



2005 ASSEMBLY BILL 1142

March 21, 2006 – Introduced by Representatives SEIDEL, GRIGSBY, SHERIDAN and SINICKI, cosponsored by Senator ERPENBACH. Referred to Committee on Colleges and Universities.

1 **AN ACT** *to amend* 106.52 (1) (e) 1.; and *to create* 106.52 (3) (a) 6. and 106.57 of
2 the statutes; **relating to:** accessible instructional materials for student with
3 disabilities enrolled in institutions of higher education.

Analysis by the Legislative Reference Bureau

Under current state law, the University of Wisconsin System (UW System) and the Technical College System (TCS) may not deny to a student admission to, participation in, or the benefits of, or discriminate against a student in, any service, program, course, or facility because of the student's disability. In addition, under current federal law, a college, university, or other postsecondary institution, including a private postsecondary institution, may not exclude a student from participation in, deny a student the benefits of, or subject a student to discrimination under any program or activity receiving federal financial assistance. Federal regulations specify that a postsecondary institution receiving federal financial assistance must ensure that no student with a disability is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination because of the absence of educational auxiliary aids for students with impaired sensory, manual, or speaking skills.

This bill requires a publisher of instructional materials, within 15 working days after receipt of a request, to provide, at no additional cost, instructional material in an electronic format to a nonprofit or public institution of higher education, including an institution providing vocational training, located in this state (institution of higher education) or to the state repository for alternative format instructional

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materials (state repository), which the TCS Board and the Board of Regents of the UW System are directed by the bill to jointly establish.

Under the bill, a request for instructional material in an electronic format must certify: 1) that a copy of the instructional material has been purchased for use by a student with a disability, which is defined in the bill as a student who is blind or visually impaired, or who has a specific learning disability or other disability affecting the activity of reading, and who needs reasonable accommodations in order to read; 2) that the student has a disability that prevents the student from using standard instructional material; and 3) that the instructional material is for use by the student in connection with a course at the institution of higher education in which the student is enrolled. In addition, the publisher may require the student to sign a statement agreeing that the student will use the electronic copy of the instructional material solely for his or her own educational purposes and that the student will not copy or distribute the instructional material for use by others.

Under the bill, instructional material provided by a publisher in electronic format must: 1) maintain the structural integrity of the original instructional material, which means that all of the information provided in printed instructional material, including the text of sidebars, the table of contents, chapter headings and subheadings, footnotes, indexes, glossaries, bibliographies, nontextual elements such as pictures, illustrations, graphs, charts, and screenshots, and any other data that are pertinent to the instructional material, are included when that printed instructional material is provided in an electronic format; 2) be compatible with commonly-used Braille translation or speech synthesis software; 3) include corrections and revisions as necessary; and 4) be in a format that is mutually agreed to between the publisher and the requester or, if the publisher and the requester cannot agree to a format, be in a format that is suitable for the creation of alternative format instructional materials and that preserves as much of the structural integrity of the original material as possible.

The bill permits an institution of higher education to use instructional material in an electronic format provided under the bill solely to convert that material into an alternative format, which is defined in the bill as Braille, large print texts, audio recordings, digital texts, digital talking books, or any other medium or format for the presentation of instructional materials, other than standard print, that is needed by a student with a disability to make those materials accessible to the student. The bill also permits an institution of higher education that converts instructional material into an alternative format to share the alternative format version of the material with the state repository, with any other institution of higher education that is serving a student with a disability, or with an entity that is authorized under the federal Copyright Act to reproduce and distribute previously published works in alternative formats exclusively for use by persons with disabilities and that commonly provides instructional materials in alternative formats to students enrolled in institutions of higher education.

The bill directs the TCS Board and the Board of Regents of the UW System to jointly: 1) establish a state repository for the purpose of collecting instructional materials in electronic and alternative formats and facilitating timely access to those

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materials by students with disabilities; and 2) develop policies and procedures to ensure to the maximum extent possible that a student with a disability has access to instructional material in an appropriate alternative format within the first week of the class for which the material is required. Under the bill, the state repository may submit requests for instructional materials in an electronic format to publishers on behalf of institutions of higher education and receive instructional materials in electronic and alternative formats from publishers, institutions of higher education that have created those materials for use by students with disabilities, and other sources. The bill requires the state repository, on receipt of a request for instructional material in an electronic or alternative format from an institution of higher education, to provide that material to the institution of higher education at no cost.

