

GO ITEM #2
November 26, 2012

Worksession

MEMORANDUM

November 21, 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).

As introduced, this Bill would require an agency to make a public data set available on the Internet within 1 year of the effective date of the 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 or any successor website maintained by, or on behalf of the County. Bill 23-12 would also require the County to maintain 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 and require the Chief Administrative Officer to report to the Council on the Executive Branch's compliance with the Maryland Public Information Act.

Background

The County is currently testing an open data website: 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.

The Fiscal Impact Statement for Bill 23-12 is attached on ©29. According to this statement, the Executive Branch provides the following estimates for publishing county data sets: \$96,000 one-time cost in the first year; \$386,000 per year for ongoing fixed costs (including internal and external support costs, DTS software licensing, and DTS application support); and \$7,200 variable cost per data set (including DTS, other department, and County attorney review). The Executive branch provides the following estimates for publishing MPIA responses on the web: \$88,000 one-time cost in first year; \$32,000 for ongoing costs (including DTS application management and maintenance and MPIA training for departments); \$390,000 one time expense for a compliance tracking system; and \$220,000 ongoing costs for tracking system (including maintenance and support).

A revised fiscal impact statement, assuming adoption of the Riemer/Executive amendments, is on ©37. This statement is substantially the same, except it does not include costs related to the purchase and maintenance of an MPIA tracking system software. Executive staff explained that because the Riemer/Executive amendments would no longer require the CAO to report on compliance with the MPIA, this tracking system is no longer needed. Rather, the Riemer/Executive amendments require only that annual report on the Open Data Implementation Plan include an update on the implementation of §2-159.

Issues for Committee Discussion

Executive comments The Executive supports the intent of Bill 23-12 (©12). As noted in the testimony, Executive staff worked with Councilmember Riemer on amendments. At the worksession, Councilmember Riemer intends to offer these amendments for the Committee’s consideration (©17). In general, these amendments would remove some of the specific provisions of the bill and require an Open Data Implementation Plan (a Method 2 Regulation) to address those elements. The chart below compares major differences between Bill 23-12 as introduced and the Riemer/Executive amendments.

| | Bill 23-12 as Introduced | Riemer/ Exec Amendments |
|---|--|--|
| Definitions | | |
| Data | Data would include statistical or factual information about an image file and geographic information system data. | Data does not include this information. |
| Open Data Implementation Plan (ODIP) | No definition. | The plan developed by the CAO to implement the bill. |
| Public data set | A comprehensive collection of interrelated data available for public inspection and maintained on a computer system. | Data eligible for publication by the ODIP. |
| Data set availability | | |
| Availability | Public data sets must be on the web within 1 year. | Some public data sets must be on the web within 1 year; other sets available within the timeframe set in the ODIP. |
| Updates | Data sets must updated as often as necessary to preserve the integrity and usefulness of the data set. | Data sets must be updated as required by the ODIP. |
| Changes/ removal | Data sets may not be changed/removed if its been on the web for 6 months without CAO’s approval. | ODIP to address when and how an agency can change/remove data sets. |
| Staffing | CAO must assign appropriate staff to manage the public data sets. | ODIP must address appropriate staffing. |
| Open Data Compliance Plan (Method 2 Regulation) | | |
| Updates | Compliance Plan updates submitted annually beginning July 15, 2014. | A report on the ODIP must be submitted annually beginning July 15, 2015. |
| Maryland Public Information Act (MPIA) responses | | |
| Elements | Requires certain elements of a PIA response to be posted to the web. | The elements that will be posted to the web will be identified in the ODIP. |
| Reports | The CAO must report quarterly on Exec. Branch compliance with the MPIA. | ODIP reports must include an update on the implementation on this part of Bill 23-12. |

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 released;
- 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 (or the Open Data Implementation Plan if the Council adopts the Riemer/Executive amendments) 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). The Riemer/Executive amendments would require this information to be part of the Open Data Implementation Plan (©20-21, lines 79-90).

- 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. The Riemer/Executive amendments would require the County to implement a mechanism to solicit public feedback (©23, lines 147-150).
- 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:

| | <u>Circle #</u> |
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| Testimony | 12 |
| Memo from Executive | 15 |
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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

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

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

| | |
|------------------------------|--|
| Boldface | <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:

- 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

Roger Berliner, President, County Council

Date

230 *Approved:*

231

Isiah Leggett, County Executive

Date

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

233

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 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 Riemer’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.



OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

MEMORANDUM

October 25, 2012

TO: Roger Berliner, County Council President

FROM: Isiah Leggett, County Executive 

SUBJECT: Recommended Amendments to Bill 23-12, Administration – Open Government

I am transmitting recommended amendments to Bill 23-12, Administration – Open Government. I want to thank Councilmember Riemer for his leadership on this bill and for the assistance he provided to Executive Staff as they developed these recommended amendments.

