

HOUSE BILL 185

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P2

1998 Regular Session
8r1201
CF 8r1315

By: Delegates Curran, Dypski, Hammen, and ~~Krysiak~~ Krysiak, Bobo, Pendergrass, Turner, Morgan, Mohorovic, Montague, McHale, DeCarlo, Dewberry, Getty, Fulton, Marriott, Boston, Opara, Kirk, C. Mitchell, Watson, Branch, C. Davis, Harrison, Malone, D. Murphy, Bissett, Clagett, Crumlin, B. Hughes, Patterson, Proctor, Hutchins, Slade, Exum, Rzepkowski, M. Burns, Hubbard, Dembrow, Mandel, Gordon, Genn, Barve, Snodgrass, Conway, Pitkin, Faulkner, Brinkley, and Benson

Introduced and read first time: January 22, 1998
Assigned to: Commerce and Government Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 3, 1998

CHAPTER _____

1 AN ACT concerning

2 **State Procurement - Information Technology - Nonvisual Access**

3 FOR the purpose of requiring the Chief of Information Technology in the Department
4 of Budget and Management, in consultation with certain persons, to develop for
5 inclusion in State procurement contracts, after a certain date, a clause
6 regarding nonvisual access to information technology; providing certain
7 exceptions; defining a certain term; requiring that each procurement contract
8 include a clause covering the requirements for nonvisual access to information
9 technology; providing for the application of this Act; and generally relating to
10 the inclusion of a clause regarding nonvisual access in each invitation for bids or
11 request for proposals for information technology under the State procurement
12 law.

13 BY repealing and reenacting, with amendments,
14 Article - State Finance and Procurement
15 Section 3-402 and 13-218(a)
16 Annotated Code of Maryland
17 (1995 Replacement Volume and 1997 Supplement)

18 BY adding to

1 Article - State Finance and Procurement
2 Section 3-412
3 Annotated Code of Maryland
4 (1995 Replacement Volume and 1997 Supplement)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
6 MARYLAND, That the Laws of Maryland read as follows:

7 **Article - State Finance and Procurement**

8 3-402.

9 (a) In this subtitle the following words have the meanings indicated.

10 (b) "Board" means the Information Technology Board.

11 (c) "Chief" means the Chief of Information Technology.

12 (d) "Information technology" means all electronic information processing
13 hardware and software, including:

14 (1) maintenance;

15 (2) telecommunications; and

16 (3) associated consulting services.

17 (E) "NONVISUAL ACCESS" MEANS THE ABILITY, THROUGH KEYBOARD
18 CONTROL, SYNTHESIZED SPEECH, BRAILLE, OR OTHER METHODS NOT REQUIRING
19 SIGHT, TO RECEIVE, USE AND MANIPULATE INFORMATION, AND OPERATE CONTROLS
20 NECESSARY TO ACCESS INFORMATION TECHNOLOGY.

21 [(e)] (F) "Telecommunications" has the meaning provided in § 3-701 of this
22 article.

23 [(f)] (G) "Resource sharing" means the utilization of a State resource by
24 private industry in exchange for the provision to the State of a communication service
25 or other consideration.

26 3-412.

27 (A) THE CHIEF AND THE BOARD, IN CONSULTATION WITH OTHER UNITS OF
28 STATE GOVERNMENT, AND AFTER PUBLIC COMMENT, SHALL DEVELOP A NONVISUAL
29 ACCESS CLAUSE FOR USE IN THE PROCUREMENT OF INFORMATION TECHNOLOGY
30 WHICH SPECIFIES THAT THE TECHNOLOGY:

31 (1) MUST PROVIDE EQUIVALENT ACCESS FOR EFFECTIVE USE BY BOTH
32 VISUAL AND NONVISUAL MEANS;

1 (2) WILL PRESENT INFORMATION, INCLUDING PROMPTS USED FOR
 2 INTERACTIVE COMMUNICATIONS, IN FORMATS INTENDED FOR BOTH VISUAL AND
 3 NONVISUAL USE; ~~AND~~

4 (3) CAN BE INTEGRATED INTO NETWORKS FOR OBTAINING,
 5 RETRIEVING, AND DISSEMINATING INFORMATION USED BY INDIVIDUALS WHO ARE
 6 NOT BLIND OR VISUALLY IMPAIRED; AND

7 (4) SHALL BE OBTAINED, WHENEVER POSSIBLE, WITHOUT
 8 MODIFICATION FOR COMPATIBILITY WITH SOFTWARE AND HARDWARE FOR
 9 NONVISUAL ACCESS.

10 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE
 11 NONVISUAL ACCESS CLAUSE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION
 12 SHALL BE INCLUDED IN EACH INVITATION FOR BIDS OR REQUEST FOR PROPOSALS
 13 UNDER DIVISION II OF THIS ARTICLE FOR THE PURCHASE OF NEW OR UPGRADED
 14 INFORMATION TECHNOLOGY.

15 (2) THE NONVISUAL ACCESS CLAUSE REQUIRED UNDER PARAGRAPH (1)
 16 OF THIS SUBSECTION IS NOT REQUIRED IF:

17 ~~(I) THE INFORMATION TECHNOLOGY IS NOT AVAILABLE WITH~~
 18 ~~NONVISUAL ACCESS; OR~~

19 ~~(II) INCLUSION OF THE NONVISUAL ACCESS CLAUSE WOULD~~
 20 ~~INCREASE THE COST OF THE PROCUREMENT BY MORE THAN 5 PERCENT.~~

21 (I) THE INFORMATION TECHNOLOGY IS NOT AVAILABLE WITH
 22 NONVISUAL ACCESS BECAUSE THE ESSENTIAL ELEMENTS OF THE INFORMATION
 23 TECHNOLOGY ARE VISUAL AND NONVISUAL EQUIVALENCE CANNOT BE DEVELOPED;
 24 OR

25 (II) THE COST OF MODIFYING THE INFORMATION TECHNOLOGY TO
 26 SUPPORT NONVISUAL ACCESS WOULD INCREASE THE COST OF THE PROCUREMENT
 27 BY MORE THAN 5 PERCENT.

28 13-218.

29 (a) Each procurement contract shall include clauses covering:

30 (1) termination for default;

31 (2) termination wholly or partly by the State for its convenience if the
 32 head of the primary procurement unit determines that termination is appropriate;

33 (3) variations that occur between estimated and actual quantities of
 34 work in a procurement contract;

35 (4) liquidated damages, as appropriate;

36 (5) specified excuses for nonperformance;

1 (6) except for real property leases, the unilateral right of the State to
2 order in writing:

3 (i) changes in the work, if the changes are within the scope of the
4 procurement contract; and

5 (ii) a temporary stop or delay in performance; [and]

6 (7) the obligation of the contractor to comply with the political
7 contribution reporting requirements under Subtitle 30 of Article 33 of the Code, to
8 which the contractor may be subject as required under § 17-402 of this article; AND

9 (8) NONVISUAL ACCESS FOR INFORMATION TECHNOLOGY AS REQUIRED
10 UNDER § 3-412 OF THIS ARTICLE.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to
12 each invitation for bids and request for proposals issued after December 31, 1998 for
13 award under a State procurement contract for the purchase of new or upgraded
14 information technology.

15 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 1998.