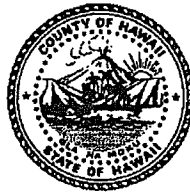


**SB 2267**

William P. Kenoi  
Mayor



Stephen J. Arnett  
Housing  
Administrator

County of Hawaii  
**OFFICE OF HOUSING AND  
COMMUNITY DEVELOPMENT**  
50 Wailuku Drive • Hilo, Hawai'i 96720-2484  
V/TT (808) 961-8379 • FAX (808) 961-8685

January 27, 2010

The Honorable David Y. Ige, Chair  
The Honorable Josh Green, M.D., Vice Chair  
and Committee Members  
Committee on Health

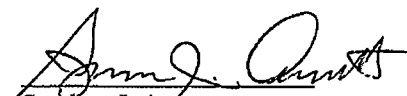
Twenty-Fifth Legislature  
Regular Session of 2010

**SUBJECT: Senate Bill 2267**  
**Hearing Date: 01-29-2010**  
**Time: 2:45 PM**  
**Conference Room: 016**

The Office of Housing and Community Development (OHCD) **opposes** Senate Bill 2267, which establishes a fee for the Disability and Communication Access Board (DCAB) to review construction plans to ensure compliance with law. While the OHCD supports the work of DCAB, the requirement will result in increased costs to developers, which will be passed on to the homeowners, increasing the cost of housing, regardless of income level. For developers of affordable housing projects, this escalated cost may negatively impact the viability of the project.

The Legislature should instead provide incentives, such as a reduction in fees and expedited review, to developers who encourage greater accessibility for people with disabilities in their developments.

Thank you for the opportunity to provide testimony.

  
Stephen J. Arnett  
Housing Administrator

---

**From:** Lunsford Phillips [lunsfordp001@hawaii.rr.com]  
**Sent:** Thursday, January 28, 2010 4:20 PM  
**To:** HLTtestimony; HTHTestimony  
**Subject:** HB 2152/SB 2267

As an attorney who regularly deals with violations of accessibility requirements, I attest to the need for plan review. Common sense tells you how much cheaper it is to correct design errors with an eraser than with a jackhammer. It's a matter of spending pennies to save dollars.

Charging the cost for plan review of public projects to the responsible agency is a project cost. It is no different than any other design expense. The plan review cost can be easily included in the initial budgeting and appropriation process.

Shifting this small cost to the project sponsor does not increase the overall expense to the State because statute already requires DCAB's plan review. The issue is simply if the cost of plan review comes out directly of the general fund or is allocated to the project concerned. Because many projects are funded otherwise than through the general fund, the proposed legislation will actually reduce pressure on the general fund.

LUNSFORD DOLE PHILLIPS  
A LAW CORPORATION  
7 WATERFRONT PLAZA  
SUITE 400  
500 ALA MOANA BLVD.  
HONOLULU, HAWAII  
96813  
808-543-2055; fax 808-543-2010  
[lunsfordp001@hawaii.rr.com](mailto:lunsfordp001@hawaii.rr.com)

--

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

THE SENATE  
THE TWENTY-FIFTH LEGISLATURE  
REGULAR SESSION OF 2010

COMMITTEE ON HEALTH

Hearing January 29, 2010  
Testimony on S.B. 2267  
(Relating to Building Design for Persons with Disabilities)

Chair Ige, Vice Chair Green 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. 1859.

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.

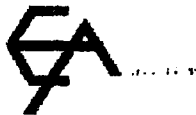
This bill will give the DCAB the authority to charge a review/filing fee to keep the review process functioning, provide a revenue stream, and the authority to establish a fee schedule.

Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read "Peter L. Fritz". The signature is stylized and cursive.