The intent of Bill 23-12 is consistent with my vision for our already open, transparent, and responsive County government. In addition, the Open Data platform that is the highlight of this bill is already one of the major components of my upcoming Open Montgomery Initiative. My recommended amendments, which are reflected in the attached mark-up of Bill 23-12, are mostly focused on clarifying or redefining some terms and also allowing certain dataset-specific requirements of the bill (e.g., types and sources of data, system maintenance and upgrades, resource allocation and needs, publication timelines) to be fleshed out in the Open Data Implementation Plan.

The following is a brief description of each amendment.

Amendment Group #1: Clarifying or Redefining

- Modify the title of the bill to better reflect the goal of the bill by substituting “Open Data” for “Open Government.”
- Replace the term “Compliance Plan” with “Implementation Plan.”
- Throughout the bill, remove references to specific County departments/offices responsible for implementing aspects of the bill and replacing them with references to the Chief Administrative Officer.

(15)

Roger Berliner, County Council President
October 25, 2012
Page 2

Amendment Group #2: Focusing on the Open Data Implementation Plan

- Lines 40-42, add and define the Open Data Implementation Plan.
- Lines 46-49, modify the definition of the term “Public data set” to be “data identified as eligible for publication by the Open Data Implementation Plan.”
- Lines 79-90, add specific requirements for developing the Open Data Implementation Plan.
- Lines 102-103, delete the requirement for technical standards to be issued via Method 2 regulation.
- Lines 196-198, add a requirement for the Open Data Implementation Plan to be issued via Method 2 regulation.
- Lines 225-242, add a requirement for yearly reports on the Open Data Implementation Plan by the Chief Administrative Officer to be submitted to the Executive and Council, and posted on the web portal.
- Line 252, delete the requirement for Legislative Branch compliance with the requirement to publish the responses issued under the Maryland Public Information Act.
- Lines 255-258, allow the Open Data Implementation Plan to establish the data elements and a schedule for publishing all Executive Branch responses issued under the Maryland Public Information Act.

Executive staff will attend the Government Operations Committee worksession that is scheduled for October 29, 2012 to answer any questions that Councilmembers may have about these amendments. Thank you for your consideration of these recommended changes to the bill.

IL:fk

Attachment

cc: Timothy L. Firestine, Chief Administrative Officer
Kathleen Boucher, Assistant Chief Administrative Officer
Marc Hansen, County Attorney
Jennifer Hughes, Director, Office of Management and Budget
Fariba Kassiri, Assistant Chief Administrative Officer
Patrick Lacefield, Director, Public Information Office
Sonny Segal, Director, Department of Technology Services

16

Bill No. 23-12
 Concerning: Administration – Open
[[Government]] Data
 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

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

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]]~~ County to develop a technical standards manual for publishing public data sets;
- (3) require the County to develop ~~[[a Compliance]]~~ an Open Data Implementation 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]]~~ responses to 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]]~~ Data
 Sections 2-152, 2-152, 2-153, 2-154, 2-155, 2-156, 2-157, ~~[[and]]~~ 2-158, and 2-159

| | |
|---|--|
| Boldface | <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: (17)

28 [[Department means the Department of Technology Services.]]

29 [[Determination means any agency's final decision about a person,
30 including:

31 (a) eligibility for services or benefits;

32 (b) issuing a permit;

33 (c) registration, certification and licensing; and

34 (d) liability for civil and criminal penalties.]]

35 Maryland Public Information Act or Act means the Maryland Public
36 Information Act, codified at Sections 10-611 through 10-630 of the State
37 Government Article of the Maryland Code.

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

40 Open Data Implementation Plan means a plan developed by the Chief
41 Administrative Officer to implement this Article and as further described in
42 Section 2-158.

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

46 Public data set means [[a comprehensive collection of interrelated data that
47 is available for inspection by the public under any provision of law and is
48 maintained on a computer system by, or on behalf of, an agency.]] data
49 identified as eligible for publication by the Open Data Implementation Plan.

50 Public data set does not include any portion of a data set that is not subject
51 to disclosure under any Federal or State law, including the Maryland Public
52 Information Act.

53 Technical standard means:

54 (a) the common and repeated use of a rule, condition, guideline, or
 55 characteristic for any product or related process and production
 56 method, and related management systems practice; and

- 57 (b) (1) the definition of a term;
 58 (2) classification of a component;
 59 (3) delineation of a procedure;
 60 (4) specification of dimension, material, performance,
 61 design, or operation;
 62 (5) measurement of quality and quantity in describing any
 63 material, process, product, system, service, or practice;
 64 (6) test method and sampling procedure; or
 65 (7) description of fit and measurement of size or strength.

66 Transaction means any interaction between an agency and any person
 67 related to the mission of an agency.

68 Voluntary consensus standards body means a domestic or international
 69 organization that develops and maintains a technical standard that uses a
 70 transparent deliberative process, permits the participation of any party, and
 71 achieves general consensus, although not necessarily unanimity, of the
 72 participating parties, including a process to attempt to resolve any difference
 73 in viewpoint.

