



## DISABILITY AND COMMUNICATION ACCESS BOARD

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

March 12, 2010

### TESTIMONY TO THE HOUSE COMMITTEE ON HEALTH

#### Senate Bill 2267, Senate Draft 2 - Relating to Building Design for Persons with Disabilities

The Disability and Communication Access Board (DCAB) strongly supports Senate Bill 2267, Senate Draft 2 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

Aloha Senators,

March 11, 2010

My name is Anthony Riecke-Gonzales, I am a practicing architect on Maui, and a current board member for the Disability and Communication Access Board, DCAB. I am also the treasurer of the Maui Chapter of the American Institute of Architects, and a Principal of Riecke Sunnland Kono Architects LTD. My firm and I support this bill as a way to ensure the services provided by DCAB, for publicly funded projects, are able to continue. My firm, other Maui firms, the state of Hawaii, and the County of Maui have in the past found the centralized expertise of the DCAB staff, as it relates to current information on complying with the Justice Department mandate to provide equal access to built facilities, very helpful in ensuring a high level of compliance with the American Disabilities Act. Since enforcement of the Justice Department mandate is only by law suit, DCAB is a good tool to reduce the risk of litigation being brought against publicly funded facilities for non compliance. We have found that due to the nature of the federal government agencies involved, gathering and disseminating their ever changing interpretations and guidelines is best handled by a single local agency that has access to all publically funded projects.

I would be open to responding to any questions senators may wish to email me with regard to my experience with neighbor island practice of architecture as it relates to compliance with the American Disabilities Act and publicly funded facilities.

Aloha,

Anthony Riecke-Gonzales, AIA

**BIA-HAWAII**  
**BUILDING INDUSTRY ASSOCIATION**

March 12, 2010

Representative Ryan Yamane, Chair  
Committee on Health  
State Capitol, Room 329  
Honolulu, HI 96813

RE: SB2267, SD2 Relating to Building Design for Persons with Disabilities

Dear Chair Yamane and Members of the Committee on Health:

I am Karen Nakamura, Executive Vice President & Chief Executive Officer of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii.

BIA-Hawaii opposes SB2267, SD2, "Relating to Building Design for Persons with Disabilities"

With due respect to the Disability and Communications Access Board and their mandate to review all plans for state and county projects for compliance with the Americans with Disabilities Act (ADA), the building community will face increases in the cost of the projects and can anticipate delays. This may be the start of any number of additional fees that will be charged for governmental services.

Many of our members hire design and legal consultants to assure compliance with all applicable Federal, State and County laws. One member states that in most instances their consultants retain ADA consultants to assure compliance for their design. We believe that these consultants provide the expertise and experience to prevent any needless delays in the review and permitting process.

While we understand that this bill is designed to generate funds to pay for the staffing of the DCAB and to offset general fund expenditures, in the end, it is the contractor who must pay additional funds for this effort.

Therefore, we cannot support SB2267, SD2.

Thank you for the opportunity to share our views with you.

*Karen Y. Nakamura*

**PETER L. FRITZ**  
414 KUWILI STREET, #104  
HONOLULU, HAWAII 96814  
TELEPHONE: (808) 532-7118  
E-MAIL: PLFLEGIS@FRITZHQ.COM

**HOUSE OF REPRESENTATIVES  
THE TWENTY-FIFTH LEGISLATURE  
REGULAR SESSION OF 2010**

**COMMITTEE ON HEALTH**

**Hearing March 12, 2010  
Testimony on S.B. 2267 SD2  
(Relating to Building Design for Persons with Disabilities)**

Chair Yamane, Vice Chair Nishimoto and members of the Committee:

My name is Peter Fritz and while I am the current Chairperson of the Disability and Communication access Board ("DCAB"); however, I am testifying in my personal capacity in support of H.B. 2267 SD2.

The DCAB is required by §103-50 HRS, to review all plans and specifications for the construction of state and county buildings, facilities, and sites to ensure access for persons with disabilities.

Last session, the 5.5 positions budgeted to review plans and designs were deleted from the FY 11 budget with the intent that monies would be generated by fees would pay the expenses of plan review. Unfortunately, the bill that would provide authority to charge for plan review bill did not pass.

This bill will give the DCAB the authority to charge a review/filing fee to keep the review process functioning, provide a revenue stream, and the authority to establish a fee schedule.

