal as required  
 190 by this Article. The update must include:
- 191 (1) the specific measures taken to make a public data set available  
 192 on the single web portal since the previous update;
  - 193 (2) any specific measure that will be taken before the next update;
  - 194 (3) an update to the list of public data sets, if necessary;
  - 195 (4) any change to the prioritization of public data sets; and
  - 196 (5) an update to the timeline for the inclusion of a public data set  
 197 on the single web portal, if necessary.
- 198 (e) If a public data set cannot be made available on the single web portal  
 199 on or before December 31, 2018, the update must explain why it  
 200 cannot and, to the extent practicable, specify the date by which the  
 201 agency believes that the public data set will be available on the single  
 202 web portal.

203 **2-158. Public Information Act Responses.**

- 204 (a) Definitions. In this Section, the following words and phrases have the  
 205 following meanings:
- 206 County means Montgomery County and includes any Executive or  
 207 Legislative Branch department or office.
- 208 Information request means a request for documents submitted to the  
 209 County under the Maryland Public Information Act.
- 210 (b) The Chief Administrative Officer must make available on the web  
 211 portal each information request submitted to the County under the

212 Maryland Public Information Act and the County's response to that  
213 request.

214 (c) Except as provided in subsection (d), the web portal must include:

215 (1) each information request submitted to the County;

216 (2) the date when the County received the information request;

217 (3) the status of the information request;

218 (4) if the information request was not answered within 30 days after  
219 the County received it, the reason for the delay; and

220 (5) the final response to the information request.

221 (d) The Chief Administrator must not include on the web portal any  
222 electronic mail address, home address, or telephone number of any  
223 individual who submitted a responsive document.

224 (e) The Chief Administrative Officer must report quarterly to the Council  
225 on the Executive Branch's compliance with the Maryland Public  
226 Information Act. The report must cite the statutory exception that  
227 supports each denial or partial denial of an information request.

228 *Approved:*

229

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Roger Berliner, President, County Council

Date

230 *Approved:*

231

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Isiah Leggett, County Executive

Date

232 *This is a correct copy of Council action.*

233

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Linda M. Lauer, Clerk of the Council

Date

## LEGISLATIVE REQUEST REPORT

Bill 23-12

*Administration – Open Government*

**DESCRIPTION:** This Bill would require an agency to make a public data set available on the Internet within 1 year of the effective date of this Bill. The public data set that an agency makes available must be accessible through a single web portal that is linked to [www.montgomerycountymd.gov](http://www.montgomerycountymd.gov) or any successor website maintained by, or on behalf of the County.

**PROBLEM:** The amount of government data that is on the web is limited.

**GOALS AND OBJECTIVES:** To make more public documents easily accessible.

**COORDINATION:** Technology Services

**FISCAL IMPACT:** To be requested.

**ECONOMIC IMPACT:** To be requested.

**EVALUATION:** To be requested.

**EXPERIENCE ELSEWHERE:** To be researched.

**SOURCE OF INFORMATION:** Amanda Mihill, 240-777-7815

**APPLICATION WITHIN MUNICIPALITIES:** To be researched.

**PENALTIES:** n/a

**Bill 23-12, Administration – Open Government**

**Testimony of Fariba Kassiri, Assistant Chief Administrative Officer, on behalf of  
County Executive Isiah Leggett**

**Public Hearing**

**September 18, 2012**

Good afternoon. My name is Fariba Kassiri and I am an Assistant Chief Administrative Officer with the Office of the County Executive. I am here to testify on behalf of County Executive Leggett on Bill 23-12.

The bill would require the County to 1) make certain public datasets available on a single web portal; 2) develop a technical standards manual for publishing public datasets; 3) develop an Open Government Compliance Plan; 4) publish on a single web portal the County’s response to all requests submitted under the Maryland Public Information Act (MPIA), and; 5) report on the County’s compliance with the MPIA.

The County Executive believes that the spirit of this bill is consistent with his vision for our already open, transparent, and responsive County government. He believes the success of our other accountability systems such as MC311 and CountyStat and integration of social media tools and emerging technologies (e.g. web/mobile apps) have set the stage for a successful implementation of a robust Open Government initiative.

Our well educated and highly informed residents and businesses expect the best from their government. They are anticipating more advancement in government innovation and transparency, better opportunities for community participation, and easier access to County government services, information, and data. While we have made great progress already by making most of our datasets publicly available, residents and other stakeholders sometimes have to contact and/or access several different sources, websites, or locations to obtain the data they seek. This bill is intended to solve that problem. I also want to acknowledge Councilmember Reimer’s leadership as the lead sponsor of this bill and his cooperation with Executive staff.

