

## Senate Bill No. 302

### CHAPTER 784

An act to amend Section 11135 of the Government Code, relating to discrimination.

[Approved by Governor October 10, 2003. Filed  
with Secretary of State October 11, 2003.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 302, Kuehl. Discrimination: state programs and activities.

Existing law prohibits discrimination, as defined, against any person in any program or activity conducted, operated, or administered by the state or by any state agency, or that is funded directly by the state, or that receives any financial assistance from the state. Existing law also requires, with respect to disability, that these programs and activities meet the protections and prohibitions contained in Section 202 of the Americans with Disabilities Act of 1990 and the federal rules and regulations implementing the act or state law if the state protections and prohibitions are stronger.

This bill would declare that the Legislature intended to apply the provisions requiring compliance with the accessibility requirements of the federal Rehabilitation Act of 1973 and its implementing regulations for the purposes of improving the accessibility of persons with disabilities to electronic or information technology to the California State University. The bill would state that it clarifies that the California State University is subject to that provision and require the California State University, in determining the cost of developing or procuring electronic or information technology, to consider whether technology that meets the accessibility requirements of a specified provision of the federal Rehabilitation Act of 1973 would reduce the long-term cost incurred by the California State University in providing access or accommodations to future users of this technology who are persons with disabilities, as required by existing law.

*The people of the State of California do enact as follows:*

SECTION 1. Section 11135 of the Government Code is amended to read:

11135. (a) No person in the State of California shall, on the basis of race, national origin, ethnic group identification, religion, age, sex, color, or disability, be unlawfully denied full and equal access to the



benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency, is funded directly by the state, or receives any financial assistance from the state.

(b) With respect to discrimination on the basis of disability, programs and activities subject to subdivision (a) shall meet the protections and prohibitions contained in Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, except that if the laws of this state prescribe stronger protections and prohibitions, the programs and activities subject to subdivision (a) shall be subject to the stronger protections and prohibitions.

(c) (1) As used in this section, “disability” means any mental or physical disability as defined in Section 12926.

(2) The Legislature finds and declares that the amendments made to this act are declarative of existing law. The Legislature further finds and declares that in enacting Senate Bill 105 of the 2001–02 Regular Session (Chapter 1102 of the Statutes of 2002), it was the intention of the Legislature to apply subdivision (d) to the California State University in the same manner that subdivisions (a), (b), and (c) of this section already applied to the California State University, notwithstanding Section 11000. In clarifying that the California State University is subject to paragraph (2) of subdivision (d), it is not the intention of the Legislature to increase the cost of developing or procuring electronic and information technology. The California State University shall, however, in determining the cost of developing or procuring electronic or information technology, consider whether technology that meets the standards applicable pursuant to paragraph (2) of subdivision (d) will reduce the long-term cost incurred by the California State University in providing access or accommodations to future users of this technology who are persons with disabilities, as required by existing law, including this section, Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 and following), and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Sec. 794).

(d) (1) The Legislature finds and declares that the ability to utilize electronic or information technology is often an essential function for successful employment in the current work world.

(2) In order to improve accessibility of existing technology, and therefore increase the successful employment of individuals with disabilities, particularly blind and visually impaired and deaf and hard-of-hearing persons, state governmental entities, in developing, procuring, maintaining, or using electronic or information technology, either indirectly or through the use of state funds by other entities, shall



comply with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. Sec. 794d), and regulations implementing that act as set forth in Part 1194 of Title 36 of the Federal Code of Regulations.

(3) Any entity that contracts with a state or local entity subject to this section for the provision of electronic or information technology or for the provision of related services shall agree to respond to, and resolve any complaint regarding accessibility of its products or services that is brought to the attention of the entity.

