

## OPEN DATA

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With two recent initiatives, OhioCheckbook.com and DataOhio, Ohio is on the cutting edge of the open data movement, and with the right decisions and policies, it can become one of the leading states in the nation for access to open data. “Open data is about the proactive, online release of government information.”<sup>1</sup> It is the future of public records. Rather than merely responding to requests, governments can post information online and citizens can more easily access the data thanks to advances in technology. Technology has changed the way public records are collected, stored, and made available. People no longer have to make requests for public data over the phone, through the mail, or by going to the public office and asking in person. Some governments, including the state of Ohio, are embracing open data. And while one program is still in its infancy and the other is still on the drawing board, they may demonstrate Ohio’s leadership in a complex and emerging area. Both are totally voluntary, so it is unclear whether their full potential will be realized and whether local governments will sign on with the enthusiasm their creators and supporters envision. But at this stage, their potential is helping to make Ohio a leader in the open data movement.

### I. OHIOCHECKBOOK.COM

Several years ago, Ohio started a transparency initiative. This began when Ohio State Treasurer Josh Mandel made state employee and teacher salaries accessible from his web site, OhioTreasurer.gov.<sup>2</sup> Since then, the Treasurer has made other state government information, such as county

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1. Alisha Green, *Open Data is the Next Iteration of Public Records*, SUNLIGHT FOUND. BLOG (Mar. 27, 2014), <http://sunlightfoundation.com/blog/2014/03/17/open-data-is-the-next-iteration-of-public-records/>.

2. Alyssa Doom, *Ohio Boosts Local Financial Transparency with Online Checkbook*, SUNLIGHT FOUND. BLOG (June 10, 2015), <https://sunlightfoundation.com/blog/2015/06/10/ohio-boosts-local-financial-transparency-with-online-checkbook/>.

investments and state owned properties, available online. In December 2014, he made all state-level financial data available for free online at [www.OhioCheckbook.com](http://www.OhioCheckbook.com), allowing “Ohioans to search, compare and share more than \$408 billion in checkbook-level spending, [including] data spanning the last seven fiscal years,”<sup>3</sup> from 2008 through July 1, 2015. OhioCheckbook.com lists approximately 112 million transactions and 3.9 billion pieces of spending information, showing the public how and where their tax dollars are being spent, with Google-style contextual searches and advanced searches, interactive charts and graphs, and tools to compare spending across ten agencies. Users may download any and all of the data in an electronic format.<sup>4</sup> For example, a search of OhioCheckbook.com for “Brouse McDowell” reveals that various Ohio state agencies spent \$12,576.36 on the law firm in fiscal year 2008, \$29,262.50 in 2010, and \$161,068.91 in 2013. The Treasurer’s web site also shows that Ohio Attorney General Mike DeWine made \$109,565 in 2014 and 2013, and \$109,584 in 2012. Treasurer Mandel also made \$109,565 in 2014 and 2013 at a rate of \$52.67 per hour.

Dennis Hetzel, Executive Director of the Ohio Newspaper Association thinks that this “might be the best effort in America to help citizens track state government spending at a detailed level,”<sup>5</sup> because the more conformity there is, the more benefit there is for citizens, journalists, and government itself to be more effective and productive.<sup>6</sup> It is important for citizens to have access to this type of information because it empowers citizens “to decide if public actors are being efficient with taxpayer money.”<sup>7</sup> People who log onto the site are able to search by company name or agency. Popular searches that users conduct are for travel, food, lottery prizes, and sick leave.<sup>8</sup> Some examples of these types of searches are what departments spent on in state, out of state, and international travel, and how much each department spent in total, which departments spent the most state money on foods, and comparisons of compensatory

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3. Josh Mandel, *Government Transparency in the 21st Century*, City Club of Cleveland, YOUTUBE (Aug. 11, 2015), <https://www.youtube.com/watch?t=3070&v=9HLMElmUvVo>.

4. *Id.*

5. Dennis Hetzel, Op., *How Ohio’s Public Records Law Turned Into a Mess*, CLEVELAND.COM (Mar. 19, 2015), [http://www.cleveland.com/opinion/index.ssf/2015/03/how\\_ohios\\_public\\_records\\_law\\_t.html](http://www.cleveland.com/opinion/index.ssf/2015/03/how_ohios_public_records_law_t.html).

