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# 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 public buildings, facilities, and sites conform to  
7 the Americans with Disabilities Act Accessibility Guidelines and  
8 the Federal Fair Housing Amendments Act of 1988, which establish  
9 the design standard for accessibility to persons with  
10 disabilities.

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



1 thousand plans each year on average. The review process has  
2 been heretofore offered to the architectural and design  
3 community at no charge.

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

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

22 The purpose of this Act is to require the disability and



1 communication access board to charge a fee for the review,  
2 similar to other fees that are charged for permits, as part of  
3 the design and construction process.

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

6 "§103-50 **Building design to consider needs of persons with**  
7 **disabilities.** (a) Notwithstanding any other law to the  
8 contrary, all plans and specifications for the construction of  
9 public buildings, facilities, and sites shall be prepared so  
10 that the buildings, facilities, and sites are accessible to and  
11 usable by persons with disabilities. The buildings, facilities,  
12 and sites shall conform to the Americans with Disabilities Act  
13 Accessibility Guidelines, Title 36 Code of Federal Regulations  
14 Part 1191, and the requirements of the Federal Fair Housing  
15 Amendments Act of 1988, as established in Title 24 Code of  
16 Federal Regulations Part 100, Subpart D, as adopted and amended  
17 by the disability and communication access board under chapter  
18 348F.

19 (b) All state and county agencies subject to this section  
20 shall seek advice and recommendations from the disability and  
21 communication access board on any construction plans prior to  
22 commencing with construction.



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

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

11 (e) The disability and communication access board shall  
12 charge a fee for services rendered by the board in performing  
13 its duties under this section; provided that the board shall  
14 establish a fee schedule that includes reasonable tiered fees  
15 based upon estimated construction costs, pursuant to rules  
16 adopted under chapter 91.

17 The disability and communication access board shall report  
18 to the legislature annually regarding the reviews conducted  
19 under this section, including but not limited to a summary of  
20 the number and types of plans reviewed and the fees collected  
21 from each state or county department or agency.



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

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

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

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

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

<u>Construction Costs</u>	<u>Fees</u>
(1) No application	\$50
(2) Up to \$100,000	\$200
(3) \$100,001 to \$500,000	\$500
(4) \$500,001 to \$1,000,000	\$1,250
(5) \$1,000,001 to \$5,000,000	\$2,500



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

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

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

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



**Report Title:**

Persons with Disabilities; Fees

**Description:**

Authorizes the disability and communication access board to charge a fee to defray expenses of review of construction plans to ensure compliance with laws relating to access to persons with disabilities. Establishes temporary fees until the board adopts permanent fees. Requires report to the legislature.  
(SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