74 **2-154. Public data set availability.**

75 (a) [[An agency]] The County must make [[a]] some public data sets
 76 available on a single web portal on the Internet within 1 year after this
 77 Article takes effect. Every agency must make at least one public data
 78 set available to be published on a single web portal within the
 79 timeframe prescribed by the Open Data Implementation Plan. The
 80 Open Data Implementation Plan must assign and prioritize by

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81 subcategories the order in which public data sets should be published.
 82 To prioritize public data sets in the Open Data Implementation Plan,
 83 the Chief Administrative Officer must consider whether information
 84 embodied in the public data set:

- 85 (1) can be used to increase agency accountability and
 86 responsiveness;
 87 (2) improves public knowledge of the agency and its operations;
 88 (3) furthers the mission of the agency;
 89 (4) creates economic opportunity; or
 90 (5) responds to a need or demand identified by public consultation.

91 [[If an agency cannot make a public data set available, the agency
 92 must report to Executive and Council:

- 93 (1) which public data set it is unable to make available;
 94 (2) the reasons why the agency cannot make the public data set
 95 available; and
 96 (3) the date by which the agency expects the public data set to be
 97 available on the single web portal.]]

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

102 (c) A public data set must be made available as specified in technical
 103 standards [[identified by Method 2 regulation]].

104 (d) A public data set must be published in a format that permits
 105 automated processing and must make use of appropriate technology to
 106 notify the public of all updates.

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- 107 (e) Once published, a [[A]] public data set must be updated as often as is
 108 [[necessary to preserve the integrity and usefulness of the data set to
 109 the extent that the agency regularly maintains or updates the public
 110 data set]] required by the Open Data Implementation Plan.
- 111 (f) A published public data set must be made available without any
 112 registration or license requirement or restriction on use. However, the
 113 [[Department]] County may require a third party providing to the
 114 public any public data set, or application utilizing that data set, to
 115 explicitly identify the source and version of the public data set and
 116 describe any modification made to that data set. In this Section,
 117 registration or license requirement or restriction does not include any
 118 measure required to:
- 119 (1) assure access to a public data set;
 120 (2) protect the single web site housing a public data set from
 121 unlawful abuse or an attempt to damage or impair use of the
 122 web site; or
 123 (3) analyze the type of data being used to improve service delivery.
- 124 (g) A published public data set must be accessible to external search
 125 capabilities.
- 126 (h) Nothing in this Article prohibits an agency from: (1) voluntarily
 127 disclosing information not otherwise defined as data; or (2) making
 128 voluntarily disclosed information accessible through the single web
 129 portal.
- 130 (i) [[After a public data set has been available on the web portal for 6
 131 months, an agency must not change or terminate collection of data or
 132 remove the data set from public access without the approval of the
 133 Chief Administrative Officer or the Chief Administrative Officer's

134 designee.]] The Open Data Implementation Plan must address when
 135 and how an agency may change or terminate collection of data or
 136 remove the public data set from public access.

137 (j) [[The Chief Administrative Officer must assign appropriate staff to
 138 manage the public data sets.]] The Open Data Implementation Plan
 139 must address appropriate staffing to manage the published public data
 140 sets.

141 **2-155. Web portal administration.**

142 (a) The [[Department may take reasonable measures]] Open Data
 143 Implementation Plan must address measures to maintain bandwidth
 144 availability of the web portal.

145 (b) The [[Department]] County must conspicuously publish the open data
 146 [[legal]] policy in Section 2-156 on the web portal.

147 (c) The [[Department]] County must implement [[an on-line forum]] a
 148 mechanism to solicit public feedback and encourage public discussion
 149 on open data policies and public data set availability on the web
 150 portal.

151 (d) An agency must consider any request that it receives through the [[on-
 152 line forum]] public feedback mechanism to include a particular public
 153 data set when making any determination as to priority for public data
 154 set inclusion on the single web portal. An agency's consideration of
 155 such a request must defer to the priority assigned to publication by the
 156 Open Data Implementation Plan.

157 **2-156. Open data [[legal]] policy.**

158 (a) A public data set made available on the web portal is provided for
 159 informational purposes. The County [[does not]] makes no express or
 160 implied warranty as to the completeness, accuracy, content,

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161 merchantability, or fitness for any particular purpose or use of any
 162 public data set made available on the web portal[[, and no warranty is
 163 implied with respect to any public data set on the web portal]].

164 (b) The County is not liable for any deficiency in the completeness,
 165 accuracy, content, or fitness for any particular purpose or use of any
 166 public data set, or application utilizing the data set, provided by any
 167 third party.

168 (c) This Article and the Open Data Implementation Plan [[does]] do not
 169 create a private right of action to enforce [[its]] their provisions.
 170 Failure to comply with this Article or the Open Data Implementation
 171 Plan must not result in liability to [[an agency]] the County.

172 **2-157. Internet data set policy and technical standards.**

173 (a) Within 180 days after this Article takes effect, the [[Department]]
 174 County must prepare and publish a technical standards manual for the
 175 publishing of a public data set in raw or unprocessed form through a
 176 single web portal by an agency to make public data available to the
 177 greatest number of users and for the greatest number of applications.