6. Telephone Interview with Dennis Hetzel, Executive Director, Ohio Newspaper Association (Aug. 21, 2015).

7. Doom, *supra* note 2.

8. Marc Kovac, *Ohio House Law Requires Treasurer to Have Online Checkbook*, DAILY JEFFERSONIAN (Apr. 17, 2015), <http://www.daily-jeff.com/local%20news/2015/04/17/ohio-house-law-requires-treasurer-to-have-online-checkbook>.

time used in lieu of sick leave, personal time used in lieu of sick leave, and how much each agency has spent on sick leave compensation. The web site cost \$813,979.62, and took about one year and a half to build.<sup>9</sup> All of the information listed on the site is public record, but before the checkbook was posted electronically, the only way to access much of it was by making many individual and time-consuming public records requests.<sup>10</sup> All expenditures are listed with a representation of the actual check and more than thirty pieces of information,<sup>11</sup> including contact information for the agency so individuals or reporters can make a follow-up call or e-mail to request more information.<sup>12</sup> (However, Ohio law governs “public records,” not information, so government employees are not required to give additional information.) This web site is an invaluable tool because it allows citizens to keep track of what the government is doing with their money, creates transparency which allows the citizens to hold their elected officials accountable, and promotes government efficiency by making spending information more easily accessible and open to public scrutiny.

As a result of this initiative, Ohio jumped from forty-sixth place to first on *Following the Money*, the U.S. Public Interest Research Group’s (PIRG) annual report on online access to government spending data.<sup>13</sup> Ohio was awarded a perfect score of 100—the highest score ever awarded, and it made the largest single improvement since the ranking system started six years ago.<sup>14</sup> In regards to their grading scale, the U.S. PIRG said, “[s]tates could receive a total of 100 points based on our core scoring rubric. States could receive an additional four points in extra credit for data on recouped funds in economic development subsidy programs up to a maximum total score of 100 points.”<sup>15</sup> Treasurer Mandel stated that his

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9. Maria Devito, *Ohio Ranked No. 1 in Nation for Transparency in Government Spending*, COLUMBUS DISP. (Mar. 18, 2015), <http://www.dispatch.com/content/stories/local/2015/03/18/ohio-transparency.html>.

10. Alan Johnson, *Want to Know How the State is Spending Money? You Can Find it Online Now*, COLUMBUS DISP. (Dec. 3, 2014), <http://www.dispatch.com/content/stories/local/2014/12/02/ohio-checkbook-online.html>.

11. “Most of the \$408 billion in expenditures include dates, names and addresses of recipients, purposes of expense, even the number of the check that paid the bill.” Paula Schleis, *Stow, Ohio, Joins Statewide Endeavor, Puts Checkbook Online*, AKRON BEACON J. (June 16, 2015), <http://www.govtech.com/dc/articles/Stow-Ohio-Joins-Statewide-Endeavor-Puts-Checkbook-Online.html>.

12. Mandel, *supra* note 3.

13. U.S. PIRG, *Following the Money 2015: How the 50 States Rate in Providing Online Access to Government Spending Data* (Mar. 18, 2015), <http://uspirg.org/sites/pirg/files/reports/Following%20the%20Money%202015%20vUS.pdf>.

14. Devito, *supra* note 9.

15. *Following the Money*, *supra* note 13, at 70.

“ultimate goal here is to help set off a national race for transparency.”<sup>16</sup> He believes that this will empower citizens by allowing them to see how their tax money is being spent and to hold government officials accountable.<sup>17</sup> In April 2015, he called upon all 3,962 local governments and public offices to partner with his office and post their expenditures on OhioCheckbook.com at no charge.<sup>18</sup> In the first four months that the site was online, 253 local governments and school districts committed to putting their financial data online, and Mandel is in discussion with about 335 others.<sup>19</sup> Some of the offices that have already committed to putting their financial data online include several counties, such as Mahoning, Lorain, Delaware, Franklin, Stark, Ottawa, and Jackson; municipalities of Streetsboro, Cincinnati, and Stow; and school districts located in Dayton, Brunswick and Mentor.<sup>20</sup> Past disparities among districts in obtaining open records information are no longer an issue when it comes to spending data, because now even the most rural areas can easily put their information online at no cost to the local office. This is evidenced by the fact that many small communities, like the village of Ashville, with an estimated population of 4,149 in 2014,<sup>21</sup> has signed onto the program.<sup>22</sup> Other small communities with their spending data on OhioCheckbook.com are Wellston, with an estimated population of 5,535 in 2014,<sup>23</sup> Salineville, with an estimated population of 1,284 in 2014,<sup>24</sup> and Letart Township, with an estimated population of 659 in 2014.<sup>25</sup>

