

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
Second Regular Session

House Bill No. 7786



Introduced by Representative PABLO JOHN F. GARCIA

EXPLANATORY NOTE

The foundation of a strong democracy is a well-informed citizenry. The right of the people to information on matters of public concern is enshrined in Section 7, Article III of the 1987 Constitution. Aside from access to official records and documents, access to government research data used as bases for policy development is also guaranteed to citizens. The State is likewise mandated to provide the policy environment for the full development of Filipino capability and the emergence of communication structures suitable to the needs and aspirations of the nation and the balanced flow of information (Article XVI, Section 10, 1987 Constitution).

Unfortunately, these constitutional provisions have not been realized to their full extent despite the existence and proliferation of technological platforms that have revolutionized access to information around the world.

In 2011, the Philippines made promising progress by becoming a founding member of the Open Government Partnership (OGP), a multilateral initiative that aims to secure concrete commitments to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance. Afterwards, an ad-hoc task force composed of the Office of the Presidential Spokesperson (OPS), Department of Budget and Management (DBM), and the Presidential Communications Development and Strategic Planning Office (PCDSPO) was formed to develop data.gov.ph (now gov.ph/data) resulting in the enactment of Joint Memorandum Circular (JMC) No. 2014-01, which was subsequently supplemented by JMC No. 2015-01 on the strength of Section 24 of the 2015 General Appropriations Act. Thus, "Open Data Philippines" was born.

Thereafter, Republic Act No. 10844 or the "Department of Information and Communications Technology [DICT] Act of 2015" was passed. The DICT is mandated to harmonize and coordinate all national ICT plans and initiatives to ensure knowledge, resource, and information sharing, database building, and agency networking linkages

among government agencies, consistent with E-Government objectives in particular, and national objectives in general.¹ This fresh mandate paved the way for the recalibration of the Philippine open data strategy as well as the involvement of other pertinent government agencies such as the Philippine Statistics Authority, National Archive of the Philippines, National Privacy Commission, and the Civil Service Commission.²

This bill, the first of its kind in the Philippine legislature, seeks to institutionalize and expand this ground-breaking initiative in order to encompass the whole of government. It seeks to adopt a policy of openness with regard to all datasets created, collected, processed, disseminated, or disposed through the use of public. It aims to democratize data by cultivating a culture of information-sharing among government institutions and the public in order to strengthen evidence-based policymaking and decision-making. In the same way, it enhances participation of citizens in good governance by making the government more transparent, responsive, accountable, and effective. The bill also features the creation of the Open Data Policy Board and a counterpart Open Data Bureau that shall ensure the effective and efficient implementation of this bill. A detailed set of principles and a specific set of criteria for datasets to be considered open are likewise provided.

With an increasingly technologically-savvy and -dependent citizenry, and the availability of technological platforms, the time is ripe, and the time is now. The passage of this bill is earnestly sought.



Rep. PABLO JOHN F. GARCIA
3rd District, Province of Cebu

¹ RA 10844, Section 6 (f).

² 2018 Draft Joint Memorandum Circular accessed from https://www.gov.ph/documents/820828/941060/Draft_Open+Data+Policy_August2018.pdf/0f553214-2a22-9b41-00c8-ec6407433376?fbclid=IwAR3KKL1THWKLj5HA31MNyLlrSoK9XMWbFISNGxx4mr35xfqf0kbBLSCEqlS.

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
Second Regular Session

House Bill No. 7786

Introduced by Representative PABLO JOHN F. GARCIA

AN ACT
STRENGTHENING THE OPEN DATA INITIATIVE OF THE GOVERNMENT

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

CHAPTER I
GENERAL PROVISIONS

Section 1. *Short Title.* - This Act shall be known as the "Open Data Act of 2020".

Section 2. *Declaration of Policy.* - It is the policy of the State to make all published government data accessible to the public. It will use an open data strategy to adopt openness for all datasets created, collected, processed, disseminated, or disposed through the use of public funds to the extent permitted by applicable laws and subject to individual privacy, confidentiality, national security, or other legally-mandated restrictions. Openness means that data sets published by agencies shall be machine-readable, in open formats, and released with open licenses.