Peter L. Fritz

**ERSKINE ARCHITECTS, INC.**

January 27, 2010

Senator David Y. Ige  
Hawaii State Capitol, Room 215  
415 South Beretania Street  
Honolulu, HI 96813

**RE: Committee on Health – Support for Senate Bill No. 2267 Relating to Building Design for Persons with Disabilities**

Aloha Senator,

I am writing this letter to you to urge you to allow the Disability & Communication Access Board (DCAB) to charge a fee to defray expenses associated with the review of architectural and engineering design drawings.

As you probably already know, ALL design projects receiving public funds are currently required to be reviewed by the DCAB. If the State has any doubts about funding the DCAB, it is then essential that we allow the DCAB the authority to charge a fee for the services that they provide in our community. The services of the DCAB are critical in protecting our public agencies, as well as private businesses, specifically the professional design community, against errors and omissions with regard to compliance with the guidelines of the Americans with Disabilities Act Accessibility Guidelines. The DCAB has assisted our firm, along with our various Client's on so many occasions, that it's impossible to quantify after being in business here for over 8 years.

Because we perform services on numerous Public Charter Schools, the DCAB has provided us with essential technical assistance on numerous projects. On each and every one of our projects that was submitted to the DCAB, the DCAB found some sort of an omission or ambiguity with our design that needed to be addressed. The review of these State projects by the DCAB has helped us to ensure that our projects are in compliance with the requirements of the Americans with Disabilities Act Accessibility Guidelines.

I sincerely urge your committee to allow the DCAB to charge a fee to defray their expenses. We, both public and private sectors need to keep the DCAB intact to mitigate the chances of potentially expensive losses later.

Sincerely,

**Erskine Architects, Inc.**

Fred Erskine  
President

---

**From:** Carolyn Allerdice [islarch@lava.net]  
**Sent:** Wednesday, January 27, 2010 8:24 PM  
**To:** HTHTestimony  
**Subject:** SB 2267 Re Building Design for Persons with Disabilities

COMMITTEE ON HEALTH

Hearing on Friday, January 29, 2010 at 2:45 p.m.

We support DCAB review of State construction projects to insure compliance with the Americans With Disabilities Act.

We support the concept of review fees to provide continuation of these services, so long as the fees are capitalized into the project budget and are not expected to be absorbed by the design professional.

Sincerely,

Carolyn Allerdice, President  
ISLAND PACIFIC ARCHITECTURE, INC.  
808-521-3828  
808-526-0579 fax

---

**From:** Stanford Lee [slee@nextdesignllc.com]  
**Sent:** Wednesday, January 27, 2010 11:15 AM  
**To:** HTHTestimony  
**Subject:** COMMITTEE ON HEALTH hearing for SB 2267 RELATING TO BUILDING DESIGN FOR PERSONS WITH DISABILITIES

To whom it may concern,

Regarding:

COMMITTEE ON HEALTH hearing for SB 2267 RELATING TO BUILDING DESIGN FOR PERSONS WITH DISABILITIES on Friday, January 29, 2010 at 2:45 p.m.

I am writing to support this proposed bill.

Thank You,  
**Stanford C. Lee, AIA**

**NEXT DESIGN LLC**

1132 Bishop Street, Suite 145

Honolulu, Hawai'i 96813

T 808.440.2781 | F 808.440.2790 | [slee@nextdesignllc.com](mailto:slee@nextdesignllc.com)

[www.nextdesignllc.com](http://www.nextdesignllc.com)

This email message, including any attachment, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.

---

**From:** Clifford Murakami [cmurakami@pacarchitects.com]  
**Sent:** Wednesday, January 27, 2010 9:50 AM  
**To:** HTHTestimony  
**Subject:** FW: SB 2267 Committee on Health

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

---

**From:** Clifford Murakami  
**Sent:** Wednesday, January 27, 2010 9:33 AM  
**To:** 'HTHTestimony@Capital.hawaii.gov'  
**Subject:** SB 2267 Committee on Health

Committee on Health  
SB 2267 Relating to Design for Persons with Disabilities  
Testimony for Hearing on Friday, Jan. 29, 2010, 4:00 PM