Treasurer Mandel hopes that as more communities and schools join the movement, there will be a “tipping-point,” where “it’s going to start to get uncomfortable for those local governments and school districts that have not signed up.”<sup>26</sup> He expects that within a few years, citizens of communities whose expenditures are not online are going to reach out to

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16. Devito, *supra* note 9.

17. Mandel, *supra* note 3.

18. Press Release, Ohio Treasurer’s Office, Treasurer Mandel Calls on Cities, Counties, Townships and Schools to Place Local Government Checkbooks on OhioCheckbook.com (Apr. 7, 2015), <http://ohiotreasurer.gov/News/2293>.

19. Doom, *supra* note 2.

20. Mandel, *supra* note 3.

21. United States Census Bureau, 2014 Ohio Population Estimates, [http://www.census.gov/popest/data/cities/totals/2014/files/SUB-EST2014\\_39.csv](http://www.census.gov/popest/data/cities/totals/2014/files/SUB-EST2014_39.csv).

22. Sarah Reed, *Ashville to Join Financial Transparency Project*, CIRCLEVILLE HERALD (May, 23, 2015), [http://www.circlevilleherald.com/news/ashville-to-join-financial-transparency-project/article\\_c5088e2d-d070-5363-a429-da7cfc2a0aea.html](http://www.circlevilleherald.com/news/ashville-to-join-financial-transparency-project/article_c5088e2d-d070-5363-a429-da7cfc2a0aea.html).

23. United States Census Bureau, *supra* note 21.

24. *Id.*

25. *Id.*

26. Schleis, *supra* note 11.

their elected officials and demand to see how their tax money is being spent.<sup>27</sup> On September 24, 2015, Treasurer Mandel's office launched the Local Government and Schools section of OhioCheckbook.com, posting 114 local public office spending sites. This is the first wave of local governments and school districts to launch their local checkbooks.<sup>28</sup> Of those 114 public offices, 40 are cities and villages, and 32 are townships. The remaining offices are counties, school districts, a park, and a public library. Treasurer Mandel is offering to put local data up at no cost to the public offices, because "[o]nce local governments have worked out the data submission process, upkeep should take a trivial effort. . . . Having one online transparency system instead of hundreds will save taxpayers money on web development costs."<sup>29</sup> Not only does it save taxpayers money and promote government transparency, but Treasurer Mandel expects it to help public offices with budgeting, citing feedback he received from an employee of the Ohio Department of Disabilities who said that the web site was better than the internal software currently being used at that office.<sup>30</sup> Mandel believes that the issue of government transparency brings people across the political spectrum together,<sup>31</sup> and his initiative is already changing the discussion in local politics. In the 2015 Akron mayoral race, Republican candidate Eddie Sipplen "promised to put the city's financial records for the past 10 years online if elected, using Ohio Treasurer Josh Mandel's online checkbook system," though Sipplen did not win election.<sup>32</sup>

While OhioCheckbook.com is already online and has been gaining traction, support, and praise, "it could very easily be taken down by a future treasurer of state."<sup>33</sup> Thus, Representatives Mike Dovilla and Jonathan Dever have introduced House Bill 46 to ensure that this innovative tool is maintained in perpetuity. House Bill 46 codifies the Ohio Checkbook web site, mandating that the Ohio State Treasurer, whomever he or she may be, "establish and maintain the Ohio state government expenditure database," and make it "available on the web site

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27. Mandel, *supra* note 3.

28. Press Release, Ohio Treasurer's Office, *Treasurer Josh Mandel Announces Launch of Over 100 Local Government and School District Online Checkbooks* (Sept. 24, 2015), <http://ohiotreasurer.gov/News/4378>.