Finally, current law prohibits any person from denying to another the full and equal enjoyment of any public place of accommodation or amusement because of disability (public accommodations law). This bill provides that a publisher of instructional material is considered to be a public place of accommodation or amusement and that any publisher that refuses to provide instructional material as required under the bill is in violation of the public accommodations law.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 106.52 (1) (e) 1. of the statutes is amended to read:

2 106.52 (1) (e) 1. "Public place of accommodation or amusement" shall be
3 interpreted broadly to include, ~~but not be limited to,~~ places of business or recreation;
4 lodging establishments; restaurants; taverns; barber or cosmetologist, aesthetician,
5 electrologist or manicuring establishments; nursing homes; clinics; hospitals;
6 cemeteries; publishers, as defined in s. 106.57 (1) (h); and any place where
7 accommodations, amusement, goods, or services are available either free or for a
8 consideration, subject to subd. 2.

9 **SECTION 2.** 106.52 (3) (a) 6. of the statutes is created to read:

10 106.52 (3) (a) 6. Refuse to provide instructional material in an electronic format
11 in violation of s. 106.57 (2) (a).

12 **SECTION 3.** 106.57 of the statutes is created to read:

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1 **106.57 Postsecondary education; accessible instructional material for**
2 **students with disabilities. (1) DEFINITIONS.** In this section:

3 (a) “Alternative format” means Braille, large print texts, audio recordings,
4 digital texts, digital talking books, or any other medium or format for the
5 presentation of instructional materials, other than standard print, that is needed by
6 a student with a disability to make those materials accessible to the student.

7 (b) “Board” means the technical college system board.

8 (c) “Board of Regents” means the Board of Regents of the University of
9 Wisconsin System.

10 (d) “Institution of higher education” means an institution of higher education,
11 as defined in s. 108.02 (18), that is located in this state.

12 (e) “Instructional material” means a textbook or other material, including
13 nontextual mathematics and science material, written and published primarily for
14 use by a student enrolled in a course of study at an institution of higher education
15 that is required or essential to the student’s success, as determined by the course
16 instructor.

17 (f) “Nonprinted instructional material” means instructional material in a
18 format other than print, including instructional material that requires the
19 availability of electronic equipment, such as a computer software program,
20 videodisc, videotape, or audiotape, in order to be used as a learning resource.

21 (g) “Printed instructional material” means instructional material in a book or
22 other printed form.

23 (h) “Publisher” means a person that publishes or manufactures instructional
24 material.

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1 (i) "State repository" means the state repository for alternative format
2 instructional materials established under sub. (3) (a) 1.

3 (j) "Structural integrity" means that all of the information provided in printed
4 instructional material, including the text of sidebars, the table of contents, chapter
5 headings and subheadings, footnotes, indexes, glossaries, bibliographies,
6 nontextual elements such as pictures, illustrations, graphs, charts, and screenshots,
7 and any other data that are pertinent to the instructional material, are included
8 when that printed instructional material is provided in an electronic format.

9 (k) "Student with a disability" means a student enrolled in an institution of
10 higher education who is blind or visually impaired, or who has a specific learning
11 disability or other disability affecting the activity of reading, and who needs
12 reasonable accommodations in order to read.

13 (L) "Working day" means a day that is not a Saturday, a Sunday, a holiday
14 designated under s. 230.35 (4) (a), or a legal holiday under federal law.

15 **(2) PROVISION OF INSTRUCTIONAL MATERIALS IN ELECTRONIC FORMAT.** (a) Subject
16 to par. (e), within 15 working days after receipt of a request that complies with par.
17 (b) and with any requirement imposed by the publisher under par. (c), a publisher
18 shall, at no additional cost, provide to an institution of higher education or to the
19 state repository instructional material in an electronic format that complies with
20 par. (d).

