

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005

A Bill

SENATE BILL 1050

4
5 By: Senator Capps
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For An Act To Be Entitled

9 AN ACT TO CONFORM THE ACCESSIBILITY REQUIREMENTS
10 REGARDING THE PURCHASE OF INFORMATION TECHNOLOGY
11 BY STATE AGENCIES TO THE REQUIREMENTS IMPOSED BY
12 FEDERAL LAW; AND FOR OTHER PURPOSES.
13

Subtitle

14 AN ACT TO CONFORM THE ACCESSIBILITY
15 REQUIREMENTS REGARDING THE PURCHASE OF
16 INFORMATION TECHNOLOGY BY STATE AGENCIES
17 TO THE REQUIREMENTS IMPOSED BY FEDERAL
18 LAW.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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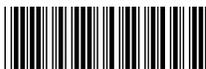
24 SECTION 1. Arkansas Code § 25-26-201 is amended to read as follows:
25 25-26-201. Findings and policy.

26 (a) The General Assembly finds that:

27 (1) The advent of the information age throughout the United
28 States and around the world has resulted in lasting changes in information
29 technology;

30 (2) Use of interactive visual display terminals by state and
31 state-assisted organizations is becoming a widespread means of access for
32 employees and the public to obtain information available electronically, but
33 nonvisual access, whether by speech, braille, or other appropriate means has
34 been overlooked in ~~purchasing and deploying~~ the development of the latest
35 information technology;

36 (3) Presentation of electronic data solely in a visual format is



1 a barrier to access by individuals who are blind or visually impaired,
 2 preventing them from participating on equal terms in crucial areas of life
 3 such as education and employment;

4 (4) Alternatives, including both software and hardware
 5 adaptations, have been created so that interactive control of computers and
 6 use of the information presented is ~~possible~~ more likely to be available by
 7 both visual and nonvisual means; and

8 (5) The goals of the state in obtaining and deploying the most
 9 advanced forms of information technology properly include universal access so
 10 that segments of society with particular needs, including, but not limited
 11 to, individuals unable to use visual displays, will not be left out of the
 12 information age.

13 (b) It is the policy of the State of Arkansas that all programs and
 14 activities which are supported in whole or in part by public funds shall be
 15 conducted in accordance with the following principles:

16 (1) To the extent reasonably possible, individuals who are blind
 17 or visually impaired ~~have the right to full participation in the life of the~~
 18 ~~state, including the use of advanced technology which is provided by the~~
 19 ~~state or state-assisted organizations for use by~~ shall, to the extent
 20 reasonably possible, be provided access to the use of advanced technology
 21 that is reasonably equivalent to the access provided to other employees,
 22 program participants, and members of the general public; and

23 (2)(A) Technology purchased in whole or in part with funds
 24 provided by the state to be used for the creation, storage, retrieval, or
 25 dissemination of information and intended for use by employees, program
 26 participants, and members of the general public shall be reasonably
 27 accessible to and usable by individuals who are blind or visually impaired if
 28 the technology is reasonably available.

29 (B) If the access or technology is not reasonably
 30 available, the individuals who are blind or visually impaired shall be
 31 provided an accommodation reasonable under the circumstances.

32
 33 SECTION 2. Arkansas § 25-26-202 is amended to read as follows:

34 25-26-202. Definitions.

35 For purposes of this subchapter:

36 (1) "Access" means the ability to receive, use, and manipulate

1 data and operate controls included in information technology;

2 (2) "Blind or visually impaired individual" means an individual
3 who:

4 (A) Has a visual acuity of twenty/two hundred (20/200) or
5 less in the better eye with correcting lenses or has a limited field of
6 vision so that the widest diameter of the visual field subtends an angle no
7 greater than twenty (20) degrees;

8 (B) Has a medically indicated expectation of visual
9 deterioration; or

10 (C) Has a medically diagnosed limitation in visual
11 functioning that restricts the individual's ability to read and write
12 standard print at levels expected of individuals of comparable ability;

13 (3) "Covered entity" means the state or any state-assisted
14 organization;

15 (4) "Information technology" means all electronic information
16 processing hardware and software, including telecommunications;

17 (5) "Nonvisual" means synthesized speech, braille, and other
18 output methods not requiring sight;

19 (6) "Reasonably available" means developed and available for
20 purchase for a reasonable price from:

21 (A) The vendor providing the product to be used by visual
22 users;

23 (B) More than one (1) vendor in the technology information
24 marketplace;

25 ~~(6)~~(7) "State" means the state or any of its departments,
26 agencies, public bodies, or other instrumentalities;

27 ~~(7)~~(8) "State-assisted organization" means a college, nonprofit
28 organization, person, political subdivision, school system, or other entity
29 supported in whole or in part by state funds; and

30 ~~(8)~~(9) "Telecommunications" means the transmission of
31 information, images, pictures, voice or data by radio, video, or other
32 electronic or impulse means.

33
34 SECTION 3. Arkansas Code § 25-26-203 is amended to read as follows:
35 25-26-203. Assurance of nonvisual access.