29. Jason Hart, *OhioCheckbook.com to Spotlight Local Spending by August*, OHIOWATCHDOG.COM (May 27, 2015), <http://watchdog.org/219495/ohiocheckbook-local-spending/>.

30. *Id.*

31. Mandel, *supra* note 3.

32. John Harper, *Republican Akron Mayoral Candidate Eddie Sipplen Wants Akron's Finances Online*, CLEVELAND.COM (Aug. 13, 2015), [http://www.cleveland.com/akron/index.ssf/2015/08/eddie\\_sipplen\\_republican\\_for\\_a.html](http://www.cleveland.com/akron/index.ssf/2015/08/eddie_sipplen_republican_for_a.html).

33. Kovac, *supra* note 8.

of the treasurer of state. . . . accessible by members of the public without charge.”<sup>34</sup> Furthermore, it requires that all of the Ohio Checkbook web site’s defining features remain intact, including searches and filtering by amount, date, vendor, and the state entity that made the expense,<sup>35</sup> and graphical representations of data in the form of charts and graphs.<sup>36</sup> Additionally, the bill requires that one year after it goes into effect, the treasurer “provide, on the web site. . . . an opportunity for public comment as to the utility of the database.”<sup>37</sup> The bill passed the House unanimously.<sup>38</sup> The bill is presently before the Ohio Senate Finance Committee.<sup>39</sup> It only requires that the Treasurer maintain a database of states expenditures, and does not address local entities. This means that if the bill is passed and a new treasurer comes into office, the local governments and schools section could be in jeopardy. The legislature could address this by amending the language of the bill to require that section be included in the database so local governments and schools that choose to opt into the program will continue to have access to an online database maintained by the state.

## II. DATAOHIO LEGISLATION

In an effort to “make it easier to quickly and effectively obtain public information,”<sup>40</sup> State Representatives Mike Duffey and Christina Hagan introduced House Bill 130, also known as the DataOhio initiative. This is one of the state’s first steps toward embracing open data and creating a framework of policies and standards for the future. The initiative will attempt to accomplish these goals by creating a DataOhio Board to make recommendations regarding online access to public records, establishing standards for public offices that opt into the program and choose to post records online, creating data.Ohio.gov as an aggregate of all available online state records, establishing uniform accounting procedures and charts of accounts for public office use, and setting up requirements for

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34. H.B. 46, 131st Gen. Assemb., Reg. Sess., (Ohio 2015), § 113.51.

35. *Id.* at § 113.52.

36. *Id.* at § 113.54.

37. *Id.* at § 113.56.

38. Mandel, *supra* note 3.

39. Ohio State Government Expenditure Database-establish, H.B. 46, 131st Gen. Assemb. (Ohio 2009), <https://www.legislature.ohio.gov/legislation/legislation-status?id=GA131-HB-46>.

40. Majority Caucus, *Reps. Duffey, Hagan Discuss DataOhio Initiative to Increase Transparency, Modernize Government* (Oct. 31, 2013), <http://www.ohiohouse.gov/repUBLICANS/press/Reps-Duffey-Hagan-Discuss-DataOhio-Initiative-to-Increase-Transparency-Modernize-Government>.

and administering a \$10,000 grant for public offices that do post their records online. A *Columbus Dispatch* editorial described the initiative as a way to “arm taxpayers and watchdogs with digestible comparables to rally for fiscal efficiencies at the local-government level, overcoming an entrenched resistance to change in some agencies. Residents would win with lower costs and better services.”<sup>41</sup> This bill requires certain state actors to take steps to establish open data standards for local governments that choose to opt into the program.

The DataOhio Board will make recommendations to the General Assembly for online access to public records and data. The board will also be required to provide the General Assembly with a report of its findings and recommendations every year.<sup>42</sup> The General Assembly recognizes that public-use data from public offices can promote transparency in government, stimulate business innovation, and help public offices become more effective, so it intends to help the public more easily find, download, and use government data. The Board’s duties will include recommending what categories of public records should be available online and in an open format, recommending technology standards for open data that reflect the most current standard used nationally and by other states, like Hawaii and New York, as well as financial data standards and metadata definitional standards for nonfinancial data. Finally, the Board must establish data.Ohio.gov, which will serve as the primary source of all public records made available online by Ohio public offices, as well as consider collaborating open data efforts with the federal government and other state governments.<sup>43</sup> The Board will consist of people who are “designees from all five statewide officeholders, majority and minority legislative leaders, three local government representatives, and one designee from Ohio’s public universities.”<sup>44</sup> The bill’s authors have included room on the Board for members from a wide array of backgrounds including public officials, open government activists, and consumers of public records to allow for broad representation. The Board members are to serve without compensation and are required to meet at least ten times per year, but will

