

By: Rose

H.B. No. 2819

A BILL TO BE ENTITLED

AN ACT

1
2 relating to accessible electronic and information technology for
3 persons with disabilities.

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

5 SECTION 1. Section 2054.118, Government Code, is amended by
6 adding Subsection (e) to read as follows:

7 (e)

8 (1) ACCESSIBLE ELECTRONIC AND INFORMATION TECHNOLOGY (E&IT) FOR
9 PERSONS WITH DISABILITIES: In order to increase the successful
10 education, employment, access to government information and
11 services, and full participation by persons with disabilities,
12 state agencies, the legislature, public institutions of higher
13 education, and other state governmental bodies, such as
14 commissions, boards, councils or authorities shall when
15 developing, procuring, maintaining, or using electronic or
16 information technology ensure that state employees with
17 disabilities have access to and use of information and data that is
18 comparable to the access and use by state employees without
19 disabilities, unless an undue burden would be imposed on the
20 agency. This law also requires that members of the public with
21 disabilities, who are seeking information or services from state
22 agencies, shall have access to and use of information and data that
23 is comparable to that provided to the public without disabilities,
24 unless an undue burden would be imposed on the agency.

1 Texas state agencies, the legislature, public institutions of
2 higher education, and other state governmental bodies, such as
3 commissions, boards, councils or authorities shall develop,
4 procure, maintain and use accessible electronic and information
5 technology that conforms to the applicable provisions set forth by
6 the Federal Section 508 standards (36 CFR Part 1194) Subparts
7 B-Technical Standards (1194.21-1194.26); Subpart C (Functional
8 Performance Criteria) & Subpart D (Information Documentation &
9 Support).

10 (2) When compliance with the provisions of this law imposes an
11 undue burden, agencies shall comply with all applicable state and
12 federal civil rights statutes, including, but not limited to the
13 Americans with Disabilities Act and Section 504 of the
14 Rehabilitation Act, as amended, and provide individuals with
15 disabilities with the timely acquisition of information and data
16 involved by an alternative method of access that allows the
17 individual to use the information and data.

18 This law does not require the installation of specific
19 accessibility-related software or the attachment of an assistive
20 technology device at a workstation of a state employee who is not an
21 individual with a disability, except as necessary to permit the
22 employee to interact directly with a member of the public who has a
23 disability.

24 This law does not require agencies, providing access to the public
25 to information or data through electronic and information
26 technology, to make products owned by the agency available for
27 access and use by individuals with disabilities at a location other

1 than that where the electronic and information technology is
2 provided to the public, or to purchase products for access and use
3 by individuals with disabilities at a location other than that
4 where the electronic and information technology is provided to the
5 public.

6 (3) OVERSIGHT, MONITORING AND TECHNICAL ASSISTANCE -

7 (a) The Texas Department of Information Resources
8 shall administer, provide oversight, monitoring, training,
9 technical assistance and resolution of complaints regarding this
10 law.

11 (b) The Texas Department of Information Resources
12 shall create administrative rules and evaluation criteria for the
13 implementation of this law for the development, procurement,
14 maintenance, and use of accessible electronic and information
15 technology and the development and monitoring of accessible
16 websites in state government. In addition to defining the
17 operation and E&IT program elements as indicated above, rules shall
18 also address, but are not limited to emerging technologies, annual
19 E&IT state agency survey & reporting requirements, state
20 exemptions, process for determining & claiming undue burden,
21 complaint procedures, agency website and procurement accessibility
22 policy, commercial nonavailability and technical
23 assistance/training.

24 (c) Not later than six months after the effective date
25 of this law, the Texas Department of Information Resources shall
26 issue administrative rules for implementation as required in
27 Section 3(b).

1 (4) DEFINITIONS -

2 (a) "Accessible Electronic and Information
3 Technology" means E&IT that conforms to the standards for
4 accessible E&IT as set forth under the Federal Section 508
5 standards 36 CFR Part 1194 3 Subparts B-Technical Standards
6 (1194.21-1194.26); Subpart C (Functional Performance Criteria) &
7 Subpart D (Information Documentation & Support).

8 (b) "Alternate methods" is different means of
9 providing information, including product documentation, to people
10 with disabilities. Alternate methods may include, but are not
11 limited to, voice, fax, TTY, Internet posting, captioning,
12 text-to-speech synthesis, and audio description.

13 (c) "Electronic and information technology" includes
14 information technology and any equipment or interconnected system
15 or subsystem of equipment that is used in the creation, conversion,
16 or duplication of data or information. The term electronic and
17 information technology includes, but is not limited to,
18 telecommunications products (such as telephones), information
19 kiosks and transaction machines, World Wide Web sites, multimedia,
20 and office equipment such as copiers and fax machines. The term does
21 not include any equipment that contains embedded information
22 technology that is used as an integral part of the product, but the
23 principal function of which is not the acquisition, storage,
24 manipulation, management, movement, control, display, switching,
25 interchange, transmission, or reception of data or information.
26 For example, HVAC (heating, ventilation, and air conditioning)
27 equipment such as thermostats or temperature control devices, and

1 medical equipment where information technology is integral to its
2 operation, are not information technology.

3 (d) "Information technology" is any equipment or
4 interconnected system or subsystem of equipment, that is used in
5 the automatic acquisition, storage, manipulation, management,
6 movement, control, display, switching, interchange, transmission,
7 or reception of data or information. The term information
8 technology includes computers, ancillary equipment, software,
9 firmware and similar procedures, services (including support
10 services), and related resources.

11 (e) "Undue burden" means significant difficulty or
12 expense. In determining whether an action would result in an undue
13 burden, an agency shall consider all agency resources available to
14 the program or component for which the product is being developed,
15 procured, maintained, or used.

16 SECTION 2. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2005.