

By: Rose

H.B. No. 2819

A BILL TO BE ENTITLED

AN ACT

relating to access to state electronic and information resources by individuals with disabilities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 2054, Government Code, is amended by adding Subchapter M to read as follows:

SUBCHAPTER M. ACCESS TO ELECTRONIC AND INFORMATION

RESOURCES BY INDIVIDUALS WITH DISABILITIES

Sec. 2054.451. DEFINITIONS. In this subchapter:

(1) "Electronic and information resources" means information resources and any equipment or interconnected system of equipment that is used in the creation, conversion, or duplication of information resources. The term includes telephones and other telecommunications products, information kiosks, transaction machines, Internet websites, multimedia resources, and office equipment, including copy machines and fax machines.

(2) "State agency" means a department, commission, board, office, council, authority, or other agency in the executive, legislative, or judicial branch of state government that is created by the constitution or a statute of this state, including a university system or institution of higher education as defined by Section 61.003, Education Code.

Sec. 2054.452. TRAINING AND TECHNICAL ASSISTANCE. (a) The department shall provide training for and technical assistance to

1 state agencies regarding compliance with this subchapter.

2 (b) The department shall adopt rules to implement this
3 section.

4 Sec. 2054.453. RULES; COMPLIANCE WITH FEDERAL STANDARDS.

5 (a) The department shall adopt rules and evaluation criteria to
6 implement this subchapter, including rules regarding:

7 (1) the development, procurement, maintenance, and
8 use of electronic and information resources by state agencies to
9 provide access to individuals with disabilities; and

10 (2) a procurement accessibility policy.

11 (b) In adopting rules under this section, the department
12 shall consider the provisions contained in 36 C.F.R. Part 1194.

13 Sec. 2054.454. STATE AGENCY COMPLIANCE. (a) Each state
14 agency shall develop, procure, maintain, and use accessible
15 electronic and information resources that conform to the rules
16 adopted under this subchapter.

17 (b) The department shall ensure that rules adopted under
18 this subchapter are reviewed as a component of any report developed
19 under Section 2054.102(c) on compliance with department standards.

20 Sec. 2054.455. PUBLIC INFORMATION. The department shall
21 develop a process by which the public may provide information
22 regarding compliance with this subchapter.

23 Sec. 2054.456. ACCESS TO ELECTRONIC AND INFORMATION
24 RESOURCES BY STATE EMPLOYEES WITH DISABILITIES. (a) Each state
25 agency shall, in developing, procuring, maintaining, or using
26 electronic and information resources, ensure that state employees
27 with disabilities have access to and the use of those resources

1 comparable to the access and use available to state employees
2 without disabilities, unless compliance with this section imposes a
3 significant difficulty or expense on the agency under Section
4 2054.460.

5 (b) This section does not require a state agency to install
6 specific accessibility-related software or attach an assistive
7 technology device at a workstation of a state employee who is not an
8 individual with a disability, except as necessary to permit the
9 employee to interact directly with a member of the public who has a
10 disability.

11 Sec. 2054.457. ACCESS TO ELECTRONIC AND INFORMATION
12 RESOURCES BY OTHER INDIVIDUALS WITH DISABILITIES. (a) Each state
13 agency shall provide members of the public with disabilities who
14 are seeking information or other services from the agency access to
15 and the use of electronic and information resources comparable to
16 the access and use provided to members of the public without
17 disabilities, unless compliance with this section imposes a
18 significant difficulty or expense on the agency under Section
19 2054.460.

20 (b) This section does not require a state agency to:

21 (1) make a product owned by the agency available for
22 access and use by individuals with disabilities at a location other
23 than the location where the electronic and information resources
24 are provided to the public; or

25 (2) purchase a product for access and use by
26 individuals with disabilities at a location other than the location
27 where the electronic and information resources are provided to the

1 public.

2 Sec. 2054.458. INTERNET WEBSITES. The department shall
3 adopt rules regarding the development and monitoring of state
4 agency Internet websites to provide access to individuals with
5 disabilities.

