

1-1 By: Rose (Senate Sponsor - Madla) H.B. No. 2819  
1-2 (In the Senate - Received from the House May 11, 2005;  
1-3 May 13, 2005, read first time and referred to Committee on  
1-4 Government Organization; May 20, 2005, reported favorably by the  
1-5 following vote: Yeas 6, Nays 0; May 20, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to access to state electronic and information resources by  
1-9 individuals with disabilities.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Chapter 2054, Government Code, is amended by  
1-12 adding Subchapter M to read as follows:

1-13 SUBCHAPTER M. ACCESS TO ELECTRONIC AND INFORMATION  
1-14 RESOURCES BY INDIVIDUALS WITH DISABILITIES

1-15 Sec. 2054.451. DEFINITIONS. In this subchapter:

1-16 (1) "Electronic and information resources" means  
1-17 information resources and any equipment or interconnected system of  
1-18 equipment that is used in the creation, conversion, or duplication  
1-19 of information resources. The term includes telephones and other  
1-20 telecommunications products, information kiosks, transaction  
1-21 machines, Internet websites, multimedia resources, and office  
1-22 equipment, including copy machines and fax machines.

1-23 (2) "State agency" means a department, commission,  
1-24 board, office, council, authority, or other agency in the  
1-25 executive, legislative, or judicial branch of state government that  
1-26 is created by the constitution or a statute of this state, including  
1-27 a university system or institution of higher education as defined  
1-28 by Section 61.003, Education Code.

1-29 Sec. 2054.452. TRAINING AND TECHNICAL ASSISTANCE. (a) The  
1-30 department shall provide training for and technical assistance to  
1-31 state agencies regarding compliance with this subchapter.

1-32 (b) The department shall adopt rules to implement this  
1-33 section.

1-34 Sec. 2054.453. RULES; COMPLIANCE WITH FEDERAL STANDARDS.  
1-35 (a) The department shall adopt rules and evaluation criteria to  
1-36 implement this subchapter, including rules regarding:

1-37 (1) the development, procurement, maintenance, and  
1-38 use of electronic and information resources by state agencies to  
1-39 provide access to individuals with disabilities; and

1-40 (2) a procurement accessibility policy.

1-41 (b) In adopting rules under this section, the department  
1-42 shall consider the provisions contained in 36 C.F.R. Part 1194.

1-43 Sec. 2054.454. STATE AGENCY COMPLIANCE. (a) Each state  
1-44 agency shall develop, procure, maintain, and use accessible  
1-45 electronic and information resources that conform to the rules  
1-46 adopted under this subchapter.

1-47 (b) The department shall ensure that rules adopted under  
1-48 this subchapter are reviewed as a component of any report developed  
1-49 under Section 2054.102(c) on compliance with department standards.

1-50 Sec. 2054.455. PUBLIC INFORMATION. The department shall  
1-51 develop a process by which the public may provide information  
1-52 regarding compliance with this subchapter.

1-53 Sec. 2054.456. ACCESS TO ELECTRONIC AND INFORMATION  
1-54 RESOURCES BY STATE EMPLOYEES WITH DISABILITIES. (a) Each state  
1-55 agency shall, in developing, procuring, maintaining, or using  
1-56 electronic and information resources, ensure that state employees  
1-57 with disabilities have access to and the use of those resources  
1-58 comparable to the access and use available to state employees  
1-59 without disabilities, unless compliance with this section imposes a  
1-60 significant difficulty or expense on the agency under Section  
1-61 2054.460.

1-62 (b) This section does not require a state agency to install  
1-63 specific accessibility-related software or attach an assistive  
1-64 technology device at a workstation of a state employee who is not an

2-1 individual with a disability, except as necessary to permit the  
 2-2 employee to interact directly with a member of the public who has a  
 2-3 disability.

2-4 Sec. 2054.457. ACCESS TO ELECTRONIC AND INFORMATION  
 2-5 RESOURCES BY OTHER INDIVIDUALS WITH DISABILITIES. (a) Each state  
 2-6 agency shall provide members of the public with disabilities who  
 2-7 are seeking information or other services from the agency access to  
 2-8 and the use of electronic and information resources comparable to  
 2-9 the access and use provided to members of the public without  
 2-10 disabilities, unless compliance with this section imposes a  
 2-11 significant difficulty or expense on the agency under Section  
 2-12 2054.460.

2-13 (b) This section does not require a state agency to:

2-14 (1) make a product owned by the agency available for  
 2-15 access and use by individuals with disabilities at a location other  
 2-16 than the location where the electronic and information resources  
 2-17 are provided to the public; or

2-18 (2) purchase a product for access and use by  
 2-19 individuals with disabilities at a location other than the location  
 2-20 where the electronic and information resources are provided to the  
 2-21 public.