In line with this, the State shall mandate all government offices to adopt the open data strategy to enforce the digitization of government data sets to make them available in a machine-readable format and publish these datasets in a shared repository in an internet domain. The State shall:

- a. Make government data searchable and reusable;
- b. Democratize data by cultivating a culture of information-sharing among government institutions;
- c. Strengthen evidence-based policymaking and decision-making;
- d. Form a systematic approach to use open data as a tool to support government and private sector initiatives;

- e. Enhance the participation of citizens in good governance by making the government more transparent, responsive, accountable, and effective;
- f. Use real-time government data for disaster risk reduction and mitigation initiatives, food security, economic and financial matters, as well in public procurement, among others; and
- g. Promote innovation by encouraging and incentivizing research undertakings and scientific engagements using government data.

Section 3. Definition of Terms. - As used in this Act, the following terms shall be defined as follows:

- a. "Agency Information Inventory" refers to the comprehensive listing of all information and datasets that an agency currently holds.
- b. "Data" refers to recorded information, regardless of form or the media on which the data is recorded.
- c. "Dataset" refers to information comprising a collection of information held in electronic form where all or most of the information in the collection —
 - i. has been obtained or recorded for the purpose of providing a public authority with information,
 - ii. is factual information which is not the product of analysis or interpretation other than calculation, and
 - iii. remains presented in a way that (except for the purpose of forming part of the collection) has not been organized, adapted or otherwise materially altered since it was obtained or recorded.
- d. "Machine-readable" refers to the form in which data or text can be easily processed by a computer. It excludes the picture format (scanned or photographed) of documents.
- e. "Metadata" refers to the description of a data or data set. It provides information that describes its content.
- f. "Open access" refers to the provision of free access to the general public.
- g. "Open Data Philippines" refers to the core government program that addresses the constitutional right of Filipinos to information on matters of public concern by making government data accessible, searchable, and understandable.
- h. "Open Data Portal" refers to the public domain website that serves as the central repository for all government datasets.
- i. "Open license" refers to a legal condition that allows a content to be free and reusable in any way under a few conditions, attribution being the usual requirement.

Section 4. Coverage. - This Act shall cover all agencies and instrumentalities of the government including State Universities and Colleges (SUCs), Government-Owned and -Controlled Corporations (GOCCs), and Government Financial Institutions

(GFIs); Local Government Units (LGUs); and constitutional offices enjoying fiscal autonomy.

Section 5. *Exceptions.* - This Act shall not apply to government datasets pertaining to the following:

- a. Personal and sensitive personal information collected pursuant to Republic Act No. 10173 or the Data Privacy Act of 2012;
- b. National security matters including military, diplomatic, and other state secrets;
- c. Trade or industrial secrets pursuant to Republic Act No. 8293 or the Intellectual Property Code of the Philippines;
- d. Banking information and transactions covered by Republic Act No. 1405 or the Secrecy of Bank Deposits;
- e. Classified law enforcement matters, such as those relating to the apprehension, prosecution, and detention of criminals; and to
- f. Other situations involving other known legal limitations including, but not limited to, contractual pledges of confidentiality.

CHAPTER II OPEN DATA PHILIPPINES

Section 6. *Open Data Policy Board.* - An independent inter-agency body to be known as the Open Data Policy Board (ODPB) is hereby established to develop policies and oversee the proper implementation of Open Data Philippines based on domestic and international standards on open data. It shall ensure the alignment of its policies to government data disclosure initiatives such as the Data Privacy Act, the Intellectual Property Code, and other pertinent laws and regulations.