Committee Members,

I am an Architect that has been in the profession for 38 years and have been involved with ADA work for over 20 years. The adoption of the Americans with Disabilities Act made it a law that accessibility for all would be required. However, it failed to have in place the requirements for providing accessibility. The development of the Americans with Disabilities Act Accessibility Guidelines (ADAAG) put in place the requirements. However, like building codes and laws, it addressed accessibility, however, also created ambiguity. Over the years the Disability and Communications Access Board (DCAB) evolved with the ADAAG from one person to the staff they have today. In as much as I am a professional designer, we are guided by regulations and codes such as the ADAAG. We did not write or develop the ADAAG, and as such, cannot be the interpretive body responsible to assuring the compliance with the regulations. For the ADA and ADAAG, DCAB is essential in the assurance that there is uniform interpretation of the ADAAG. Section 103-50 of the HRS makes it law that all State and County projects comply with ADAAG. As such, it is unconscionable that the State had considered not funding this department.

With the economy situation as it is, I also understand the need to find alternate funding and to that extent, I support SB 2267. However, it would be negligible to expect that fees should cover the cost of running this department and service mandated by law. Fees should supplement the service. Additionally, since fees are applied to State and County projects, aren't you just taking money from one pocket to put into another pocket? As a consultant, it won't come out of my pocket. It will be tacked on to service fees to the project. Of other concern is the first review fee noted in the Bill. That is for review of projects that do not have any accessibility requirements, such as reroofing projects and the like. Doesn't this seem idiotic? Why is DCAB reviewing projects that has nothing to do with the ADAAG? If you are amending Section 103-50, perhaps it should be amended to require review of only projects that require compliance with ADAAG.

In summary, DCAB is an essential element to insuring that government facilities in this State comply with the requirements of ADAAG. I support the charging of fees, if that is what the State wants, however, it should be considered supplemental and not the only source of revenue for its operation. It would be improper to have this service dependent only on fees. It should also be considered that the fees are coming from other State agencies whose projects are being submitted. As such it isn't generating revenue, it is just taking from one agency and giving it to another. Finally, if DCAB is going to review projects for conformance to ADAAG, then projects that are not involved with ADAAG shouldn't have to be reviewed by DCAB.



One final note. If you understand ADAAG and the requirements for accessibility, you can appreciate the importance of DCAB. State and County projects, are not always 100% accessible as interpretations of the requirements have changed over the years and things may have gotten overlooked in the design and construction, HOWEVER, if you look at what some private projects are doing in compliance with ADAAG, it is obvious to me that they don't have a clue what they are doing. Unfortunately, they don't have a reviewing agency like DCAB.

Thank You for allowing me to provide comment.

Clifford K. Murakami, AIA, CSI, CDT  
1/27/10

---

**From:** Stacy Armstrong [tscbarm@hotmail.com]  
**Sent:** Thursday, January 28, 2010 2:06 AM  
**To:** HTHTestimony  
**Subject:** Senate Bill 2267 - DCAB Fee

Hi,

I truly appreciate all of the advice DCAB gives us. I'm a civil engineer for a private firm who does work for all government agencies (City, State and Federal).

I strongly believe they protect the government from being sued for ADA issues.

With that said, I think it will difficult to justify these high fees just because the overall construction cost may be in the millions of dollars. For example, a multi-million dollar project such as North-South had approximately 11 curb ramps that DCAB had to review. I don't believe this justifies a \$4,000 fee.

Making DCAB charge for their services will require them to increase staff to handle the bill collections.

DCAB currently provides a clean "Document Review" as their "final approval". They do not issue a formal approval and still leaves the designer fully liable. If these charges must occur, DCAB should issue a formal APPROVAL so the government can be assured that their approval was worth the fee.

Also, with this fee, will DCAB come to each project to inspect and make sure the ADA components are in fact compliant?

Thank you for your time.

Aloha,  
Stacy Armstrong

---

Hotmail: Powerful Free email with security by Microsoft. [Get it now.](#)