178 The manual:

179 (1) must use open standards for web publishing and e-government,
 180 whenever practicable;

181 (2) must identify the reason why each technical standard was
 182 selected and to which types of data it applies;

183 (3) may recommend or require that data be published in more than
 184 one technical standard; and

185 (4) must include a plan to adopt or utilize a web application
 186 programming interface that permits application programs to

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187 request and receive public data sets directly from the web
 188 portal.

189 (b) The [[Department]] County must update the manual as necessary.

190 (c) The [[Department]] County must consult with appropriate voluntary
 191 consensus standards bodies and, when participation is feasible, in the
 192 public interest, and is compatible with agency and departmental
 193 missions, authorities, and priorities, participate with such bodies in the
 194 development of technical and open standards.

195 **2-158. [[Agency]] Open Data [[Compliance]] Implementation Plan.**

196 (a) Within 18 months after this Article takes effect, the [[Department]]
 197 Chief Administrative Officer must [[submit]] issue, via Method (2)
 198 regulation, an Open Data [[a Compliance]] Implementation Plan [[to
 199 the Executive and Council and must make the Plan available to the
 200 public on the web portal. Each agency must cooperate with the
 201 Department in its preparation of the Plan]]. The Plan must:

202 (1) include a summary description of a public data set under the
 203 control of each agency on or after this Article takes effect;

204 (2) prioritize the public data sets for inclusion on the single web
 205 portal on or before December 31, 2018, under the standards
 206 adopted by the [[Department]] County under Section 2-157;
 207 and

208 (3) create a timeline for their inclusion on the single web portal

209 (b) If a public data set cannot be made available on the single web portal
 210 on or before December 31, 2018, the Open Data Implementation Plan
 211 must state the reason why the set cannot be made available, and, to the
 212 extent practicable, the date by which the agency in possession of the

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213 public data set believes that it will be available on the single web
 214 portal.

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

217 (1) can be used to increase agency accountability and
 218 responsiveness;

219 (2) improves public knowledge of the agency and its operations;

220 (3) further the mission of the agency;

221 (4) creates economic opportunity; or

222 (5) responds to a need or demand identified by public consultation.

223 (d) No later than July 15, [[2014]] 2015, and every July 15 thereafter, the
 224 [[Department]] Chief Administrative Officer must submit to the
 225 Executive and Council, and post on the web portal, [[an update of]] a
 226 report on the Open Data [[Compliance]] Implementation Plan [[to the
 227 Executive and Council]] until all public data sets to be published have
 228 been made available through a single web portal as required by this
 229 Article. The [[update]] report must [[include]] explain:

230 (1) the specific measures taken to make a public data set available
 231 on the single web portal since the previous [[update]] report;

232 (2) any specific measure that will be taken before the next
 233 [[update]] report;

234 (3) [[an update to]] whether the list of public data sets, [[if
 235 necessary]] outlined in the Open Data Compliance Plan should
 236 be updated;

237 (4) [[any change to]] whether the prioritization of public data sets
 238 in the Open Data Compliance Plan should be changed; and

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239 (5) [[an update to]] whether the timeline outlined in the Open Data
 240 Compliance Plan for the inclusion of a public data set on the
 241 single web portal, [[if necessary]] should be changed.

242 ~~[[e]]~~ (d) If a previously unidentified public data set cannot be made
 243 available on the single web portal on or before December 31, 2018,
 244 the [[update]] report must explain why it cannot and, to the extent
 245 practicable, specify the date by which the agency in possession of the
 246 public data set believes that the public data set will be available on the
 247 single web portal.

248 **2-15[[8]]9. Public Information Act Responses.**

249 (a) Definitions. In this Section, the following words and phrases have the
 250 following meanings:

251 County means Montgomery County and includes any Executive Branch
 252 department or office and Legislative Branch [[department or]] office.

253 Legislative Branch office means any office identified in Section 1A-203
 254 (b), the Board of Appeals, and the Merit System Protection Board.

255 Information request means a request for documents submitted to the
 256 County under the Maryland Public Information Act.

257 (b) The Chief Administrative Officer must identify in the Open Data
 258 Implementation Plan what data elements and a schedule to make
 259 available on the web portal for [[each]] information [[request submitted
 260 to the County under]] relating to the implementation of the Maryland
 261 Public Information Act by [[and]] the County [[County's response to
 262 that request]].

263 (c) The Legislative Branch must post all data elements, as identified by the
 264 Open Data Implementation Plan, on the same single web portal used by
 265 the Executive Branch.

(27)

- 266 [[Except as provided in subsection (d), the web portal must include:
 267 (1) each information request submitted to the County;
 268 (2) the date when the County received the information request;
 269 (3) the status of the information request;
 270 (4) if the information request was not answered within 30 days after
 271 the County received it, the reason for the delay; and
 272 (5) the final response to the information request.]]

273 [[d) The Chief Administrative Officer must not include on the web portal
 274 any electronic mail address, home address, or telephone number of any
 275 individual who submitted a responsive document.]]