The ODPB shall be composed of the Secretary of the Department of Information and Communication Technology as Chairperson, the National Statistician as the Vice Chairperson, with the following members:

- a. Secretary of the Department of Science and Technology;
- b. Secretary of the Department of Education;
- c. Secretary of the Department of Interior and Local Government;
- d. Secretary of the Department of Budget and Management;
- e. Secretary of the Presidential Communication Operations Office;
- f. Director-General of the National Archives of the Philippines;
- g. Chairperson of the National Privacy Commission;
- h. Director-General of the Intellectual Property Office;
- i. Chairperson of the Commission on Higher Education;
- j. President of the University of the Philippines; and the
- k. Director-General of the Technical Education and Skills Development Authority;

or their duly authorized representatives. A representative from the private sector shall be appointed by the President of the Philippines, upon the recommendation of the ODPB. The ODPB may invite resource persons in their meetings.

Section 7. Powers and Functions of the Open Data Policy Board. - The Open Data Policy Board shall have the following powers and functions:

- a. establish government-wide policies and best practices for the use, protection, dissemination, and generation of data;
- b. promote and encourage data sharing agreements between government agencies and instrumentalities;
- c. identify ways in which government agencies and instrumentalities can improve upon the production of data for use in policymaking;
- d. identify and evaluate new technology solutions for improving the collection and use of data; and
- e. consult with the public and engage with private users of government data and other stakeholders on how to improve access to and usability of data assets government.

The ODPB shall be supported by the Open Data Bureau.

Section 8. Open Data Bureau. - There shall be a body to be known as the "Open Data Bureau" under the supervision and control of the Open Data Policy Board specifically dedicated to the administration, promotion, development, and implementation of the Open Data initiative of the Philippine government as provided in this Act, which shall have the following functions:

- a. Strengthen the existing Open Data Philippines initiative to foster openness and increase government transparency and citizen engagement;
- b. Strengthen the existing Open Data Portal to serve as the central repository of all open government datasets;
- c. Create, issue, and implement an Open Data Action Plan (ODAP), which shall outline a three-year roadmap to a complete and integrated Open Data system and demonstrate the potential uses of open data in public service delivery, among others;
- d. Institutionalize data management practices and standards set by the Philippine eGovernment Interoperability Framework (PeGIF) for open data, such as a naming and tagging convention, metadata schema, data dictionary, among others;
- e. Maintain an accessible open data inventory and catalogue;
- f. Promote civic participation by consulting with civil society organizations in formulating plans and policies for the implementation of Open Data;
- g. Monitor and evaluate the compliance of government agencies with the guidelines on open data;

- h. Issue specific guidelines in accordance with the policies laid down by the ODPB;
- i. Conduct capacity building activities such as trainings, workshops, and seminars to train government agencies and instrumentalities on integration with the ODPH and use of the portal;
- j. Render opinions on issues raised and referred by government agencies about the implementation of this Act
- k. Consult with the public and engage with private users of government data and other stakeholders on how to improve access to data assets of the government; and
- l. Assume other duties and functions as may be deemed necessary by the ODPB for the successful operation of the bureau.

In addition to the powers granted under this Act, the Open Data Bureau shall absorb all the powers, functions, and responsibilities of the Open Data Philippines Task Force created under Joint Memorandum Circular No. 2015-01.

Section 9. *Organizational Structure of the Bureau.* - The Bureau shall be headed by an Executive Director. The Executive Director shall be assisted by two (2) Deputy Directors, one to be responsible for Data Processing Systems and one to be responsible for Policy and Planning. The Open Data Commissioner and the two (2) Deputy Open Data Commissioners shall be appointed by the President of the Philippines for a term of three (3) years, and may be reappointed for another term of three (3) years. Vacancies in the Commission shall be filled in the same manner in which the original appointment was made.

Section 10. *Qualification of the Executive Director and Deputy Directors.* - The Executive Director and Deputy Directors must be at least thirty-five (35) years of age and of good moral character, unquestionable integrity and known probity, and a recognized expert in the field of open data, statistics, and computer and information technology.

The Executive Director shall enjoy the benefits, privileges, and emoluments equivalent to the rank of an Undersecretary. The Deputy Directors shall enjoy the benefits, privileges, and emoluments equivalent to the rank of Assistant Secretary.