21 (b) A request under par. (a) for instructional material in an electronic format
22 shall be prepared and signed by the coordinator of services for students with
23 disabilities at an institution of higher education or by another employee of an
24 institution of higher education who is responsible for monitoring compliance with
25 the federal Americans with Disabilities Act, 42 USC 12101 to 12213, or the federal

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1 Rehabilitation Act of 1973, 29 USC 701 to 796L, by a representative of the division
2 of vocational rehabilitation in the department on behalf of an institution of higher
3 education, or by a representative of the state repository on behalf of an institution
4 of higher education, and shall certify all of the following:

5 1. That a copy of the instructional material has been purchased for use by a
6 student with a disability by the student or by the institution of higher education in
7 which the student is enrolled.

8 2. That the student has a disability that prevents the student from using
9 standard instructional material.

10 3. That the instructional material is for use by the student in connection with
11 a course at the institution of higher education in which the student is enrolled.

12 (c) A publisher may require a request under par. (a) to be accompanied by a
13 statement signed by the student or, if the student is a minor, the student's parent,
14 guardian, or legal custodian agreeing to all of the following:

15 1. That the student will use the instructional material solely for his or her own
16 educational purposes.

17 2. That the student will not copy or distribute the instructional material for use
18 by others.

19 (d) Instructional material provided by a publisher in electronic format shall
20 meet all of the following requirements:

21 1. Maintain the structural integrity of the original instructional material,
22 except that this requirement does not apply to nontextual instructional material
23 unless technology is available to maintain the structural integrity of the nontextual
24 instructional material.

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1 2. Be compatible with commonly used Braille translation or speech synthesis
2 software.

3 3. Include corrections and revisions as necessary.

4 4. Be in a format that is mutually agreed to between the publisher and the
5 requester. If good faith efforts fail to produce an agreement as to an electronic format
6 that will maintain the structural integrity of the original instructional material, the
7 publisher shall provide the instructional material in an electronic format that is
8 suitable for the creation of alternative format instructional materials and that
9 preserves as much of the structural integrity of the original instructional material
10 as possible.

11 (e) If providing instructional material in an electronic format within 15
12 working days after receipt of a request under par. (a) would impose an undue burden
13 on a publisher, the publisher shall, within those 15 working days, submit a statement
14 to the requester certifying the date by which the publisher expects to transmit or
15 deliver the instructional material.

16 **(3) STATE REPOSITORY.** (a) Subject to the availability of funds, the board and the
17 board of regents shall jointly under s. 20.901 (4) do all of the following:

18 1. Establish a state repository for the purpose of collecting instructional
19 materials in electronic and alternative formats and facilitating timely access to those
20 materials by students with disabilities.

21 2. Develop policies and procedures to ensure to the maximum extent possible
22 that a student with a disability has access to instructional material in an appropriate
23 alternative format within the first week of the class for which the material is
24 required.

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1 (b) The state repository may submit requests for instructional material in an
2 electronic format to publishers on behalf of institutions of higher education and may
3 receive instructional materials in electronic and alternative formats from
4 publishers, institutions of higher education that have created those materials for use
5 by students with disabilities, and other sources. On receipt of a request for
6 instructional material in an electronic or alternative format from an institution of
7 higher education that conforms to the requirements of sub. (2) (b) and complies with
8 any requirement imposed by the publisher under sub. (2) (c), the state repository
9 shall, at no cost, provide that material to the institution of higher education. On
10 request of a publisher, the repository shall provide to the publisher all of the
11 following:

12 1. A summary of all instructional materials published by that publisher that
13 the state repository has provided in an electronic or alternative format to institutions
14 of higher education from its holdings.

15 2. Copies of requests for instructional materials published by that publisher
16 that the state repository has received from institutions of higher education.

17 (c) In its biennial report under s. 15.04 (1) (d), the Board of Regents shall
18 include an assessment of the need for technical assistance, training, and other
19 support to increase the availability and effective use of instructional materials in
20 alternative formats by students with disabilities enrolled in the University of
21 Wisconsin System. In its biennial report under s. 15.04 (1) (d), the board shall include
22 an assessment of the need for technical assistance, training, and other support to
23 increase the availability and effective use of instructional materials in alternative
24 formats by students with disabilities enrolled in the technical college system.