276 [[e)] (d) The Chief Administrative [[Officer]] Officer's report required by
 277 Section 2-158 must [[report quarterly to the Council on the Executive
 278 Branch's compliance with the Maryland Public Information Act The
 279 report must cite the statutory exception that supports each denial or
 280 partial denial of an information request]] include an update on
 281 implementation of this Section.

282 *Approved:*

283 _____
 Roger Berliner, President, County Council Date

284 *Approved:*

285 _____
 Isiah Leggett, County Executive Date

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

287 _____
 Linda M. Lauer, Clerk of the Council Date

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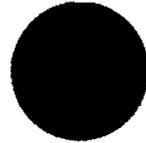
BILL 23-12

AM
CC
SBF
LL



ROCKVILLE, MARYLAND

070644



MEMORANDUM

October 25, 2012

TO: Roger Berliner, President, County Council

FROM: Jennifer A. Hughes, Director, Office of Management and Budget
Joseph F. Beach, Director, Department of Finance

SUBJECT: Council Bill 23-12 – Administration – Open Government

JAH
JFB

10/25/12 12:00 PM

Attached please find the fiscal and economic impact statements for the above-referenced legislation.

JAH:nm

- c: Kathleen Boucher, Assistant Chief Administrative Officer
- Lisa Austin, Offices of the County Executive
- Joy Nurmi, Special Assistant to the County Executive
- Patrick Lacefield, Director, Public Information Office
- Sonny Segal, Director, Department of Technology Services
- Alex Espinosa, Office of Management and Budget
- Dieter Klinger, Department of Technology Services
- Helen Ni, Department of Technology Services
- Ian Boyd, CountyStat
- Erin Ashbarry, Office of the County Attorney
- Mary Beck, Office of Management and Budget
- Naeem Mia, Office of Management and Budget
- David Platt, Department of Finance
- Mike Coveyou, Department of Finance

Fiscal Impact Statement
Council Bill 23-12 – Administration – Open Government

1. Legislative Summary

The proposed bill requires each County department to make a public dataset available on the Internet within 1 year of the effective date of this Bill and all datasets by December 31, 2018. The public dataset must be accessible through a single web portal that is linked to www.montgomerycountymd.gov or any successor website maintained by, or on behalf of the County.

This bill requires the County to:

- Develop a technical standards manual for publishing public data sets;
- Prepare an Open Government Compliance Plan;
- Publish certain information on Maryland Public Information Act (MPIA) requests and the County's responses to MPIA requests; and
- Report on the Executive Branch's compliance with the MPIA.

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

This analysis is based on the following assumptions and data sources:

- Maryland Public Information Act (MPIA) data is included in the Open Data legislation;
- The County's Department of Technology Services (DTS) will continue to use the Socrata platform and vendor for the Open Government initiative;
- Reports and statistics on functionality will be provided by the County's cloud provider; and
- Costs are based on the publication of 100 datasets and 500 datasets.

The following summary charts provide estimates of staff time and costs for the publication of both County datasets and MPIA requests.

| <u>Estimated Time and Costs of Publishing County Datasets</u> | | |
|--|--|---------------------|
| <u>Activity</u> | <u>Time</u> | <u>Costs</u> |
| A) Developing technical standards manual and an Open Government Compliance Plan | 1,200 hours | \$96,000 (1-time) |
| B.1) Internal and external support costs dedicated to Open Government initiative | 2.0 FTEs – new Grade 28 Senior IT Specialist positions | \$320,000 per year |
| B.2) DTS software licensing ¹ | Contract cost per year | \$50,000 per year |
| B.3) DTS application support | 200 hours per year | \$16,000 per year |
| C.1) CountyStat data identification/review | 28 hours per dataset | \$2,240 per dataset |

¹ Socrata contract expenses may increase by the level of services provided; due to uncertainty, DTS estimates a cost of \$50,000, based on the current level of service of 100-200 datasets.

| | | |
|---|--|---------------------|
| C.2) DTS dataset processing/review ² | 32 hours per dataset | \$2,560 per dataset |
| C.3) Submitting departmental review | 20 hours per dataset | \$1,600 per dataset |
| C.4) County Attorney review ³ | 8 hours per dataset | \$800 per dataset |
| Total 1-time fixed costs: | \$96,000 in the first year only (line A) | |
| Total ongoing fixed costs:⁴ | \$386,000 per year (lines B.1-B.3) | |
| Total variable costs: | \$7,200 per dataset (lines C.1-C.4) for vast majority of datasets | |

Summary of publishing County datasets:

- Assuming the County publishes **100 datasets**, the total expenditures are approximately **\$1.202 million** in the first year. This analysis assumes that total average cost of reviewing a dataset is \$7,200 – however, a small percentage of datasets are expected to cost significantly (*ten times or greater per dataset*) more due to uncertainties in the complexity of the data reviewed. These extreme outlying costs were not included in this analysis since the likelihood of them occurring is not known.
- Assuming the County published **500 datasets**, the total expenditures will be approximately **\$4.082 million** in the first year. This analysis assumes that total average cost of reviewing a dataset is \$7,200 – however, approximately 10% of datasets is expected to cost significantly (*ten times or greater per dataset*) more due to uncertainties in the complexity of the data reviewed. This estimate also does not assume any potential increases in DTS software licensing expenditures (Socrata).
- This analysis assumes either 100 or 500 datasets reviewed per year – the actual number of datasets may fall anywhere within this range (or exceed it). Significant uncertainty in the number of datasets to be published will affect the cost estimates herein.