Section 11. *Open Data Officer.* - Each government agency covered by this Act shall appoint or designate an Open Data Officer. The Open Data Officer shall be responsible for the following:

- a. Promote the increased use and re-use of official government data within the agency and by the public;
- b. Coordinate with the Open Data Bureau for the proper implementation of its issuances and other concerns;
- c. Maintain an Agency Information Inventory;

- d. Improve and enhance data management practices of the agency;
- e. Consult with the public and engage with private users of agency data and other stakeholders on how to improve access to data assets of the agency; and
- f. Respond to feedback from the public regarding open data.

The government agency may create an Agency Open Data Team to assist the Open Data Officer in fulfilling the functions listed above.

Appointed or designated officers shall enjoy additional emoluments as may be determined by the head of the government agency. In no case shall the Open Data Officer be the same as the Data Privacy Officer.

Section 12. *League of Open Data Officers.* - There shall be an organization of all open data officers to be known as the League of Open Data Officers for the primary purpose of ventilating, articulating, and crystallizing issues affecting open data administration, and securing, through proper and legal means, solutions thereto.

All Open Data Officers shall attend all meetings and participate in the deliberations of the league. The Executive Director of Open Data Bureau shall serve as the Chairperson of the League.

CHAPTER III OPEN DATA OPERATIONALIZATION

Section 13. *General Open Data Principles.* - The open data initiative shall be guided by the following principles:

- a. Access to public sector information. Open Data Philippines is one of the core government programs that guarantee the constitutional right of the people to information on matters of public concern. The open data portal is intended to be the primary platform by which government data is published.
- b. Data-driven governance. The program seeks to drive government decision-making based on available and sound data. Equally important, the program recognizes that government does not have a monopoly of good governance, as a citizenry empowered with open government data can help improve government's service delivery.
- c. Public engagement. The program adheres to the idea that opening government data goes beyond providing data; it needs the public's participation to move it forward. Hence, the program establishes linkages outside of government, especially with civil society organizations (CSOs), the private sector, academe, and other stakeholders.

- d. Practical innovation. The program aspires to create opportunities for innovation that tremendously benefit both government and the public. The program recognizes that open government data goes beyond the fundamental purpose of transparency, but also aims to improve the delivery of public services, translate into economic or commercial opportunities, and find relevance in the everyday lives of citizens.

Section 14. Criteria for a Dataset to be Considered Open. - For a government dataset to be considered open, it must possess the following:

- a. Publicly available and accessible by default. If the dataset qualifies for publication to the extent permitted by applicable laws and subject to individual privacy, confidentiality, national security, or other legally-mandated restrictions, it should be made available through the national government portal and the agency's website by default and obtainable through download.
- b. Timely and Comprehensive. Each dataset shall be updated to ensure its quality and to preserve its value. All datasets must be updated at least once every quarter of the year, or whenever possible and permissible;
- c. Accessible and Usable. Each dataset must be platform-independent, machine-readable, and free of restrictions that would impede the re-use, modification, or processing of the information it contains. Datasets in machine-readable formats shall have data that can be extracted and processed by computer programs easily; and
- d. Comparable and Interoperable. Each dataset shall be easy to compare within and between sectors, across geographic locations, and over time. All datasets must be presented in structured and standardized formats to support interoperability, traceability, and effective reuse.

It shall be understood that a government dataset uploaded in the government open data portal is to be used for improved governance and citizen engagement as well as for inclusive development and innovation.

Section 15. Open license. - Government data uploaded in the Open Data Portal shall be considered as public content and can be used for public consumption. This means that the dataset is offered free and without restriction, subject only to proper attribution to the publishing government agency and instrumentality.

Section 16. Agency Implementation. - All agencies, through their respective Open Data Officers, shall comply with the Open Data guidelines which will be set by the Open Data Bureau. To fulfill their commitment in the Open Data initiative, they shall:

- a. Adopt an Agency Open Data Policy;
- b. Foster an open, transparent and accessible government through open data;
- c. Promote the increased use and re-use of official government data within the Department and by the public;
- d. Improve and enhance data management practices;
- e. Respond to feedback from the public regarding open data; and
- f. Work with civil society, the private sector and citizens to prioritize open datasets for release.