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41. Editorial, *Sizing Up the Public Sector: Bills Would Clarify Performance of Ohio[’s] Many Local Governments*, COLUMBUS DISP. (Feb. 15, 2014), <http://www.dispatch.com/content/stories/editorials/2014/02/15/sizing-up-the-public-sector.html>.

42. Ohio Legislative Service Commission, Bill Analysis Sub. H.B. 130, at 4, <http://www.ohiohouse.gov/committee/state-government>

43. *Id.*

44. Majority Caucus, *supra* note 40.

be reimbursed for expenses they incur during the performance of their duties.<sup>45</sup>

This bill requires data.Ohio.gov to serve as the portal where all public records posted by public offices can be located and accessed online. The web site must either host the information or provide links to outside web sites for the public offices that post the information. The Auditor of State must adopt rules to govern policies and procedures for the web site, and one of those rules is that no fees may be charged for use of the web site. The auditor is required to ensure that every link on the web site provides access to open data that is machine readable. The web site will also contain a forum for users to discuss best practices.<sup>46</sup>

Another requirement of the DataOhio initiative is that the state auditor adopt rules establishing uniform accounting procedures and charts of accounts.<sup>47</sup> The purpose of this portion of the bill is to allow the public to easily “compare public data generated by the state and other public offices using [a] common language.”<sup>48</sup> Lindsey Gardiner of the Greater Ohio Policy Center believes this aspect of the bill will allow “communities, researchers, private citizens and funding sources to track performance over time,” and more importantly, will be “a mechanism that creates apples to apples comparisons [that] helps identify best practices and opportunities for government efficiencies and cost savings.”<sup>49</sup> Public offices are not required to use the accounting standards, but will be encouraged to do so with the auditor’s “DataOhio Transparency Award.”<sup>50</sup> Dennis Hetzel, whose organization is generally supportive of what Representative Duffey is trying to accomplish,<sup>51</sup> believes that the bill’s element of adopting uniform accounting standards “could make it easier for all citizens, including journalists, to track the way governmental bodies use taxpayer dollars,” which is significant because “Ohio’s structure of local government probably is the most complex in the country.”<sup>52</sup>

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45. *Id.*

46. *Testimony of OpenNEO Executive Director Beth Sebian*, House State Gov’t Comm. (June 10, 2015), <http://www.ohiohouse.gov/committee/state-government>.

47. Ohio Legislative Service Commission, *supra* note 42.

48. *Id.* at 7.

49. *Testimony of Lindsey Gardiner, Greater Ohio Policy Center* (June 10, 2015), House State Gov’t Comm., <http://www.ohiohouse.gov/committee/state-government>.

50. Ohio Legislative Service Commission, *supra* note 42, at 6.

51. Telephone Interview with Hetzel, *supra* note 6

52. Maggie Thurber, *DataOhio Aims to Promote Transparent Government*, OHIOWATCHDOG.COM (Nov. 6, 2013), <http://watchdog.org/114781/increased-government-transparent-is-goal-of-dataohio-initiative/>.

It is important to highlight that the DataOhio initiative does not require public offices to post their records online. However, it does require that if a public office chooses to post its records online, it must make its best efforts to post them in an open format, so consumers can search, view, and download the records or data in a machine-readable format.<sup>53</sup> The bill offers an incentive for them to opt into the program. Besides the public praise and associated benefits of open data that offices will receive by posting their records online, they will be eligible for a \$10,000 grant from the State Library Board through the Local Government Information Exchange Program for complying with the DataOhio Board's open data policies. The bill appropriates \$12.5 million in fiscal years 2016 and 2017 each. The State Librarian is permitted to allocate up to \$250,000 in expenses associated with maintenance for the program and administration of the grants, with the remaining amount to be disbursed to grantees that meet eligibility criteria yet to be determined by the State Library Board.<sup>54</sup>

