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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 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  
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 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 appropriations 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. Moneys  
15 collected pursuant to section 103-50(e) shall be deposited into  
16 the accessible building design special account. All interest  
17 earned or accrued on moneys deposited into the accessible  
18 building 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 accessible building design special  
2 account shall be expended to cover costs to administer the  
3 requirements of section 103-50."

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

6           "**§103-50 Building design to consider needs of persons with**  
7 **disabilities.** (a) Notwithstanding any other law to the  
8 contrary, all plans and specifications for the construction of  
9 public buildings, facilities, and sites shall be prepared so  
10 that the buildings, facilities, and sites are accessible to and  
11 usable by persons with disabilities. The buildings, facilities,  
12 and sites shall conform to the Americans with Disabilities Act  
13 Accessibility Guidelines, Title 36 Code of Federal Regulations  
14 Part 1191, and the requirements of the Federal Fair Housing  
15 Amendments Act of 1988, as established in Title 24 Code of  
16 Federal Regulations Part 100, Subpart D, as adopted and amended  
17 by the disability and communication access board under chapter  
18 348F.

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



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

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

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

17           The disability and communication access board shall report  
18 to the legislature annually regarding the revenues collected  
19 under this section. The report shall include a summary of the  
20 number and types of plans reviewed and the fees collected from  
21 each state or 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 establish a  
15 fee schedule pursuant to section 103-50(e), Hawaii Revised  
16 Statutes, to supersede the fees specified in this section, the  
17 fees for public buildings, facilities and sites, shall be based  
18 on the estimated cost of the project as follows:

- |    |                                                        |       |
|----|--------------------------------------------------------|-------|
| 19 | (1) No application (to Americans with Disabilities Act |       |
| 20 | Accessibility Guidelines)                              | \$50  |
| 21 | (2) Less than \$100,000                                | \$200 |
| 22 | (3) \$100,000 to \$500,000                             | \$500 |



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

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

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

16 SECTION 6. This Act shall take effect on January 1, 2012.



**Report Title:**

Persons with Disabilities; Building Plan and Design Review; Fees

**Description:**

Allows the Disability and Communication Access Board to charge fees to defray expenses of reviewing construction plans to ensure compliance with law. Establishes an Accessible Building Design Special Account for plan review fees and cost of compliance with ADA design requirements. Effective January 1, 2012. (HB756 HD1)

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