Thank you for the opportunity to testify.

Very truly yours,



Peter L. Fritz

**ART FRANK  
86-363 KAWILI ST  
WAIANAE, HI 96792-2941  
MARCH 10, 2010**

**SB 2267, SD2 (SSCR2455) RELATING TO BUILDING DESIGN FOR  
PERSONS WITH DISABILITIES**

**HOUSE COMMITTEE ON HEALTH, REP. RYAN I. YAMANE, CHAIR**

**FRIDAY, MARCH 12, 2010 @ 9:30A.M. CONF. ROOM 329**

**Good morning Mr. Chairman and members of the House Committee on Health. My name is ART FRANK from the Waianae Coast and I have been disabled for over 32 years, and very active in the community for over 30 years. I've also been involved with DCAB and an activist at this capitol for 30 years. Prior to and after the passage of the American Disability Act (ADA) I've spoken with many building managers, business owners, state and city Directors/Administrators regarding accessibility for the disabled to their buildings or businesses. Although I could have, I've never filed a lawsuit but instead I have always tried to talk people into complying with ADA. Francine Wai knows that hundreds, if not thousands of lawsuits have been filed in this state due to non-compliance of ADA. In this regard my concern is with the state and city government being in non-compliance with ADA and consequently having to waste our tax dollars by tearing up their mistakes and doing it again. Examples of this was in Hawaii Kai and Waianae back in the 90's when the state widen the highways but parts of sidewalks were inaccessible for the wheelchair bound citizens. It's been years since I've had to complain about non-compliance of ADA, but I am still concerned that mistakes can still be made because people do not understand the necessity, or**

**how to comply with ADA. That's why we have the DCAB to help everyone to comply with the ADA so mistakes are not made that waste our tax dollars, or lawsuits are filed due to non-compliance. As a disabled person I support this bill because I want to insure DCAB has the financial resources to do the job right IAW the ADA to help all of us with disabilities.**

**Mahalo nui loa.**

A handwritten signature in cursive script that reads "Art Frank".

**ART FRANK,  
WAIANAE COAST**

March 10, 2010

Hearing: March 12, 2010, at 9:30 AM in room 329  
Re: SB2267, SD2  
In Favor

To:  
Chair: Representative Yamane  
Vice Chair: Representative Nishimoto  
and Representative members of the committee

I strongly support passage of SB2267.

Continuation of review of plans for any public project for compliance with all disability and access regulations by the current board performing this function saves the public entities of Hawaii in the long run, by showing best-faith effort to meet compliance.

Passage of HB1859, another bill that is adding \$1 for Disabled Parking Permits provides funding only through the end of 2010, beginning with the period the board's funding is being eliminated from the budget. Passage of SB2267 provides a method of funding beyond that date. However, the effective date of the bill needs to be set to January 1, 2011 which would be the same as the companion House bill.

The intended fee schedule and any that may replace it is minimal in impact, yet starts the method of allocating the support for the board's actions according to the effort and time required for a project. It is understood that the generated fee will be billed and payable by the consultant submitting the plans for review at the time of review or completion of the review.

If this bill were to not be approved, we would find ourselves relying on the efforts of independent reviewers, with unknown expertise, supervision and validation of their efforts, and probably at a higher cost to the state, counties and cities for the fees.

I thank you for your support for this bill.

Lance Bateman

3070 Holua Place  
Honolulu, HI 96819  
808-537-2000

**nishimoto2-Ashley**

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**From:** Lynn Murakami-Akatsuka [lkakatsu@hawaii.rr.com]  
**Sent:** Wednesday, March 10, 2010 9:07 PM  
**To:** HLTtestimony  
**Subject:** Testimony for SB 2267, SD2 on 3/12/2010 at 9:30 a.m.

Testimony for Committee on Health, 3/12/2010 at 9:30 a.m.

