

Department of Planning and Budget 2024 Session Fiscal Impact Statement

1. **Bill Number:** HB1355

House of Origin Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. **Patron:** Tran

3. **Committee:** Passed House

4. **Title:** Information Technology Access Act; digital accessibility.

5. **Summary:** Makes numerous organizational changes to the Information Technology Access Act (the Act). The bill expands the definition of “information technology” to "information and communications technology (ICT)" which now includes products or services primarily intended to fulfill or enable the function of information processing and communication by electronic means. The bill also defines “digital accessibility”. The bill modifies the scope of the Act from applying to primarily individuals who are blind or visually impaired to all persons with disabilities.

The bill requires the head of each covered entity, which includes all state agencies, public institutions of higher education, school divisions, and political subdivisions of the Commonwealth, to ensure that the ICT used by employees, program participants, or members of the general public who have a disability provides access that is equivalent to that provided to individuals who do not have a disability, is designed to present information in formats accessible or adaptable to both persons with and without disabilities, and conforms with accessibility requirements whether developed by the covered entity or purchased. The head of each covered entity has the option to designate an employee to serve as such covered entity’s digital accessibility coordinator and to be responsible for developing and implementing such covered entity’s digital accessibility policy and ensuring the covered entity’s compliance with state and federal laws. The head of each covered entity is also required to adopt and publish a procedure for identifying barriers to access and a comprehensive grievance procedure that provides for prompt and equitable resolution of complaints alleging any action that would be prohibited by this chapter and any other law that protects the rights of persons with disabilities. These notifications and responses or resolutions shall be maintained by the covered entity in a manner consistent with the Virginia Public Records Act.

The bill requires an information and technology access clause be developed by the Secretary of Administration to require a vendor-paid and completed Accessibility Conformance Report indicating the level of conformance with accessibility for the ICT being procured by the covered entity. The clause shall be included in all future contracts for the procurement of the ICT by, or for the use of, entities covered by this chapter that are begun to be negotiated or

re-negotiated on or after the effective date of the bill. The bill also requires additional contractual terms regarding the timeline to modify ICT areas, and exempts public institutions of education from this provision. The bill exempts contracts for less than \$10,000 entered into by public institutions of higher education from the procurement requirements in the bill. The head of each covered entity is able to approve an exception to the conformance of this act for the procurement, acquisition, or in-house development of the ICT only to the extent that an equally effective alternate access plan is developed and implemented within 30 days of the deployment of the ICT. The covered entity is to document such exceptions and maintain such records in accordance with the Virginia Public Records Act. The bill has a delayed effective date of July 1, 2025.

6. **Budget Amendment Necessary:** See Item 8.
7. **Fiscal Impact Estimates:** Preliminary – indeterminate. See Item 8.
8. **Fiscal Implications:** As described in the summary above, this legislation makes numerous changes to the Information Technology Access Act (the Act). The bill modifies the scope of the Act from applying to primarily individuals who are blind or visually impaired to all persons with disabilities. To the extent that the change in scope is broader than existing requirements under state or federal law, state agencies will likely incur costs to update their information and communications technology (ICT) to conform with the bill. The fiscal impact of these provisions is indeterminate.

The bill includes a requirement for a technology access clause for a vendor-paid and provided Accessibility Conformance Report indicating the level of conformance with accessibility for the ICT being procured or acquired by the covered entity. Any areas of nonconformance shall be documented with a vendor-paid and provided Vendor Accessibility Roadmap highlighting areas of improved accessibility, including a timeline for each nonconforming area's completion. The bill also requires all future contracts for the procurement of ICT, except by public institutions of higher education, to include provisions specifying that, if the vendor fails to modify the ICT areas identified to meet accessibility standards within the agreed upon timeline or 12 months after the deployment of the ICT whichever is earlier, the covered entity shall either (i) require the vendor to provide the covered entity with a credit equal to 12 months of the contract's cost, not to exceed \$10,000, or (ii) cancel such contract and, if such cancellation is due to default or justifiable cause, require the vendor to reimburse the covered entity any outstanding contracting costs. To the extent that some vendors may not wish to accept such conditions, the pool of available bidders for ICT procurements may be affected, which may affect the ultimate price of procurements. The bill also exempts any contract valued at less than \$10,000 entered into by public institutions of higher education from the provisions described in this paragraph. The fiscal impact of these provisions is indeterminate.

The head of each covered entity has the option to designate an employee as the entity's digital accessibility coordinator. Some agencies may be able to designate an existing employee to fulfill that role, but other agencies may require additional resources to hire additional staff. Agencies that opt to hire additional staff to fulfill this role will have to absorb the cost within

existing appropriations or request additional appropriation via the budget process in the future.

9. Specific Agency or Political Subdivisions Affected: All state agencies, public institutions of higher education, school divisions, and political subdivisions of the Commonwealth.

10. Technical Amendment Necessary: No.

11. Other Comments: None.

Date: February 16, 2024

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