| <u>Estimated Time and Costs of Tracking Executive Branch's Compliance with MPPIA requests and Publishing MPPIA Requests</u> | | |
|---|-------------|-------------------|
| <u>Activity</u> | <u>Time</u> | <u>Costs</u> |
| D.1) DTS application development (inc. reports) ⁵ | 700 hours | \$56,000 (1-time) |
| D.2) DTS documentation and training materials | 400 hours | \$32,000 (1-time) |
| D.3) Departmental MPPIA training (initial) | TBD | TBD (1-time) |
| E.1) DTS application management/updates | 400 hours | \$32,000 per year |
| E.2) DTS hardware maintenance | TBD | TBD |
| E.3) Departmental MPPIA training (ongoing) ⁶ | TBD | TBD |

² All estimates are based on work activities performed at a rate of \$80 per hour (Grade 28 Senior IT Specialists or departmental equivalent).

³ County attorney rate is based on \$100 per hour.

⁴ Estimates are based on current level of work effort. These costs are uncertain and may increase depending on the scope, volume, complexity, frequency of specific datasets.

⁵ In FY12, there were approximately 700 MPPIA requests (excluding DPS – could not provide an estimate at the time of this writing).

| | | |
|--|---|--------------------|
| F.1) MPIA tracking system software acquisition ⁷ | N/A | \$390,000 (1-time) |
| G.1) MPIA tracking system software maintenance | N/A | \$60,000 per year |
| G.2) Staff time needed to track/report MPIA Compliance in each department/office | TBD | TBD |
| G.3) MPIA tracking system administration and support | 1.0 FTE | \$160,000 per year |
| Total 1-time fixed costs: | \$88,000, at minimum, in the first year only (lines D.1-D.3) | |
| Total ongoing costs: | \$32,000, at minimum (lines E.1-E.3) | |
| Total 1-time compliance tracking system costs: | \$390,000, in the first year only (line F.1) | |
| Total ongoing compliance tracking system costs: | \$220,000, at minimum (lines G.1-G.3) | |

Summary of publishing MPIA requests:

- The total cost of publishing MPIA requests on the County's web portal is approximately **\$730,000** in the first year. However, a number of cost estimates and activities are to be determined (TBD); therefore, the actual first-year costs of publishing MPIA requests is *likely to be higher* than \$730,000.
- Ongoing costs will be affected by the number of requests published annually, the number of public inquiries regarding the published requests, and the length of time requests must remain on the website. These factors will significantly impact the cost estimates herein.
- DTS cannot estimate the number of MPIA requests that may be made due to several unknown or difficult-to-estimate variables (see item #9 below).
- The MPIA tracking and reporting process will consist of:
 - Application management and report production:
 - DTS estimates that approximately 700 staff hours will be required to develop an application management system that will enable each department to post all MPIA requests and responses (and any associated documents) to the County's web portal, log request-related meta data (for internal tracking and consistency), send a link to the requestor to view and download the response, and allow CountyStat and the Chief Administrative Officer (CAO) to produce statistical and compliance reports (D.1).
 - Preparing training materials/documents and providing training (D.2, D.3, E.3)
 - Ongoing software/application management will require an additional 400 hours per year (E.1).

⁶ Ongoing training to be provided to new departmental Points of Contacts (POCs); frequency of training is uncertain.

⁷ The MPIA tracking system software is required to track all MPIA requests, from receipt to posting a response on the web portal.

- Ongoing hardware maintenance (E.2) – this cost is TBD as DTS cannot currently estimate its hardware needs to support the MPIA application management process.
- MPIA request tracking and publishing system:
 - One-time purchase of a compliance tracking and reporting system estimates; based on 100 licenses for a commercial-off-the-shelf (COTS) system (F.1).
 - Ongoing software maintenance (G.1).
 - Staff time in individual departments to track MPIA requests in the pipeline (G.2).
 - DTS also estimates that one full time staff will be required to administer and provide support for the compliance tracking and reporting system (G.3).