Small communities may require financial assistance before they can put their records online, or they may not have the technical capability to do so.<sup>55</sup> This bill will provide funding to help cover initial costs, and will allow the best practices to be properly examined and implemented by the DataOhio Board. Open data costs may include hiring or training administrative, technical, and legal staff; obtaining or creating new software; extracting and inputting data; and maintaining servers.<sup>56</sup> The \$10,000 grant can help alleviate the financial burden that open data policies may impose on public offices. Compliance with electronic records standards can also reduce costs by reducing the amount of paper used. The City of Stow, for example, spent \$43,000 on printing alone in 2012.<sup>57</sup> Moving to electronic records would reduce internal printing costs. Additionally, public offices would save on the amount of time it takes to respond to records requests from the public. Online electronic access to public records could lead to fewer and clearer requests, because having the information online can help the public see what is available and

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53. Ohio Legislative Service Commission, *supra* note 42, at 5.

54. *Id.*

55. *Testimony of Nancy Reger, Mid-Ohio Regional Planning Commission* (June 10, 2015), House State Gov't Comm., <http://www.ohiohouse.gov/committee/state-government>.

56. Open Data Policy Guidelines, SUNLIGHT FOUND., <http://sunlightfoundation.com/opendataguidelines/> (last visited Sept. 20, 2016).

57. Alisha Green, *Reducing Paper, Increasing Transparency: Public Records in Ohio*, SUNLIGHT FOUND. (July 16, 2014), <https://sunlightfoundation.com/blog/2013/07/16/reducing-paper-increasing-transparency-public-records-in-ohio/>.

understand what exactly to ask for.<sup>58</sup> What is public will still be determined by current public records law, and what should be posted is a question for the DataOhio Board to answer. Rather than paying someone to search for, prepare, and send records, records custodians can simply direct the person making the request to the relevant section of data.Ohio.gov, or someone seeking out records can more easily find them online himself.

Beth Sebian, Executive Director of OpenNEO, a local nonprofit organization dedicated to the open data movement, thinks that DataOhio's voluntary nature is a specific strength, pointing out that "[t]his opt-in approach, compared to a mandate, is much more likely to build a groundswell of interest and enthusiasm in opening data from local leaders," and "the \$10,000 grant 'carrot' for local governments who comply with open data standards is likely to channel curiosity from local leaders toward the program."<sup>59</sup> Once data is available to the public, those local governments who are the best spenders will not only get bragging rights, but they will enjoy stronger public support if a tax hike is needed.<sup>60</sup> Gene Krebs, a former Ohio State lawmaker, suggested similar legislation years ago,<sup>61</sup> but DataOhio is far superior to anything he imagined, which involved centralized spreadsheets.<sup>62</sup> In his proponent testimony to the House subcommittee he praised the bill, commending the "profound yet very subtle change in how we govern ourselves, and the tools our citizens will have to improve their governance, using greater accountability and transparency." He called the legislation "a national template."<sup>63</sup>

Representative Duffey chose to make the open data standards voluntary as opposed to mandatory because it was more politically palatable, and he thinks a mandate would not have been a good use of government resources.<sup>64</sup> The open data movement is still too new to know exactly what types of data will be sought and what will be useable.

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58. *Id.*

59. Sebian, *supra* note 46.

60. Editorial, *supra* note 41.

61. *Id.*

62. Press Conference, Legislative: Reps. Mike Duffey & Christina Hagan Discuss the DataOhio Initiative (Oct. 30, 2013), <http://www.ohiochannel.org/MediaLibrary/Media.aspx?fileId=141033>

63. *Proponent Testimony of Gene Krebs*, H.B. 130, [http://search-prod.lis.state.oh.us/cm\\_pub\\_api/api/unwrap/chamber/131st\\_ga/ready\\_for\\_publication/committee\\_docs/cmte\\_h\\_state\\_govt\\_1/testimony/cmte\\_h\\_state\\_govt\\_1\\_2015-06-10-0200\\_677/hb130genekrebs.docx](http://search-prod.lis.state.oh.us/cm_pub_api/api/unwrap/chamber/131st_ga/ready_for_publication/committee_docs/cmte_h_state_govt_1/testimony/cmte_h_state_govt_1_2015-06-10-0200_677/hb130genekrebs.docx).

