



DISABILITY AND COMMUNICATION ACCESS BOARD

919 Ala Moana Boulevard, Room 101 • Honolulu, Hawaii 96814
Ph. (808) 586-8121 (V/TDD) • Fax (808) 586-8129

LATE TESTIMONY

February 22, 2010

TESTIMONY TO THE HOUSE COMMITTEE ON FINANCE

House Bill 2152 - Relating to Building Design for Persons with Disabilities

The Disability and Communication Access Board (DCAB) strongly supports House Bill 2152 to allow DCAB to charge a fee to defray expenses of review of construction plans to ensure compliance with the law. This bill will give DCAB the authority to charge a review/filing fee to keep the review process functioning and provides a revenue stream to offset general funds. This is a revenue-enhancing bill, primarily assessing the cost of the review to the CIP budget.

DCAB is required, per §103-50 Hawaii Revised Statutes (HRS), to review all plans and specifications for the construction of state and county buildings, facilities, and sites for compliance with federal accessibility guidelines to ensure access for persons with disabilities and minimize risk/liability for government. Private sector projects not receiving state funds are not covered under §103-50, HRS are not submitted to DCAB for a plan review.

The bill proposes a plan review fee based on the project's estimated construction cost. The proposed fee is comparable to the State of California's access compliance review fee schedule. We have met with various members of the architectural and engineering community to ensure a fair and reasonable fee schedule. The interim fee schedule in Section 3 of the bill would permit the generation of revenue beginning January 1, 2011 until such time as rules are established. With the six-month lead-time, departments will be able to plan to capitalize costs into construction budgets and DCAB would be able to develop an administrative mechanism for the collection of the fee.

DCAB reviewed 1,126 plan reviews in FY 2009 (680 non-duplicative reviews). Based on the number of reviews in FY 2009, the proposed plan review fee schedule is estimated to generate \$490,000 to the general fund and will be sufficient to offset salaries of 5.5 staff.

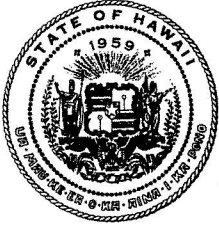
The passage of this bill will ensure that this compliance function pays for itself.

Thank you for the opportunity to testify on this important measure.

Respectfully submitted,

CHARLES FLEMING
Chairperson
Legislative Committee

FRANCINE WAI
Executive Director



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A BILL FOR AN ACT RELATING TO BUILDING DESIGN FOR PERSONS WITH DISABILITIES

Purpose

Authorize the Disability and Communication Access Board (DCAB) to charge a fee for the review of plans and specifications under §103-50 Hawaii Revised Statutes (HRS).

Justification

- DCAB is required, per §103-50 HRS, to ensure access for persons with disabilities by reviewing all plans and specifications for the construction of state and county buildings, facilities, and sites. The Legislature adopted the ADA and Fair Housing Design Guidelines as the standards to ensure compliance with federal law. DCAB also has authority to provide binding interpretive opinions and approve alternate design requests under state law.
- 5.5 design professionals perform this function (6.25 positions when including administrative oversight and support). The 5.5 positions were deleted from the FY 11 budget at \$323,820 (general funds); in its place DCAB's Special Fund ceiling was increased by \$484,271 with the intent that monies would be generated by fees in the second year of the biennium. HB 39 was amended in 2009 by Senate WAM to give DCAB the authority to charge a fee for the review of plans. However, the bill did not pass. DCAB requires legal authority to charge for plan reviews followed by rulemaking to establish the fee schedule.
- This bill will give DCAB the authority to charge a review/filing fee to keep the review process functioning and provides a revenue stream to offset general funds while the Executive Supplemental Budget simultaneously restores the positions.

Fiscal Impact

- Based on the number of reviews in FY 08-09, the proposed plan review fee schedule is estimated to generate \$490,000 sufficient to offset salaries of the staff.

Facts about §103-50 HRS and the DCAB Review Process

- DCAB reviews approximately 1,126 plan reviews per year; 680 non duplicative.
- DCAB does not review construction in the field. Each agency is responsible for construction oversight.
- DCAB does not enforce the ADA or Fair Housing. However, state law and design guidelines are equal or greater than federal law (substantial equivalency) and the review provides a safe harbor for designers.

The Proposed Fee Schedule (to be adopted pursuant to Administrative Rules)

Estimated Construction Cost	Proposed Plan Review Fee
No application	\$50
Less than \$100,000	\$200
\$100,000 to \$500,000	\$500
\$500,001 to \$1,000,000	\$1,250
\$1,000,001 to \$5,000,000	\$2,500
\$5,000,001 to \$10,000,000	\$3,000
More than \$10,000,000	\$3,000 + \$1,000 for each \$10,000,000 over \$10,000,000

*\$3,000 maximum plan review fee for public rights-of-way projects and projects managed by private non-profit entities.

- Projects with no application to the accessibility guidelines, such as re-roofing, will be charged a \$50 plan review fee regardless of the project's estimated construction cost.
- Projects with elements required to comply with the accessible guidelines will be charged a plan review fee based on the project's estimated construction cost. For example, a project with an estimated construction cost of \$750,000 will be charge a plan review fee of \$1,250.
- The proposed plan review fee will only apply to state or county projects covered under HRS §103-50, such as a new State judiciary building or a public school classroom renovation. Private projects that are not covered under HRS §103-50 are not submitted to DCAB for a plan review; therefore, will not be subject to the proposed plan review fee.
- California has a state agency that reviews plans and specifications for compliance with accessibility guidelines, similar to DCAB. California's access compliance review fee schedule is based on a percentage of the project's estimated construction cost. Even though a different method is utilized to calculate the plan review fee, the DCAB's proposed fee is comparable to California's fee.

Estimated Construction Cost	DCAB Proposed Plan Review Fee	California Access Compliance Review Fee	Honolulu Building Permit Fee
No application	\$50	\$200	Not applicable
Less than \$100,000	\$200	\$200	\$0 to \$1,560
\$100,000 to \$500,000	\$500	\$200 to \$1,000	\$1,560 to \$5,160
\$500,001 to \$1,000,000	\$1,250	\$1,000 to \$1,500	\$5,160 to \$7,415
\$1,000,001 to \$5,000,000	\$2,500	\$1,500 to \$2,800	\$7,415 to \$23,915
\$5,000,001 to \$10,000,000	\$3,000	\$2,800 to \$3,300	\$23,915 to \$43,915
\$10,000,001 to \$20,000,000	\$4,000	\$3,300 to \$4,300	\$43,915 to \$83,915
\$20,000,001 to \$30,000,000	\$5,000	\$4,300 to \$5,300	\$83,915 to \$123,915