36 ~~(a)~~ In general, the head of each covered entity shall ensure that

1 information technology equipment and software used by employees, program
2 participants, or members of the general public:

3 (1) Provide blind or visually impaired individuals with
4 reasonable access, including, but not limited to, interactive use of the
5 equipment and services ~~which is~~ reasonably available which access is
6 reasonably equivalent to that provided to individuals who are not blind or
7 visually impaired or in the event reasonably equivalent access is not
8 reasonably available, an accommodation reasonable in the circumstances shall
9 be provided;

10 (2) Are designed to present information, including, but not
11 limited to, prompts used for interactive communications in formats intended
12 for both visual and nonvisual use; and

13 (3) Have been purchased under a contract which includes the
14 technology access clause required pursuant to § 25-26-204.

15
16 SECTION 4. Arkansas Code § 25-26-204 is amended to read as follows:
17 25-26-204. Procurement requirements.

18 (a)(1) The technology access clause specified in § 25-26-203 shall be
19 developed by the Department of Information Systems and shall require
20 compliance with nonvisual access standards established by the state. The
21 clause shall be included in all contracts for the procurement of information
22 technology by or for the use of entities covered by this subchapter on or
23 after July 30, 1999.

24 (2) On and after the effective date of this subdivision (a)(2),
25 the Department of Information Systems shall modify its existing technology
26 access clause in accordance with the provisions of this section.

27 (b) The nonvisual access standards established by the state pursuant
28 to subsection (a) of this section shall include such specifications as are
29 necessary to fulfill the assurances in § 25-26-203 and shall include the
30 following minimum specifications:

31 (1) That effective, interactive control and use of the
32 technology, including, but not limited to, the operating system, applications
33 programs, and format of the data presented, is readily achievable by
34 nonvisual means as reasonably possible;

35 (2) That the technology equipped for nonvisual access ~~must~~ shall
36 be compatible, if reasonably available, with information technology used by

1 other individuals with whom the blind or visually impaired individual must
2 interact;

3 (3) That nonvisual access technology, where reasonably
4 available, must be integrated into networks used to share communications
5 among employees, program participants, and the public; and

6 (4) That the technology for nonvisual access must have the
7 capability, where reasonably available, of providing equivalent access by
8 nonvisual means to telecommunications or other interconnected network
9 services used by persons who are not blind or visually impaired.

10 (c) The minimum specifications under subsection (b) of this section do
11 not prohibit the purchase or use of an information technology product that
12 does not meet these standards if the information manipulated or presented by
13 the product is inherently visual in nature, so that its meaning cannot be
14 conveyed nonvisually.

15
16 SECTION 5. Arkansas Code § 25-26-205 is amended to read as follows:
17 25-26-205. Implementation.

18 (a) For the purpose of assuring the effective phasing in of nonvisual
19 access technology procurement, the head of any covered entity:

20 (1) May not approve exclusion of the technology access clause
21 from any contract with respect to:

22 (A) The compatibility of standard operating systems and
23 software with nonvisual access software and peripheral devices; or

24 (B) The initial design, development, and installation of
25 information systems, including the design and procurement of interactive
26 equipment and software; or

27 (2) May approve, with respect to nonvisual access software or
28 peripheral devices obtained during the three-year period beginning upon the
29 date of enactment of this act, exclusion of such technology access clause to
30 the extent that the cost of such software or devices for the covered entity
31 exceeds:

32 (A) Fifty thousand dollars (\$50,000) for the first year;

33 (B) One hundred thousand dollars (\$100,000) for the second
34 year; and

35 (C) Two hundred and fifty thousand dollars (\$250,000) for
36 the third year.

1 (b) Nothing in this section requires the installation of software or
2 peripheral devices used for nonvisual access when the information technology
3 is being used by individuals who are not blind or visually impaired.

4 (c) Notwithstanding the provisions of subsection (b) of this section,
5 the applications programs and underlying operating systems, including, but
6 not limited to, the format of the data used for the manipulation and
7 presentation of information, shall permit the installation and effective use
8 of nonvisual access software and peripheral devices as reasonably available.

9 (d) Compliance with this subchapter in regard to information
10 technology purchased prior to July 30, 1999, shall be achieved at the time of
11 procurement of an upgrade or replacement of the existing equipment or
12 software.

13 (e)(1) The provisions of this section shall govern the acquisition and
14 procurement of information technology by a covered entity on and after the
15 effective date of this subsection (e).

16 (2) The provisions of this subsection shall also govern and
17 apply to any upgrade or modification to or replacement of any existing
18 information technology form on and after the effective date of this
19 subsection (e).

20 (f) Any information technology procured or acquired by a covered
21 entity after July 30, 1999 which meets the requirements of this section shall
22 for all purposes be deemed to be in compliance with this subchapter on and
23 after the effective date of this subsection.

24
25 SECTION 6. EMERGENCY CLAUSE. It is found and determined by the
26 General Assembly of the State of Arkansas that because of current limitations
27 in the commercial availability of technology supporting accessibility for the
28 visual impaired, the strict requirements of Act 1227 of 1999 have in some
29 instances unreasonably hindered or delayed the acquisition of information
30 technology; and that the complications with acquiring information technology
31 have resulted in an undue burden upon state agencies. Therefore, an
32 emergency is declared to exist and this act, being immediately necessary for
33 the preservation of the public peace, health, and safety, shall become
34 effective on:

35 (1) The date of its approval by the Governor;

36 (2) If the bill is neither approved nor vetoed by the Governor,

1 the expiration of the period of time during which the Governor may veto the
2 bill; or

3 (3) If the bill is vetoed by the Governor and the veto is
4 overridden, the date the last house overrides the veto.

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