64. Personal Communication with Rep. Duffey, Ohio House of Representatives (Aug. 12, 2015).

Therefore, the bill is permissive and gives public offices autonomy over what data sets to publish online. Representative Duffey believes that experts in their respective fields should determine and suggest what specific data sets are most useful, and if different municipalities are posting different data sets, the state can eventually determine which information is most relevant and requested.<sup>65</sup>

Public offices vary in size, and some offices may command very large amounts of data. For those larger offices, \$10,000 may seem like only a drop in the bucket. Theoretically, these communities should have larger budgets and should not need assistance like the smaller ones. However, the fact that this digitization initiative does not rely on state funds can help avoid the potential problems that California experienced two years ago. Because of a voter-approved initiative from the 1970s, California is required to reimburse public offices for the cost of mandatory compliance with public records law.<sup>66</sup> As part of a larger budget deal spanning many cuts, proposed legislation would have allowed California's towns, cities, counties, and other local jurisdictions to opt out of public records compliance. This portion of the budget deal would have reportedly saved the state tens of millions of dollars. The argument for the cut was that transparency legislation costs too much in the short term for the state to contemplate, and that "there is no urgency that requires that state and local governments be saddled with a new and unworkable open data standard right now that would impact all electronic records requests and all electronic records that must be posted on agency web sites."<sup>67</sup> Fortunately for its public, the California State Assembly voted to modify the budget bill and remove the provisions weakening California's public records laws.<sup>68</sup> While DataOhio is not completely immune from this type of controversy, its appropriation of \$12.5 million per fiscal year does not come close to California's tens of millions. Representative Duffey is aware of the fact that \$10,000 may not be much to a large city like Columbus, but his aim is to attract about ten percent of the smaller communities and townships. The bill's drafters arrived at \$10,000

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65. *Id.*

66. Alisha Green, *Watching Out for the Future of California's Public Records*, SUNLIGHT FOUND. (May 14, 2014), <http://sunlightfoundation.com/blog/2014/05/14/watching-out-for-the-future-of-californias-public-records/>.

67. Laurenellen McCann, *What Does California have Against Transparency in Local Government?*, SUNLIGHT FOUND. (June 19, 2013), <https://sunlightfoundation.com/blog/2013/06/19/what-does-california-have-against-transparency-in-local-government/>.

68. Scott Detrow, et.al, *Pérez Wants California Public Records Act Restored, But Steinberg Balks*, KQED NEWS (June 19, 2013), <http://ww2.kqed.org/news/2013/06/19/california-public-records-act/>.

because they felt it was the least amount that would motivate a small jurisdiction. An amount less than \$10,000 is usually considered petty cash.<sup>69</sup>

One of the biggest challenges facing DataOhio is getting it signed into law.<sup>70</sup> It presently has twelve co-sponsors.<sup>71</sup> The initiative was originally introduced as four separate bills in 2013. They made it through the House, and died in the Senate during a lame-duck session. Representatives Duffey and Hagan reintroduced the initiative as one comprehensive bill in 2015. The bill's current iteration passed unanimously in the House and is now before the House State Government Committee. Representative Duffey hopes to have the bill over to the Senate no later than Christmas 2015, and out of the Senate no later than summer of 2016 to avoid a fate similar to that of its predecessor.<sup>72</sup> In the event that it is not passed in its current form, he plans to continue pushing for it for the duration of his term. Once he reaches his term limit, he can hand the reins over to Representative Hagan or to his successor.<sup>73</sup>

Initially, Representative Duffey foresees fewer than ten percent of local governments taking advantage of the program. However, he thinks that over time, more and more public offices will jump on board once they see the benefits that open data has to offer. He hopes that between five and ten percent of municipalities will be all that it takes to demonstrate the benefits of the program and having tangible results to share with the public. Likening it to the real estate web site Zillow, Representative Duffey believes that it is difficult to sell DataOhio without its benefits being realized. Zillow is a product of public housing data becoming open. Had someone pitched it in the abstract, the vast majority of the public would not have gone to great lengths to get it.<sup>74</sup> However, Zillow went on to revolutionize real estate data on the internet, and people would be outraged to lose it. If five to ten percent of local public offices opt into DataOhio, the state will be able to show concrete examples of the benefits of open data, such as how much communities spend on police or roads and the effects of those expenses. Once the state can demonstrate tangible results, Duffey expects that constituents will demand open data in their

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69. Communication with Representative Duffey, *supra* note 64.

