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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 an average of nine



1 hundred to one thousand plans each year. 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 disability  
21 and communication access board special fund accessible building  
22 design special account after June 30, 2012.



1           The purpose of this Act is to require the disability and  
 2 communication access board to charge a fee for the review of  
 3 public design and construction plans, similar to other fees that  
 4 are charged for permits, and establish an accessible building  
 5 design special account within the disability and communication  
 6 access board special fund, into which fees collected shall be  
 7 deposited and from which funds will be expended to conduct plan  
 8 reviews.

9           SECTION 2. Chapter 348F, Hawaii Revised Statutes, is  
 10 amended by adding a new section to be appropriately designated  
 11 and to read as follows:

12           "§348F-        Accessible building design special account.

13           (a) The board shall establish an accessible building design  
 14 special account within the disability and communication access  
 15 board special fund, into which shall be deposited:

16           (1) Fees collected by the disability and communication  
 17 access board pursuant to section 103-50; and

18           (2) Interest derived from moneys in the account.

19           (b) Moneys in the accessible building design special  
 20 account shall be used to pay the board's costs in administering  
 21 the review requirements of section 103-50."



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

3 "§103-50 **Building design to consider needs of persons with**  
4 **disabilities.** (a) Notwithstanding any other law to the  
5 contrary, all plans and specifications for the construction of  
6 public buildings, facilities, and sites shall be prepared so  
7 that the buildings, facilities, and sites are accessible to and  
8 usable by persons with disabilities. The buildings, facilities,  
9 and sites shall conform to the Americans with Disabilities Act  
10 Accessibility Guidelines, Title 36 Code of Federal Regulations  
11 Part 1191, and the requirements of the Federal Fair Housing  
12 Amendments Act of 1988, as established in Title 24 Code of  
13 Federal Regulations Part 100, Subpart D, as adopted and amended  
14 by the disability and communication access board under chapter  
15 348F.

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

20 (c) The disability and communication access board shall  
21 adopt rules pursuant to chapter 91 for the design of buildings,  
22 facilities, and sites, by or on behalf of the State and counties



1 to effectuate the purposes of this section, except that the  
2 board, without regard to chapter 91, instead, may adopt federal  
3 amendments to the Americans with Disabilities Act Accessibility  
4 Guidelines, Title 36 Code of Federal Regulations Part 1191.

5 (d) The disability and communication access board may  
6 approve a site specific alternate design when an alternate  
7 design provides equal or greater access.

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

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

19 [~~e~~] (f) For the purposes of this section, "public  
20 buildings, facilities, and sites" means buildings, facilities,  
21 and sites that:



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

4 (2) House state or county programs, services, or  
 5 activities that are intended to be accessed by the  
 6 general public; or

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

9 SECTION 4. For purposes of sections 2 and 3 of this Act  
 10 and until the disability and communication access board adopts  
 11 rules pursuant to chapter 91, Hawaii Revised Statutes, to  
 12 supersede the fees specified in this section, the fees shall be  
 13 based on estimated construction costs as follows:

<u>Construction costs</u>	<u>Fees</u>
14 (1) No application	\$ 50
15 (2) Less than \$100,000	\$ 200
16 (3) \$100,000 to \$500,000	\$ 500
17 (4) \$500,001 to \$1,000,000	\$1,000
18 (5) \$1,000,001 to \$2,500,000	\$2,000
19 (6) \$2,500,001 to \$5,000,000	\$3,000
20 (7) \$5,000,001 to \$10,000,000	\$4,000



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

6 In addition, there shall be a \$3,000 maximum plan review fee,  
 7 charged at 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 5. After June 30, 2012, all costs associated with  
 11 the review of plans and specifications by the disability and  
 12 communication access board pursuant to section 103-50 shall be  
 13 funded through appropriations from the accessible building  
 14 design special account established by this Act.

15 SECTION 6. Statutory material to be repealed is bracketed  
 16 and stricken. New statutory material is underscored.

17 SECTION 7. This Act shall take effect on January 1, 2012,  
 18 upon adopting of administrative rules pursuant to chapter 348F;  
 19 provided that section 4 shall be effective upon approval.

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**Report Title:**

Persons with Disabilities; Fees

**Description:**

Requires the disability and communication access board to charge a fee for the review of construction plans to ensure compliance with laws relating to access to persons with disabilities. Establishes the accessible building design special account. Requires report to the legislature.

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