Conference room: 329  
Testifier position: Strongly support  
Testifier will be present: NO  
Submitted by: Lynn Murakami-Akatsuka  
Organization: Individual  
Address: 45-606 Keole Street; Kaneohe, HI 96744  
E-mail: [lkakatsu@hawaii.rr.com](mailto:lkakatsu@hawaii.rr.com)  
Submitted on: 3/10/2010

Comments: The purpose of this bill is to authorize the Disability and Communication Access Board (DCAB) to charge fees for its review of construction plans for public buildings, facilities, and sites to ensure that they are accessible to persons with disabilities. DCAB is currently required by law to review all construction plans for state and county buildings and facilities to ensure compliance with applicable federal laws. The board currently does not charge a fee for this service. This bill will help to keep the review process functioning and provides a revenue stream to offset general funds that covers the funding of 5.5 staff positions. I am in \*strong support \*of this bill but prefers the effective bill date of 1/1/2011 as noted in the HB 2152, HD 1 companion bill.  
Thank you for the opportunity to testify.



Kimmey Unabia Architects, Ltd.  
37 Kuapapa Place  
Kihei HI 96753  
Tel: (808) 874-9015  
Fax: (808) 875-1078  
Email: kua-maui@hawaii.rr.com

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March 11, 2010

Email: HLTtestimony@Capitol.hawaii.gov

**Subject: SB 2267, SD2 Relating to Building Design for Persons with Disabilities**  
**Hearing Schedule:** Friday, March 12, 2010 at 9:30 AM.

Dear Sirs,

I have been a resident of Hawaii for the past 25 years. A licensed architect, I am a Past President of both the American Institute of Architects (AIA) Maui Chapter and the AIA Hawaii State Council. For the past eight years I served as a member of the DCAB Board of Directors.

I am writing in support of SB 2267, SD2 which will allow the Disability and Communication Access Board to charge a fee to defray expenses of review of construction plans to ensure compliance with law. This legislation will establish temporary fees until the Board adopts permanent fees.

DCAB is a well run department and in my opinion the loss of DCAB through lack of funding would be a setback for the State and the entire community of the disabled here in Hawaii. I urge you to do whatever you can to support the continued presence of DCAB at this time by allowing it to charge and establish fees for its plan review services.

Sincerely,

Marie Kimmey AIA

TO: House Committee on Health  
Friday, Mar. 12, 2010 at 9:30 a.m.  
Conference Room 329

FROM: Kirby L. Shaw  
425 Ena Road, #706-A  
Honolulu, HI 96815  
k.shaw@hawaii.rr.com  
944-0828

SUBJ: SB 2267, SD2 - RELATING TO BUILDING DESIGN FOR  
PERSONS WITH DIISABILITIES

Rep. Ryan I. Yamano, Chair, Committee on Health  
Rep. Scott Y. Nishimoto, Vice Chair, Committee on Health  
Members of the House Committee on Health  
Kirby L. Shaw – Individual with a mobility disability  
Friday, March 12, 2010

Support for SB 2267, SD2 - Relating to Building Design for Persons with Disabilities

Dear Members of the Health Committee,

I am an individual with a disability who uses a power wheelchair. Gaining access to public buildings and facilities is important to me because I would not otherwise participate alongside my fellow citizens in conducting business with the State and counties. For me and others similarly situated, accessibility involves sidewalks, curb ramps at intersections, building entrance and interior space ingress and egress, hardware on doors, restroom stalls, lavatories, transaction counters, and parking. In addition, accessibility for persons with vision and hearing disabilities involves a host of other features without which public buildings and facilities would not be accessible or safe. Therefore, it is tremendously important for the State to have an agency (1) that is competent in its understanding of the accessibility design requirements of the Americans with Disabilities Act and the Fair Housing Amendments Act, (2) that consistently applies the standards when conducting plan reviews, and (3) that provides continuity with regard to expertise and institutional memory for the purpose of providing technical consultation to design professionals. Fortunately, we have such an agency – the Disability and Communication Access Board (DCAB).

**I am writing to express strong support for SB 2267, SD2 - Relating to Building Design for Persons with Disabilities.** The bill is important because it will require DCAB to charge reasonable fees based on a logical scale to cover the costs of plan reviews. This is significant because it will remove the DCAB unit responsible for plan reviews from the uncertainties of the budgeting process and allow DCAB to provide the uninterrupted competence, consistency, and continuity noted above. Lastly, public buildings and facilities will be accessible to persons with disabilities into the future because the Legislature recognized the significance of the measure.

Therefore, **I urge the committee to support this bill.** Thank you for considering my testimony. Please contact me by mail, e-mail, or phone if you have any questions. Mahalo nui.

Sincerely,

/s/  
KIRBY L. SHAW