70. *Id.*

71. Public Information-Accessibility/Public Office Uniform Accounting, H.B.130, (Ohio 2015, passed May 18, 2016) <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-130>.

72. Communication with Representative Duffey, *supra* note 64.

73. *Id.*

74. *Id.*

communities,<sup>75</sup> and it will become a campaign theme, just as Ohio Checkbook did in the Akron mayoral race.

The Data Transparency Coalition, a Washington, D.C. nonprofit that advocates for the publication of government information, boils data transparency down to a two-step process: standardization and publication. For standardization, the Coalition believes that governments should adopt a common standard for their information that works across many platforms. Then, they should release all data that is not protected by law.<sup>76</sup> DataOhio is the first step toward standardizing data across public offices in Ohio. While all open data standards under the legislation have not yet been solidified, as the Board would be required to do, many of the requirements imposed by the bill comport with conventional open data principals. Representative Duffey believes that “[w]ith more information people are going to make better choices, and with better choices, the cost of government is going to come down. . . . [t]hen, rather than just raising taxes and throwing money at some problems across our state, natural efficiencies of scale are going to occur.”<sup>77</sup>

### III. ENTREPRENEURSHIP OPPORTUNITY MAY FOLLOW

Another goal Representative Duffey hopes to achieve with the bill is promoting entrepreneurship and economic growth across the state. In 2013, the McKinsey Global Institute issued a report that estimated “open data could add over \$3 trillion annually in total value to the global economy.”<sup>78</sup> Data transparency offers opportunities for the technology sector to create new industries, companies, and jobs that did not previously exist.<sup>79</sup> Ohio is already home to software and data analytics companies. StreamLink Software, headquartered in Cleveland, “helps nonprofit and public sector institutions better serve their communities by maximizing the value of every dollar” through its products.<sup>80</sup> StreamLink Software can benefit from data transparency because if governments begin using open data for grant and financial reporting rather than paper documents, its main product, AmpliFund, could automate more of the

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75. *Id.*

76. *Testimony of Hudson Hollister, Data Transparency Coalition* (Jan. 28, 2014), House State Gov’t Comm., <http://www.datacoalition.org/wp-content/uploads/archivedfiles/dataohiotestimony.pdf>.

77. Thurber, *supra* note 52.

78. Laura Drees, *State Open Data Policies and Portals*, CENTER FOR DATA INNOVATIONS (Aug. 18, 2014), <http://www.datainnovation.org/2014/08/state-open-data-policies-and-portals/>.

79. Hollister, *supra* note 76, at 2.

80. StreamLink Software, <http://www.streamlinksoftware.com/>.

compliance process, as TurboTax did for people's tax returns.<sup>81</sup> Another Ohio company, Teradata, specializes in data analytics. It would benefit from open data because it would have easier access to more raw data to deliver better insights.<sup>82</sup> Not only can the state help companies that are already here, but Representative Duffey hopes that if Ohio adopts open data earlier than other states, as it is on track to do, Ohio will attract many more businesses like StreamLink Software and Teradata, in the same way Silicon Valley attracted a lot of early technology companies.<sup>83</sup>

#### IV. CONCLUSION

The writing is on the wall. Open government data is the future. "Today's added value is tomorrow's expectation. We are heading in a direction where people are going to expect this to be available."<sup>84</sup> Ohio's legacy and role in the open data movement depend upon how quickly its public offices embrace it, and how loudly its citizens demand it. Federal open data still needs to mature, but then data analysts will be coming for the states, seeking out their data.<sup>85</sup> Ohio is poised to be a leader. It is already gaining much recognition and praise for its online checkbook. DataOhio has a lot of support, and can set Ohio ahead of the curve. Will Ohio remain up front, or will it fall behind? The passing and proper implementation of this initiative will put the odds in its favor.

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81. Hollister, *supra* note 76.

82. *Id.*

83. Communication with Rep. Duffey, *supra* note 64.

84. Telephone Communication with Hetzel, *supra* note 6.

85. Communication with Rep. Duffey, *supra* note 64.