The County Executive is very supportive of this bill’s the intent. Per his direction, we have been working with Councilmember Reimer on certain amendments which would allow many of the defined terms and requirements of the bill (e.g., types and sources of data, system upgrades/maintenance, resource needs, and publication timelines) to be fleshed out in the Open Government Compliance Plan required by the bill. We look forward to working with the full Council as it considers this bill.

Thank you for the opportunity to testify today.

## Montgomery County Civic Federation's Resolution in Support of County Council Bill 23-12, Administration – Open Government

Presented by James H. Zepp, September 18, 2012

Thank you for this opportunity to address the Montgomery County Council regarding Council Bill 23-12. My name is James Zepp and I reside at 10602 Lockridge Drive, Silver Spring. I also serve on the Montgomery County Civic Federation's Executive Committee and am the Chair of its Public Safety Committee.

The Montgomery County Civic Federation (MCCF) supports the adoption of the County Council Bill 23-12 which mandates that the County agencies begin publishing data sets containing information that they either collect or generate as part of their normal duties. However, the MCCF recommends the creation of an Open Government Data Quality/Utility Advisory Committee that would be charged with providing the County with guidance on data improvement, mechanisms for promoting use of this information, and priorities for advancing Open Government through increasing public access to government data sets.

The bill sets an annual schedule for these activities, creates a basic administrative structure for overseeing these activities, and provides public access to these data sets through a single Web portal.

The MCCF generally supports any measures that promote open government and accountability by expanding or enhancing citizens' access to public information and data which is the purpose of this bill. However, the MCCF suggests that the bill be amended to include provisions that would encourage agency participation in this effort and contribute to the usefulness and data quality of the information released under this legislation.

While the proposed legislation does establish basic requirements for the agencies such as the time line for publication (one data set per governmental unit in the first year), it does not

1. set any priorities for the subject matter or type of information being released,
2. establish requirements for meta-data or user documentation that may provide citizens with a clearer understanding of the information contained in a published data set,
3. promote the development of software applications using these data sets that would make them more accessible to non-technical users,
4. create a feedback mechanism to inform contributing agencies of errors, omissions, or other concerns with the published data sets,
5. provide any incentives for agency participation, and
6. provide any resources to the agencies for assuring data quality or comprehensive user documentation.

The bill does allow the agencies to choose what information is released in this manner which may or may not be of general interest or value to the public.

Because similar efforts have been undertaken by the Federal and many state and local governments, Montgomery County can benefit from their prior experience. This includes

innovative ways to generate applications using government data which encourages public use by citizens who may not have the technical data analysis or programming capabilities to use raw data files; provide both positive and negative feedback to contributing agencies; and promotes use of the released data sets by academics and professional researchers which could lead to better data quality, expand public use of this information, and identify priorities for future data releases.

Some earlier efforts have led to embarrassing incidents because of missing or erroneous entries in some of the data sets that were released. One of the most widely publicized of these involved the recipient reports for the Federal Stimulus Grants which included many missing or nonexistent Zip Codes and Congressional Districts as well as some highly questionable financial and jobs figures. Consequently with little resources or staff to assure complete and accurate information, agencies tend to publish information considered as potentially harmless as possible to their interests.

While the County's Chief Administrative Officer is tasked with assuring agency compliance and the Department of Technology is responsible for developing technical standards, there is no central leadership identified for promoting the intent of this bill—open government through increased information access for the public. This function could be addressed with the creation of an Open Government Data Quality/Utility Advisory Committee. Because Montgomery County is home to many governmental and private research and information systems agencies and organizations as well as many colleges and universities, we should draw from these local resources.

Furthermore, this group could be charged with developing mechanisms for improving agency feedback, creating data applications, and providing the County government with direction for improving the content and quality of information released through this effort. Originally initiated by the DC government and replicated by the Federal and other governments, competitions have been held for programmers to develop new applications using public data. For modest amounts of prize money, new uses and attention were generated for the open government data sets being published. Similarly research competitions have encouraged proposals from academic institutions that use public data sets in studies or provide enhanced information to contributing agencies. Finally discussions and findings by the Advisory Committee can provide substantive feedback to the agencies that could improve data quality and processing for public release.