

SENATE BILL 240

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By: **Senators Conway, Trotter, Pinsky, Sfikas, McCabe, Madden, Dyson,  
Dorman, Hollinger, Collins, and ~~Blount~~ Blount, Frosh, and Stoltzfus**

Introduced and read first time: January 30, 1998

Assigned to: Economic and Environmental Affairs and Budget and Taxation

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 13, 1998

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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  
19 Article - State Finance and Procurement  
20 Section 3-412  
21 Annotated Code of Maryland  
22 (1995 Replacement Volume and 1997 Supplement)

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

3 **Article - State Finance and Procurement**

4 3-402.

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

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

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

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

10 (1) maintenance;

11 (2) telecommunications; and

12 (3) associated consulting services.

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

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

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

22 3-412.

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

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

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

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

1           (4)    SHALL BE OBTAINED, WHENEVER POSSIBLE, WITHOUT  
2 MODIFICATION FOR COMPATIBILITY WITH SOFTWARE AND HARDWARE FOR  
3 NONVISUAL ACCESS.

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

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

11                   ~~(I)    THE INFORMATION TECHNOLOGY IS NOT AVAILABLE WITH~~  
12 ~~NONVISUAL ACCESS; OR~~

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

15                   (I)    THE INFORMATION TECHNOLOGY IS NOT AVAILABLE WITH  
16 NONVISUAL ACCESS BECAUSE THE ESSENTIAL ELEMENTS OF THE INFORMATION  
17 TECHNOLOGY ARE VISUAL AND NONVISUAL EQUIVALENCE CANNOT BE DEVELOPED;  
18 OR

19                   (II)   THE COST OF MODIFYING THE INFORMATION TECHNOLOGY TO  
20 SUPPORT NONVISUAL ACCESS WOULD INCREASE THE COST OF THE PROCUREMENT  
21 BY MORE THAN 5%.

22 13-218.

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

24           (1)    termination for default;

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

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

29           (4)    liquidated damages, as appropriate;

30           (5)    specified excuses for nonperformance;

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

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

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

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

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

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

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