
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 buildings, facilities, and sites funded
13 with state or county funds 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

1 board reviews an average of nine hundred to one thousand plans
2 each year. The review process has been heretofore offered to
3 the architectural and design 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 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
14 disability and communication access board special fund, pursuant
15 to section 103-50. Moneys collected pursuant to this section
16 shall be deposited into the accessible design special account.
17 All interest earned or accrued on moneys deposited into the
18 accessible design special account pursuant to this section shall
19 become part of the special account. Moneys from the accessible
20 building design special account shall be administered by the
21 disability and communication access board.

1 (b) Moneys in the disability and communication access
2 board accessible building design special account shall
3 be expended to cover costs to administer the
4 requirements of 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 but not limited to a summary of
21 the number and types of plans reviewed and the fees collected
22 from each state or county department or agency.

H.B. NO. 1072

1	(5)	\$1,000,001 to \$2,500,000	\$2,000
2	(6)	\$2,500,001 to \$5,000,000	\$3,000
3	(7)	\$5,000,001 to \$10,000,000	\$4,000
4	(8)	More than \$10,000,000	\$5,000 + \$1000
5			for each
6			additional
7			\$5,000,000 or
8			portion thereof.

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

13 SECTION 5. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

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

18
19 INTRODUCED BY:

Calvin K. Fay

20 BY REQUEST

21 JAN 24 2011

Report Title:

Persons with Disabilities

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 for moneys to be deposited from fees collected.

HB1072

JUSTIFICATION SHEET

DEPARTMENT: Health

TITLE: A BILL FOR AN ACT RELATING TO BUILDING DESIGN FOR PERSONS WITH DISABILITIES.

PURPOSE: The purpose of this bill is to permit the Disabilities Communications Access Board (DCAB) to charge a fee for the blueprint review process, similar to other fees that are charged for permits, as part of the design and construction process, and establish an accessible building design special account within the DCAB Special Fund into which fees collected will be deposited and expended.

MEANS: Amend section 103-50, Hawaii Revised Statutes.

JUSTIFICATION: The Disability and Communication Access Board reviews an average of nine hundred to one thousand plans each year, offered to the architectural and design community at no charge, to help buildings, facilities, and sites conform to the Americans with Disabilities Act Accessibility Guidelines and the Federal Fair Housing Amendments Act of 1988. A reasonable fee schedule would generate revenues sufficient to pay for the salaries of the staff conducting the reviews.

Impact on the public: The public benefit is the freeing up of general funds otherwise obligated to fund the review process, converting into more of a self-sustaining activity. Fees for the review would be rolled up into the total cost of planning and construction for the project.

Impact on the department and other agencies:
None.

GENERAL FUND: Should the bill pass in 2011, the DCAB General Fund will be reduced in the subsequent biennium by approximately \$325,000.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION:

OTHER AFFECTED
AGENCIES: Departments with CIP projects.

EFFECTIVE DATE: January 1, 2012.