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

The estimated total expenditures over the next six fiscal years are as follows:

| Total Expenditures over the next Six Fiscal Years | | | |
|--|------------------------------|----------------------|------------------------------|
| <u>Year</u> | <u>Dataset Publications</u> | <u>MPIA Requests</u> | <u>Total</u> |
| Year One | \$1.202m to \$4.082m | \$730,000 | \$1.932m to \$4.812m |
| Year Two | \$1.106m to \$3.986m | \$252,000 | \$1.358m to \$4.238m |
| Year Three | \$1.106m to \$3.986m | \$252,000 | \$1.358m to \$4.238m |
| Year Four | \$1.106m to \$3.986m | \$252,000 | \$1.358m to \$4.238m |
| Year Five | \$1.106m to \$3.986m | \$252,000 | \$1.358m to \$4.238m |
| Year Six | \$1.106m to \$3.986m | \$252,000 | \$1.358m to \$4.238m |
| Total over Six Years: | \$6.732m to \$24.012m | \$1.990m | \$8.722m to \$26.002m |

Summary of total costs over the next six fiscal years:

- The total six-year fiscal impact of the proposed bill is in the range of **\$8.722 million** (based on 100 published datasets per year) to **\$26.002 million** (based on 500 published datasets per year). These estimates include the cost of publishing both County datasets and MPIA requests.
- There is significant uncertainty as to the number of datasets and MPIA requests to be published. Therefore, actual total costs over the next six fiscal years may vary significantly.
- Actual costs may be lower than estimated due to potential efficiencies obtained from process improvements; conversely, certain risks may result in higher-than-estimated costs (see item #9 below).

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4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.

Not applicable.

5. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.

The bill does not authorize future spending.

6. An estimate of the staff time needed to implement the bill.

| Total Staff Hours Required over Six Years | | | |
|--|------------------------------------|-----------------------------|---------------------|
| <u>Year</u> | <u>Dataset Publications</u> | <u>MPIA Requests</u> | <u>Total</u> |
| First Year Only | 10,200 to 45,400 | 1,500 | 11,700 to 46,900 |
| Subsequent Years | 9,000 to 44,200 | 400 | 9,400 to 44,600 |

Total staff hours needed to implement the bill in the first year is approximately 11,700 hours (based on 100 datasets) to 46,900 hours (based on 500 datasets). Staff hours required to continue the program in subsequent years range from 9,400 to 44,600, depending on the number of datasets reviewed. See item #2 above for a detailed breakdown of estimated staff hours by activity.

These estimates do not include the addition of two (2) new full-time Grade 28 Senior IT Specialist positions that will provide dedicated support within DTS for Open Government activities.

It also does not include the full-time position dedicated for MPIA administration and support activities. Additional staff time is also required for hardware maintenance and MPIA training; DTS cannot estimate this workload at this time.

7. An explanation of how the addition of new staff responsibilities would affect other duties.

At the current level of resources, DTS cannot absorb the staff time needed to implement the proposed bill. DTS also estimates that at least two new full-time Grade 28 positions would be required to publish County datasets and respond to MPIA requests. Additional support may be required if the volume of datasets or MPIA requests increase after the first year of the bill's implementation.

8. An estimate of costs when an additional appropriation is needed.

DTS and other County departments cannot currently estimate how much of the additional work (as described above in item #2) can be absorbed into existing resources. Assuming that *none of the activities can be absorbed at all*, an estimated additional appropriation of at least \$1.932 million to \$4.812 million will be required in the first year of implementation.

9. A description of any variable that could affect revenue and cost estimates.

For dataset publication, the key variable that could affect cost estimates is the number of datasets to be published. DTS cannot currently estimate the number of datasets that participating departments would submit and that would undergo review. Other variables

(34)

include the complexity and sensitivity of particular datasets that may affect the amount of time required for review and formatting/presentation.

For MPIA requests, the key variable that could affect cost estimates is the number of MPIA requests to be published. DTS cannot estimate the number of MPIA requests; requests may increase as the public becomes more aware of the service and/or the ease in using the service to request information. In addition, errors or inconsistencies in processes or data or additional requests for clarification may also increase cost. Furthermore, DTS cannot estimate how much additional staff time (for County departments) is required to track MPIA requests due to wide variations in time and techniques (departments currently do not track the flow of an MPIA request other than logging in receipt and response).

The cost of publishing individual datasets or MPIA requests may decrease over time, as DTS and departments become more efficient in the process. However, marginal decreases may be offset by increases in volume. DTS cannot reliably estimate these efficiencies or offsets at this time.

10. Ranges of revenue or expenditures that are uncertain or difficult to project.

Cost estimates for departmental review and processing of datasets are unknown – estimates may be higher for complex datasets or those containing sensitive information (requiring more time to review and format the data).

For MPIA requests, new business processes will likely be developed to handle the flow of requests. These costs cannot be estimated at this time. Furthermore, significant increases in the volume of data to be published may require dedicated operating resources, such as a new server. This cost is not included in this analysis due to the uncertainty in the number of datasets to be published.

11. If a bill is likely to have no fiscal impact, why that is the case.

Not applicable.

12. Other fiscal impacts or comments.

None.

