

JAN 21 2011

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 state- or county-funded buildings,
14 facilities, and sites, by the disability and communication
15 access board, to ensure that design and construction efforts
16 would be corrected prior to the construction of the building,
17 facility, or site. The disability and communication access
18 board reviews an average of nine hundred to one thousand plans



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

3 The legislature finds that compliance with the statutory
4 design requirements to ensure accessibility is neither
5 consistent, nor uniformly understood in the architectural,
6 engineering, and design community. The legislature further
7 finds that the review process by the disability and
8 communication access board is a valuable service that should be
9 continued. The review process ensures appropriate access to
10 people with disabilities by uncovering design flaws that are
11 corrected prior to construction, which prevents costly
12 litigation and retrofits.

13 The legislature believes that the fees charged under this
14 Act by the disability and communication access board should be
15 incorporated into the capitalization costs of the projects. A
16 reasonable fee schedule would generate revenues sufficient to
17 pay for the salaries of the staff conducting the reviews. The
18 fees provide a mechanism to defray a portion or all of the costs
19 of the review process. The fees would continue to be funded
20 through appropriation from the disability and communication
21 access board special fund accessible building design special
22 account after July 1, 2012.



1 The purpose of this Act is to enable the disability and
 2 communication access board to charge a fee for the review,
 3 similar to other fees that are charged for permits, as part of
 4 the design and construction process, and establish an accessible
 5 building design special account within the disability and
 6 communication access board special fund, into which fees
 7 collected shall be deposited and expended.

8 SECTION 2. Chapter 103, Hawaii Revised Statutes, is
 9 amended by adding a new section to be appropriately designated
 10 and to read as follows:

11 "§103- Construction fees; services rendered by
 12 disability and communication access board services. Fees for
 13 the review of buildings and facilities in accordance with
 14 section 103-50(b) and (c) shall be charged based on estimated
 15 construction costs as follows:

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

1 building design special account shall be administered by the
2 disability and communication access board.

3 (b) Moneys in the disability and communication access
4 board accessible building design special account shall be
5 expended to cover costs to administer the requirements of
6 section 103-50."

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

9 **"§103-50 Building design to consider needs of persons with**
10 **disabilities.** (a) Notwithstanding any other law to the
11 contrary, all plans and specifications for the construction of
12 public buildings, facilities, and sites shall be prepared so
13 that the buildings, facilities, and sites are accessible to and
14 usable by persons with disabilities. The buildings, facilities,
15 and sites shall conform to the Americans with Disabilities Act
16 Accessibility Guidelines, Title 36 Code of Federal Regulations
17 Part 1191, and the requirements of the Federal Fair Housing
18 Amendments Act of 1988, as established in Title 24 Code of
19 Federal Regulations Part 100, Subpart D, as adopted and amended
20 by the disability and communication access board under chapter
21 348F.



1 (b) All state and county agencies subject to this section
2 shall seek advice and recommendations from the disability and
3 communication access board on any construction plans prior to
4 commencing with construction.

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

12 (d) The disability and communication access board may
13 approve a site specific alternate design when an alternate
14 design provides equal or greater access.

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

21 The disability and communication access board shall report
22 to the legislature annually regarding the reviews conducted



1 under this section, including but not limited to a summary of
2 the number and types of plans reviewed and the fees collected
3 from each state or county department or agency.

4 [~~e~~] (f) For the purposes of this section, "public
5 buildings, facilities, and sites" means buildings, facilities,
6 and sites that:

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

10 (2) House state or county programs, services, or
11 activities that are intended to be accessed by the
12 general public; or

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

15 SECTION 5. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 6. This Act shall take effect upon its approval,
18 provided that the fees established by the disability and
19 communication access board pursuant to sections 103- and

20



S.B. NO. 150

1 103-50, Hawaii Revised Statutes, shall take effect on January 1,
2 2012 or upon adoption of administrative rules effectuating
3 chapter 348F, whichever comes earlier.

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Report Title:

Persons with Disabilities; Disability and Communication Access Board; Accessible Building Design Special Account; Fees

Description:

Allows the disability and communication access board to charge a fee to defray expenses of reviewing construction plans to ensure compliance with law. Establishes an accessible building design special account, within the disability and communication access board special fund, for fees to be deposited and expended.

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