6 Sec. 2054.459. EMERGING TECHNOLOGIES; PRODUCTS. The
7 department shall adopt rules regarding:

8 (1) emerging technologies related to the purpose of
9 this subchapter; and

10 (2) the commercial availability of products,
11 including computer software, to implement this subchapter.

12 Sec. 2054.460. EXCEPTION FOR SIGNIFICANT DIFFICULTY OR
13 EXPENSE; ALTERNATE METHODS. (a) If compliance with a provision of
14 this subchapter imposes a significant difficulty or expense on a
15 state agency, the agency is not required to comply with that
16 provision, but the agency shall:

17 (1) comply with all applicable state and federal civil
18 rights statutes, including:

19 (A) the Americans with Disabilities Act of 1990
20 (42 U.S.C. Section 12101 et seq.); and

21 (B) Section 504, Rehabilitation Act of 1973 (29
22 U.S.C. Section 794); and

23 (2) provide individuals with disabilities an
24 alternate method of access under Subsection (b).

25 (b) If under Subsection (a) a state agency is not complying
26 with a provision of this subchapter, the agency shall use alternate
27 methods to provide timely access by individuals with disabilities

1 to state agency electronic and information resources, including
2 access to product documentation. Alternate methods include voice,
3 fax, teletypewriter, Internet posting, captioning, text-to-speech
4 synthesis, and audio description.

5 (c) In determining whether compliance imposes a significant
6 difficulty or expense on the state agency, the agency shall
7 consider all agency resources available to the program or program
8 component for which the product is being developed, procured,
9 maintained, or used.

10 (d) The department shall adopt rules to implement this
11 section, including rules defining:

12 (1) a process for a state agency to determine when this
13 section applies; and

14 (2) a method for the department, in response to a
15 complaint, to determine whether this section applies to a state
16 agency.

17 Sec. 2054.461. EXEMPTIONS. The department shall adopt
18 rules regarding exempting a state agency from the duty to comply
19 with this subchapter or a provision of this subchapter. In adopting
20 rules under this section, the department shall focus on
21 circumstances in which the benefit of compliance for individuals
22 with disabilities is relatively minor and the cost of compliance is
23 relatively great.

24 Sec. 2054.462. EXCEPTION FOR EMBEDDED INFORMATION
25 RESOURCES. This subchapter does not apply to electronic and
26 information resources equipment that contains embedded information
27 resources that are used as an integral part of the product, but the

1 principal function of which is not the acquisition, storage,
2 manipulation, management, movement, control, display, switching,
3 interchange, transmission, or reception of information, including
4 thermostats or temperature control devices or other heating,
5 ventilation, and air conditioning equipment.

6 Sec. 2054.463. EXCEPTION FOR MEDICAL EQUIPMENT. This
7 subchapter does not apply to an item of medical equipment in which
8 electronic and information resources are integral to its operation.

9 Sec. 2054.464. SURVEY; REPORTING REQUIREMENTS. The
10 department shall adopt rules regarding:

11 (1) an annual electronic and information resources
12 state agency survey; and

13 (2) state agency reporting requirements for
14 implementation of this subchapter.

15 SECTION 2. (a) Effective September 1, 2006, Sections
16 2001.007(c) and 2157.005, Government Code, are repealed.

17 (b) The repeal of Section 2157.005, Government Code, by this
18 section applies only to a contract entered into on or after the
19 effective date of this Act. A contract entered into before the
20 effective date of this Act is governed by the law in effect when the
21 contract was entered into, and the former law is continued in effect
22 for that purpose.

23 SECTION 3. (a) Not later than March 1, 2006, the Department
24 of Information Resources shall adopt the rules required by
25 Subchapter M, Chapter 2054, Government Code, as added by this Act.

26 (b) Before September 1, 2006, a state agency may, but is not
27 required to, comply with Subchapter M, Chapter 2054, Government

1 Code, as added by this Act, or rules adopted under that subchapter.

2 SECTION 4. This Act takes effect September 1, 2005.