13. The following contributed to and concurred with this analysis:

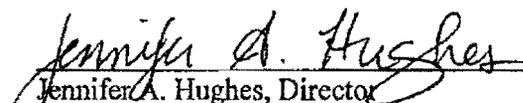
Dieter Klinger, Department of Technology Services

Helen Ni, Department of Technology Services

Ian Boyd, CountyStat

Erin Ashbarry, Office of the County Attorney

Naeem Mia, Office of Management and Budget


Jennifer A. Hughes, Director
Office of Management and Budget

10/24/12
Date

Economic Impact Statement
Council Bill 23-12; Administration – Open Government

Background:

The purpose of Bill 23-12 is to make certain County data more readily available to the public. To that end it requires:

- 1) the County to make certain public data sets available on a single web portal on the internet;
- 2) the Department of Technology Services to develop a technical standards manual for publishing public data sets;
- 3) the County to develop a Compliance Plan;
- 4) 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; and
- 5) the Chief Administrative Officer to report to the Council on the Executive Branch's compliance with the Maryland Public Information Act.

1. The sources of information, assumptions, and methodologies used.

Not applicable

2. A description of any variable that could affect the economic impact estimates.

Bill 23-12 should have no economic impact as the bill affects only government operations.

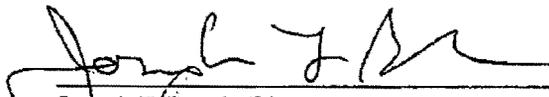
3. The Bill's positive or negative effect, if any on employment, spending, saving, investment, incomes, and property values in the County.

Bill 23-12 should have no economic impact as it affects only government operations.

4. If a Bill is likely to have no economic impact, why is that the case?

Not applicable; see item 3.

5. The following contributed to and concurred with this analysis: David Platt and Mike Coveyou, Finance



Joseph F. Beach, Director
Department of Finance

9/10/12

Date

| | A | B | C | D | E |
|----|---|---------------------|---------------------------------|----------------------------|------------|
| 1 | Bill 23-12 Fiscal Impact - CE amendments | | | | |
| 2 | Date of Estimate: 11/19/2012 | | | | |
| 3 | (Includes CE's Amendments of 10/25/12 and 11/19/12) | | | | |
| 4 | | | | | |
| 5 | (1) | (2) | (3) | (4) | (5) |
| 6 | | Total | Internally Absorbed Costs | New Additional Costs | Basis |
| 7 | Open Data | | | | |
| 8 | Develop Manual | \$ 96,000 | | \$ 96,000 | one-time |
| 9 | Support (2 FTE) | \$ 320,000 | | \$ 320,000 | annual |
| 10 | Software Licenses | \$ 50,000 | | \$ 50,000 | annual |
| 11 | Application Support | \$ 16,000 | | \$ 16,000 | annual |
| 12 | Publish 100 Data Sets | \$ 720,000 | \$ 720,000 | \$ - | annual |
| 13 | Publish Uncertainties | \$ - | \$ - | \$ - | |
| 14 | Total Year One | \$ 1,202,000 | \$ 720,000 | \$ 482,000 | |
| 15 | Total Year Two, etc. | \$ 1,106,000 | \$ 720,000 | \$ 386,000 | |
| 16 | | | | | |
| 17 | MPIA | | | | |
| 18 | Application Development | \$ 56,000 | | \$ 56,000 | one-time |
| 19 | Training Materials | \$ 32,000 | | \$ 32,000 | one-time |
| 20 | Department Staff Training | TBD | TBD | TBD | one-time |
| 21 | Application Management | \$ 32,000 | | \$ 32,000 | annual |
| 22 | Hardware Maintenance | TBD | TBD | TBD | annual |
| 23 | Ongoing Training | TBD | TBD | TBD | annual |
| 24 | Tracking Software | \$ - | \$ - | \$ - | one-time |
| 25 | Tracking Software Maint. | \$ - | \$ - | \$ - | annual |
| 26 | Staff Time for Tracking | \$ - | \$ - | \$ - | annual |
| 27 | Tracking System Support | \$ - | \$ - | \$ - | annual |
| 28 | Total Year One | \$ 120,000 | \$ - | \$ 120,000 | |
| 29 | Total Year Two, etc. | \$ 32,000 | \$ - | \$ 32,000 | |
| 30 | | | | | |
| 31 | Grand Total Year One | \$ 1,322,000 | \$ 720,000 | \$ 602,000 | |
| 32 | Grand Total Year Two, etc. | \$ 1,138,000 | \$ 720,000 | \$ 418,000 | |
| 33 | 6-year cumulative total | \$ 7,012,000 | \$ 4,320,000 | \$ 2,692,000 | |
| 34 | | | | | |
| 35 | Notes/Assumptions | | | | |
| 36 | 1. These are estimated costs based on information (e.g., MPIA request volumes) available at this | | | | |
| 37 | 2. Assumes CE's amendments of 10/25/12 and 11/19/12 (lines 259-261 of the attached document) are adopted. | | | | |
| 38 | 3. Assumes CM Riemer's new amendments (lines 251-254 and 262-264 of the attached document) will have no additional fiscal impact. | | | | |
| 39 | 4. Costs may change if other amendments are made. | | | | |
| 40 | 5. Column (3) are costs assumed to be able to be absorbed by work assignment reprioritization, with no need for new resources. | | | | |
| 41 | 6. Column (4) are costs that will require budget allocations, need new resources | | | | |