

CHAPTER 118
HB 155 – FINAL VERSION

6Feb2013... 0065h
04/18/13 1146s
04/18/13 1308s

2013 SESSION

13-0448
05/10

HOUSE BILL **155**

AN ACT relative to the use of open source software by state agencies; including the department of information technology in the uniform electronic transactions act; and repealing the information practices act.

SPONSORS: Rep. L. Ober, Hills 37; Rep. Leishman, Hills 24

COMMITTEE: Executive Departments and Administration

AMENDED ANALYSIS

This bill:

I. Revises certain standards encouraging the use of open source software and open data formats by state agencies.

II. Includes the department of information technology in the uniform electronic transactions act.

III. Repeals the information practices act.

IV. Exempts the legislature from the requirements of RSA 21-R.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through~~].
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

AN ACT relative to the use of open source software by state agencies; including the department of information technology in the uniform electronic transactions act; and repealing the information practices act.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 118:1 Department of Information Technology; Definition of Open Data Format Added; Definition
2 of Open Source Software Amended. Amend RSA 21-R:10, I to read as follows:

3 I. ***“Open data format” means the organization of digital data within a computer***
4 ***file in a manner that makes it accessible for all to implement and use in perpetuity, with***
5 ***no royalty or fee. The published specification for the open data format is usually***
6 ***maintained by a standards organization.***

7 ***I-a.*** “Open source software” means software that guarantees the user:

8 (a) Unrestricted use of the software for any purpose;

9 (b) Unrestricted access to the respective source code;

10 (c) ~~[Exhaustive]~~ ***Unlimited*** inspection of the working mechanisms of the software;

11 (d) Use of the internal mechanisms and arbitrary portions of the software, to adapt them
12 to the needs of the user;

13 (e) ~~[Freedom]~~ ***The right*** to make and distribute copies of the software; and

14 (f) ~~[Modification of the software and freedom]~~ ***The right to modify the software and***
15 ***distribute modifications of the new resulting software, under the same license as the original***
16 ***software.***

17 118:2 Department of Information Technology; Metrics; Inventory of Agency Software. RSA 21-
18 R:12 is repealed and reenacted to read as follows:

19 21-R:12 Metrics; Inventory of Agency Software. Each state agency shall maintain an inventory
20 of all software products used by the agency, indicating whether they are proprietary or open source,
21 and whether they use restricted or open data formats.

22 118:3 Use of Open Standards and Open Data Formats by State Agencies. Amend RSA 21-R:13
23 to read as follows:

24 21-R:13 Use of ***Open Standards and*** Open Data Formats by State Agencies.

25 I. The commissioner shall assist state agencies in the purchase or creation of data processing
26 devices or systems that comply with open standards for the accessing, storing, or transferring of

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1 data. The commissioner shall:

2 (a) Ensure that any new data standards which the state of New Hampshire defines and
3 to which it owns all rights are open standards compliant.

4 (b) Use open standards unless specific project requirements, **or excessive cost**, preclude
5 use of an open data format.

6 (c) Reexamine existing data stored in a restricted format to which the state of New
7 Hampshire does not own the rights every 4 years to determine if the format has become open and, if
8 not, whether an appropriate open standard exists.

9 (d) Make readily accessible, on the state website, documentation on open data formats
10 used by the state of New Hampshire. When data in open format is made available through the
11 state's website, a link shall be provided to the corresponding data format documentation.

12 118:4 Creation and Retention of Electronic Records and Conversion of Written Records by
13 Governmental Agencies. Amend RSA 294-E:17 to read as follows:

14 294-E:17 Creation and Retention of Electronic Records and Conversion of Written Records by
15 Governmental Agencies. The **secretary of state in cooperation with the** department of
16 [~~administrative services, in cooperation with the secretary of state~~] **information technology and**
17 **the department of administrative services**, shall determine whether, and the extent to which, a
18 governmental agency will create and retain electronic records and convert written records to
19 electronic records.

20 118:5 Acceptance and Distribution of Electronic Records by Governmental Agencies. Amend
21 RSA 294-E:18, I and the introductory paragraph of RSA 294-E:18, II to read as follows:

22 I. Except as otherwise provided in RSA 294-E:12, VI, **the** department of [~~administrative~~
23 ~~services~~] **information technology**, in cooperation with the secretary of state **and the department**
24 **of administrative services**, shall determine whether, and the extent to which, a governmental
25 agency will send and accept electronic records and electronic signatures to and from other persons
26 and otherwise create, generate, communicate, store, process, use, and rely upon electronic records
27 and electronic signatures.

28 II. To the extent that a governmental agency uses electronic records and electronic
29 signatures under paragraph I, the department of [~~administrative services~~] **information**
30 **technology**, in cooperation with the secretary of state **and the department of administrative**
31 **services**, giving due consideration to security, may specify:

32 118:6 Interoperability. Amend RSA 294-E:19 to read as follows:

33 294-E:19 Interoperability. The department of [~~administrative services~~] **information**
34 **technology**, in cooperation with the secretary of state **and the department of administrative**
35 **services**, after adopting standards pursuant to RSA 294-E:18, may encourage and promote
36 consistency and interoperability with similar requirements adopted by other governmental agencies

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1 of this and other states and the federal government and nongovernmental persons interacting with
2 governmental agencies of this state. If appropriate, those standards may specify differing levels of
3 standards from which governmental agencies of this state may choose in implementing the most
4 appropriate standard for a particular application.

5 118:7 Definition of State Agency. Amend RSA 21-R:10, IV to read as follows:

6 IV. "State agency" means any department, commission, board, institution, bureau, office, or
7 other entity, by whatever name called~~[- including the legislative branch of state government]~~,
8 established in the state constitution, statutes, or executive orders. The judicial branch **and the**
9 **legislative branch** of state government ~~is~~ **are** explicitly exempted from this definition.

10 118:8 Use of Open Source Software. Amend RSA 21-R:11, I(c) to read as follows:

11 (c) Provide a brief analysis of the purchase decision, including consideration of the cost
12 factors in subparagraph (a), to the chief information officer~~[- or the legislative equivalent for~~
13 ~~purchases by the legislative branch]~~;

14 118:9 Repeal. RSA 7-A, relative to the information practices act, is repealed.

15 118:10 Effective Date. This act shall take effect upon its passage.

16

17 Approved: June 25, 2013

18 Effective Date: June 25, 2013