2-22 Sec. 2054.458. INTERNET WEBSITES. The department shall  
 2-23 adopt rules regarding the development and monitoring of state  
 2-24 agency Internet websites to provide access to individuals with  
 2-25 disabilities.

2-26 Sec. 2054.459. EMERGING TECHNOLOGIES; PRODUCTS. The  
 2-27 department shall adopt rules regarding:

2-28 (1) emerging technologies related to the purpose of  
 2-29 this subchapter; and

2-30 (2) the commercial availability of products,  
 2-31 including computer software, to implement this subchapter.

2-32 Sec. 2054.460. EXCEPTION FOR SIGNIFICANT DIFFICULTY OR  
 2-33 EXPENSE; ALTERNATE METHODS. (a) If compliance with a provision of  
 2-34 this subchapter imposes a significant difficulty or expense on a  
 2-35 state agency, the agency is not required to comply with that  
 2-36 provision, but the agency shall:

2-37 (1) comply with all applicable state and federal civil  
 2-38 rights statutes, including:

2-39 (A) the Americans with Disabilities Act of 1990  
 2-40 (42 U.S.C. Section 12101 et seq.); and

2-41 (B) Section 504, Rehabilitation Act of 1973 (29  
 2-42 U.S.C. Section 794); and

2-43 (2) provide individuals with disabilities an  
 2-44 alternate method of access under Subsection (b).

2-45 (b) If under Subsection (a) a state agency is not complying  
 2-46 with a provision of this subchapter, the agency shall use alternate  
 2-47 methods to provide timely access by individuals with disabilities  
 2-48 to state agency electronic and information resources, including  
 2-49 access to product documentation. Alternate methods include voice,  
 2-50 fax, teletypewriter, Internet posting, captioning, text-to-speech  
 2-51 synthesis, and audio description.

2-52 (c) In determining whether compliance imposes a significant  
 2-53 difficulty or expense on the state agency, the agency shall  
 2-54 consider all agency resources available to the program or program  
 2-55 component for which the product is being developed, procured,  
 2-56 maintained, or used.

2-57 (d) The department shall adopt rules to implement this  
 2-58 section, including rules defining:

2-59 (1) a process for a state agency to determine when this  
 2-60 section applies; and

2-61 (2) a method for the department, in response to a  
 2-62 complaint, to determine whether this section applies to a state  
 2-63 agency.

2-64 Sec. 2054.461. EXEMPTIONS. The department shall adopt  
 2-65 rules regarding exempting a state agency from the duty to comply  
 2-66 with this subchapter or a provision of this subchapter. In adopting  
 2-67 rules under this section, the department shall focus on  
 2-68 circumstances in which the benefit of compliance for individuals  
 2-69 with disabilities is relatively minor and the cost of compliance is

3-1 relatively great.  
3-2 Sec. 2054.462. EXCEPTION FOR EMBEDDED INFORMATION  
3-3 RESOURCES. This subchapter does not apply to electronic and  
3-4 information resources equipment that contains embedded information  
3-5 resources that are used as an integral part of the product, but the  
3-6 principal function of which is not the acquisition, storage,  
3-7 manipulation, management, movement, control, display, switching,  
3-8 interchange, transmission, or reception of information, including  
3-9 thermostats or temperature control devices or other heating,  
3-10 ventilation, and air conditioning equipment.

3-11 Sec. 2054.463. EXCEPTION FOR MEDICAL EQUIPMENT. This  
3-12 subchapter does not apply to an item of medical equipment in which  
3-13 electronic and information resources are integral to its operation.

3-14 Sec. 2054.464. SURVEY; REPORTING REQUIREMENTS. The  
3-15 department shall adopt rules regarding:

3-16 (1) an annual electronic and information resources  
3-17 state agency survey; and

3-18 (2) state agency reporting requirements for  
3-19 implementation of this subchapter.

3-20 SECTION 2. (a) Effective September 1, 2006, Sections  
3-21 2001.007(c) and 2157.005, Government Code, are repealed.

3-22 (b) The repeal of Section 2157.005, Government Code, by this  
3-23 section applies only to a contract entered into on or after the  
3-24 effective date of this Act. A contract entered into before the  
3-25 effective date of this Act is governed by the law in effect when the  
3-26 contract was entered into, and the former law is continued in effect  
3-27 for that purpose.

3-28 SECTION 3. (a) Not later than March 1, 2006, the  
3-29 Department of Information Resources shall adopt the rules required  
3-30 by Subchapter M, Chapter 2054, Government Code, as added by this  
3-31 Act.

3-32 (b) Before September 1, 2006, a state agency may, but is not  
3-33 required to, comply with Subchapter M, Chapter 2054, Government  
3-34 Code, as added by this Act, or rules adopted under that subchapter.

3-35 SECTION 4. This Act takes effect September 1, 2005.

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