
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 buildings, facilities, and sites conform to the
7 Americans with Disabilities Act Accessibility Guidelines and the
8 Federal Fair Housing Amendments Act of 1988, which establish the
9 design standard for accessibility to persons with disabilities.

10 The legislature established a mechanism for the review of
11 all plans and specifications for state and county buildings,
12 facilities, and sites, or state- or county-funded buildings,
13 facilities, and sites, by the disability and communication
14 access board, to ensure that design and construction efforts
15 would be corrected prior to the construction of the building,
16 facility, or site. The disability and communication access
17 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 348F, Hawaii Revised Statutes, is
9 amended by adding a new section to be appropriately designated
10 and to read as follows:

11 "§348F- Accessible building design special account. (a)
12 The disability and communication access board shall establish an
13 accessible building design special account within the disability
14 and communication access board special fund, established
15 pursuant to section 348F-7. Moneys collected pursuant to this
16 section shall be deposited into the accessible design special
17 account. All interest earned or accrued on moneys deposited
18 into the accessible building design special account pursuant to
19 this section shall become part of the special account. Moneys
20 from the accessible building design special account shall be
21 administered by the disability and communication access board.



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

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

7 "**§103-50 Building design to consider needs of persons with**
8 **disabilities.** (a) Notwithstanding any other law to the
9 contrary, all plans and specifications for the construction of
10 public buildings, facilities, and sites shall be prepared so
11 that the buildings, facilities, and sites are accessible to and
12 usable by persons with disabilities. The buildings, facilities,
13 and sites shall conform to the Americans with Disabilities Act
14 Accessibility Guidelines, Title 36 Code of Federal Regulations
15 Part 1191, and the requirements of the Federal Fair Housing
16 Amendments Act of 1988, as established in Title 24 Code of
17 Federal Regulations Part 100, Subpart D, as adopted and amended,
18 by the disability and communication access board under chapter
19 348F.

20 (b) All state and county agencies subject to this section
21 shall seek advice and recommendations from the disability and



1 communication access board on any construction plans prior to
2 commencing with construction.

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

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

13 (e) The disability and communication access board shall
14 charge a fee for services rendered by the board. The disability
15 and communication access board shall establish a fee schedule
16 that includes tiered fees based upon estimated construction
17 costs, pursuant to rules adopted under chapter 91.

18 The disability and communication access board shall report
19 to the legislature annually regarding the revenues collected
20 under this section, including a summary of the number and types
21 of plans reviewed and the fees collected from each state or
22 county department or agency.



1 ~~(e)~~ (f) For the purposes of this section, "public
2 buildings, facilities, and sites" means buildings, facilities,
3 and sites that:

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

7 (2) House state or county programs, services, or
8 activities that are intended to be accessed by the
9 general public; or

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

12 SECTION 4. For the purposes of section 2 of this Act and
13 until the disability and communication access board adopts rules
14 pursuant to chapter 91, Hawaii Revised Statutes, to supersede
15 the fees specified in this section, the fees for the board's
16 services for public buildings, facilities and sites shall be as
17 follows:

18 (1) No application (to ADA Accessibility Guidelines) \$50

19 (2) Less than \$100,000 (estimated cost of project) \$200

20 (3) \$100,000 to \$500,000 \$500

21 (4) \$500,001 to \$1,000,000 \$1,000

22 (5) \$1,000,001 to \$2,500,000 \$2,000



1	(6)	\$2,500,001 to \$5,000,000	\$3,000
2	(7)	\$5,000,001 to \$10,000,000	\$4,000
3	(8)	More than \$10,000,000	\$5,000 + \$1,000 for
4			each additional
5			\$5,000,000 or
6			portion thereof.

7 In addition, there shall be a \$3,000 maximum plan review
8 fee charged at the discretion of the disability and
9 communication access board, for public rights-of-way projects
10 and projects managed by private non-profit entities.

11 SECTION 5. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 6. This Act shall take effect on January 1, 2012,
14 upon adoption of administrative rules pursuant to chapter 348F,
15 Hawaii Revised Statutes.

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Report Title:

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

Description:

Establishes an accessible building design special account, within the disability and communication access board special fund, for fees to be deposited and expended. Allows the disability and communication access board to charge a fee to defray expenses of reviewing construction plans to ensure compliance with law. Establishes fees for the review of buildings and facilities to ensure accessibility by persons with disabilities; fees will be in effect until the disability and communication access board adopts rules pursuant to Chapter 91, HRS. Effective 1/1/2012, upon adoption of administrative rules. (SD1)

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