

JAN 21 2010

A BILL FOR AN ACT

RELATING TO BUILDING DESIGN FOR PERSONS WITH DISABILITIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Hawaii law requires that all plans and
2 specifications for the construction of public buildings,
3 facilities, and sites be prepared so that the buildings,
4 facilities, and sites are accessible to and usable by persons
5 with disabilities. Section 103-50, Hawaii Revised Statutes,
6 requires that buildings, facilities, and sites conform to the
7 Americans with Disabilities Act Accessibility Guidelines and the
8 Federal Fair Housing Amendments Act of 1988, which establish the
9 design standard for accessibility to persons with disabilities.

10 The legislature established a mechanism for the review of
11 all plans and specifications for state and county buildings,
12 facilities, and sites or buildings, facilities, and sites funded
13 with state or county funds by the disability and communication
14 access board to ensure that design and construction efforts
15 would be corrected prior to the construction of the building,
16 facility, or site. The disability and communication access
17 board reviews nine hundred to one thousand plans each year on



1 average. The review process has been heretofore offered to the
2 architectural and design community at no charge.

3 The legislature finds that compliance with the statutory
4 design requirements to ensure accessibility is not consistent,
5 nor uniformly understood in the architectural, engineering, and
6 design community. The legislature further finds that the review
7 process by the disability and communication access board is a
8 valuable service that should be continued. The review process
9 ensures appropriate access to people with disabilities by
10 uncovering design flaws that are corrected prior to
11 construction, which prevents costly litigation and retrofits.

12 The legislature believes that the fees allowed to be
13 charged under this Act by the disability and communication
14 access board should be incorporated into the capitalization
15 costs of the projects. A reasonable fee schedule would generate
16 revenues sufficient to pay for the salaries of the staff
17 conducting the reviews. The fees provide a mechanism to defray
18 a portion or all of the costs of the review process, which would
19 continue to be funded through appropriation from the general
20 fund.

21 The purpose of this Act is to enable the disability and
22 communication access board to charge a fee for the review,



1 similar to other fees that are charged for permits, as part of
2 the design and construction process.

3 SECTION 2. Section 103-50, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§103-50 Building design to consider needs of persons with
6 disabilities. (a) Notwithstanding any other law to the
7 contrary, all plans and specifications for the construction of
8 public buildings, facilities, and sites shall be prepared so
9 that the buildings, facilities, and sites are accessible to and
10 usable by persons with disabilities. The buildings, facilities,
11 and sites shall conform to the Americans with Disabilities Act
12 Accessibility Guidelines, Title 36 Code of Federal Regulations
13 Part 1191, and the requirements of the Federal Fair Housing
14 Amendments Act of 1988, as established in Title 24 Code of
15 Federal Regulations Part 100, Subpart D, as adopted and amended
16 by the disability and communication access board under chapter
17 348F.

18 (b) All state and county agencies subject to this section
19 shall seek advice and recommendations from the disability and
20 communication access board on any construction plans prior to
21 commencing with construction[-] for which the board may



1 establish, pursuant to rules adopted under section 348F-6,
2 reasonable tiered fees based upon estimated construction costs.

3 (c) The disability and communication access board shall
4 adopt rules pursuant to chapter 91 for the design of buildings,
5 facilities, and sites, by or on behalf of the State and counties
6 to effectuate the purposes of this section, except that the
7 board, without regard to chapter 91, instead, may adopt federal
8 amendments to the Americans with Disabilities Act Accessibility
9 Guidelines, Title 36 Code of Federal Regulations Part 1191.

10 (d) The disability and communication access board may
11 approve a site specific alternate design when an alternate
12 design provides equal or greater access.

13 (e) To defray the expenses of the disability and
14 communication access board to perform its duties under this
15 section, the board shall charge a fee for services rendered by
16 the board pursuant to this section; provided that the board
17 shall establish a fee schedule pursuant to rules adopted under
18 chapter 91.

19 The disability and communication access board shall report
20 to the legislature annually regarding the revenues generated by
21 the fees charged under this subsection, including but not
22 limited to, a general description of the review of each plan,



1 the hours of service rendered to review each plan and by whom,
2 and the amount of fees charged for the review of each plan.

3 [~~e~~] (f) For the purposes of this section, "public
4 buildings, facilities, and sites" means buildings, facilities,
5 and sites that:

6 (1) Are designed, constructed, purchased, or leased with
7 the use of any state or county funds or federal funds
8 administered by the State or a county;

9 (2) House state or county programs, services, or
10 activities that are intended to be accessed by the
11 general public; or

12 (3) Are constructed on state or county lands or lands that
13 will be transferred to the State or a county."

14 SECTION 3. For purposes of section 2 of this Act and until
15 the disability and communication access board adopts rules
16 pursuant to chapter 91, Hawaii Revised Statutes, to supersede
17 the fees specified in this section, the fees shall be based on
18 estimated construction costs as follows:

19	(1) No application	\$50
20	(2) Up to \$100,000	\$200
21	(3) \$100,001 to \$500,000	\$500
22	(4) \$500,001 to \$1,000,000	\$1,250



- 1 (5) \$1,000,001 to \$5,000,000 \$2,500
- 2 (6) \$5,000,001 to \$10,000,000 \$3,000
- 3 (7) More than \$10,000,000 \$4,000 and \$1,000
- 4 more for each additional \$10,000,000
- 5 or portion thereof;

6 In addition, there shall be a \$3,000 maximum plan review fee,
 7 charged in the discretion of the disability and communication
 8 access board, for public rights-of-way projects and projects
 9 managed by private non-profit entities.

10 SECTION 4. Statutory material to be repealed is bracketed
 11 and stricken. New statutory material is underscored.

12 SECTION 5. This Act shall take effect on January 1, 2011.

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INTRODUCED BY:

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Report Title:

Persons with Disabilities; Fees

Description:

Allows the disability and communication access board to charge a fee to defray expenses of review of construction plans to ensure compliance with law. Establishes temporary fees until the board adopts permanent fees.

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