Section 17. *Uploading of Datasets.* - All datasets to be uploaded by the agencies shall be coursed through their respective Open Data Officers before uploading. These shall include datasets which are:

- a. necessary to espouse transparency and accountability in public governance;
- b. relevant for the public to know through the use of statistics;
- c. requested by other government agencies and other institutions and entities; and
- d. required by the Open Data Policy Bureau to upload.

Section 18. *Civic Engagement.* - Civic participation and engagement shall be promoted by consulting with civil society organizations in formulating plans and policies for the implementation of Open Data. It is recommended that each data category has a CSO counterpart that shall build on the data.

Section 19. *Incentive for Open Data Utilization.* - All Filipino citizens are encouraged to create usable applications out of the datasets that will be uploaded in the government portal. An incentive program shall be created for this purpose.

CHAPTER IV PENALTIES

Section 20. *Responsibility of Heads of Agencies.* - All open data maintained by the government, its agencies, and instrumentalities shall be published, as far as practicable, with the use of the most appropriate standard recognized by the information and communications technology industry, and as recommended by the Open Data Policy Board. The head of each government agency or instrumentality shall be responsible for complying with the disclosure requirements mentioned herein while the Bureau shall monitor the compliance and may recommend the necessary action in order to satisfy the minimum standards.

Section 21. *Violations.* - Any act of intentional misuse, misrepresentation, tampering, hacking, or other analogous acts, committed in the Philippines or abroad, by Filipinos or foreigners, shall be penalized by imprisonment ranging from six (6)

months to three (3) years and a fine of not less than Two hundred thousand (Php 200,000.00) but not more than One million pesos (Php 1,000,000.00).

Any combination or series of acts listed above shall be penalized by imprisonment ranging from three (3) years to six (6) years and a fine of not less than One million pesos (Php1,000,000.00) but not more than Five million pesos (Php 5,000,000.00).

CHAPTER V MISCELLANEOUS PROVISIONS

Section 22. Interpretation. - Any doubt in the interpretation of any provision of this Act shall be liberally interpreted in a manner mindful of the right of the people to information on matters of public concern and access to government research data used as bases for policy development.

Section 23. Implementing Rules and Regulations. - The ODPB shall convene within fifteen (15) days from the effectivity of this Act to formulate the Implementing Rules and Regulations (IRR) of this Act within ninety (90) days from convening.

Section 24. Congressional Oversight Committee. - There is hereby created a Joint Congressional Oversight Committee to oversee the implementation of this Act for a period not exceeding five (5) years from the effectivity of this Act. The Committee shall be composed of the Chairperson of the Senate Committee on Public Information and Mass Media and two (2) members thereof appointed by the Senate President, and the Chairperson of the House Committee on Public Information and House Committee on Information and Communications Technology and two (2) members thereof to be appointed by the Speaker of the House of Representatives.

Section 25. Reportorial Requirements. - The Open Data Bureau shall annually report to the President and Congress on its activities in carrying out the provisions of this Act. The Commission shall undertake whatever efforts it may determine to be necessary or appropriate to inform and educate the public of data privacy, data protection and fair information rights and responsibilities.

Section 26. Transitory Provision. - Government agencies and instrumentalities affected by this Act shall be given one (1) year transitory period from the effectivity of the IRR or such other period as may be determined by the ODPB to comply with the requirements of this Act.

Section 27. Appropriations Clause. - The ODPB shall be provided with an initial appropriation of Twenty million pesos (Php 20,000,000.00) to be drawn from the national government. Appropriations for the succeeding years shall be included in the

General Appropriations Act. It shall likewise receive Ten million pesos (Php 10,000,000.00) per year for five (5) years upon implementation of this Act drawn from the national government.

Section 28. *Separability Clause.* - If any provision or part hereof is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

Section 29. *Repealing Clause.* - Except as otherwise expressly provided in this Act, all other laws, decrees, executive orders, proclamations and administrative regulations or parts thereof inconsistent herewith are hereby repealed or modified accordingly.

Section 30. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its publication in at least two (2) national newspapers of general circulation.

Approved,