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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 AND  
5 LAWS. (a) The department shall adopt rules and evaluation criteria  
6 to 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 (c) This subchapter does not require the state to comply  
14 with the Americans with Disabilities Act of 1990 (42 U.S.C. Section  
15 12101 et seq.) to the extent it is not required by federal law.

16 Sec. 2054.454. STATE AGENCY COMPLIANCE. (a) If required by  
17 the department, each state agency shall develop, procure, maintain,  
18 and use accessible electronic and information resources that  
19 conform to the rules adopted under this subchapter.

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

23 Sec. 2054.455. PUBLIC INFORMATION. The department shall  
24 develop a process by which the public may provide information  
25 regarding compliance with this subchapter.

26 Sec. 2054.456. ACCESS TO ELECTRONIC AND INFORMATION  
27 RESOURCES BY STATE EMPLOYEES WITH DISABILITIES. (a) Each state

1 agency shall, in developing, procuring, maintaining, or using  
2 electronic and information resources, ensure that state employees  
3 with disabilities have access to and the use of those resources  
4 comparable to the access and use available to state employees  
5 without disabilities, unless compliance with this section imposes a  
6 significant difficulty or expense on the agency under Section  
7 2054.460. Subject to Section 2054.460, the agency shall take  
8 reasonable steps to ensure that a disabled employee has reasonable  
9 access to perform the employee's duties.

10 (b) This section does not require a state agency to install  
11 specific accessibility-related software or attach an assistive  
12 technology device at a workstation of a state employee.

13 Sec. 2054.457. ACCESS TO ELECTRONIC AND INFORMATION  
14 RESOURCES BY OTHER INDIVIDUALS WITH DISABILITIES. (a) Each state  
15 agency shall provide members of the public with disabilities who  
16 are seeking information or other services from the agency access to  
17 and the use of electronic and information resources comparable to  
18 the access and use provided to members of the public without  
19 disabilities, unless compliance with this section imposes a  
20 significant difficulty or expense on the agency under Section  
21 2054.460.

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

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

27 (2) purchase a product for access and use by

1 individuals with disabilities at a location other than the location  
2 where the electronic and information resources are provided to the  
3 public.

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

8 Sec. 2054.459. EMERGING TECHNOLOGIES; PRODUCTS. The  
9 department shall adopt rules regarding:

10 (1) emerging technologies related to the purpose of  
11 this subchapter; and

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

14 Sec. 2054.460. EXCEPTION FOR SIGNIFICANT DIFFICULTY OR  
15 EXPENSE; ALTERNATE METHODS. (a) If compliance with a provision of  
16 this subchapter imposes a significant difficulty or expense on a  
17 state agency, the agency is not required to comply with that  
18 provision, but the agency may provide individuals with disabilities  
19 an alternate method of access under Subsection (b).

20 (b) If under Subsection (a) a state agency is not complying  
21 with a provision of this subchapter, the agency may use alternate  
22 methods to provide timely access by individuals with disabilities  
23 to state agency electronic and information resources, including  
24 access to product documentation. Alternate methods include voice,  
25 fax, teletypewriter, Internet posting, captioning, text-to-speech  
26 synthesis, and audio description.

27 (c) In determining whether compliance imposes a significant

1 difficulty or expense on the state agency, the agency shall  
2 consider all agency resources available to the program or program  
3 component for which the product is being developed, procured,  
4 maintained, or used.

5 (d) The department shall adopt rules to implement this  
6 section.

7 (e) The executive director of the state agency shall make  
8 the final decision on whether this section applies. The decision  
9 may not be appealed.

10 Sec. 2054.461. EXEMPTIONS. The department shall adopt  
11 rules regarding exempting a state agency from the duty to comply  
12 with this subchapter or a provision of this subchapter. In adopting  
13 rules under this section, the department shall focus on  
14 circumstances in which the benefit of compliance for individuals  
15 with disabilities is relatively minor and the cost of compliance is  
16 relatively great.

17 Sec. 2054.462. EXCEPTION FOR EMBEDDED INFORMATION  
18 RESOURCES. This subchapter does not apply to electronic and  
19 information resources equipment that contains embedded information  
20 resources that are used as an integral part of the product, but the  
21 principal function of which is not the acquisition, storage,  
22 manipulation, management, movement, control, display, switching,  
23 interchange, transmission, or reception of information, including  
24 thermostats or temperature control devices or other heating,  
25 ventilation, and air conditioning equipment.

26 Sec. 2054.463. EXCEPTION FOR MEDICAL EQUIPMENT. This  
27 subchapter does not apply to an item of medical equipment in which

1 electronic and information resources are integral to its operation.

2 Sec. 2054.464. SURVEY; REPORTING REQUIREMENTS. The  
3 department shall adopt rules regarding:

4 (1) an annual electronic and information resources  
5 state agency survey; and

6 (2) state agency reporting requirements for  
7 implementation of this subchapter.

8 Sec. 2054.465. NO CAUSE OF ACTION CREATED. This subchapter  
9 does not create a cause of action.

10 SECTION 2. (a) Effective September 1, 2006, Sections  
11 2001.007(c) and 2157.005, Government Code, are repealed.

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

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

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

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

David Newhurst

President of the Senate

Jim Coakley

Speaker of the House

I certify that H.B. No. 2819 was passed by the House on May 10, 2005, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 2819 on May 27, 2005, by a non-record vote.

Robert Haney  
Chief Clerk of the House

I certify that H.B. No. 2819 was passed by the Senate, with amendments, on May 25, 2005, by the following vote: Yeas 31, Nays 0.

Daisy Spaw  
Secretary of the Senate

APPROVED: 17 JUNE '05

Date

Rick Perry

Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
2:10 PM 6/17/05

Roger Williams  
Secretary of State