
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 buildings,
3 facilities, and sites, by or on behalf of the State and counties
4 to effectuate the purposes of this section, except that the
5 board, without regard to chapter 91, instead, may adopt federal
6 amendments to the Americans with Disabilities Act Accessibility
7 Guidelines, Title 36 Code of Federal Regulations Part 1191.

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

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

16 The disability and communication access board shall report
17 to the legislature annually regarding the revenues collected
18 under this section. The report shall include a summary of the
19 number and types of plans reviewed and the fees collected from
20 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, the
13 fees shall be based on estimated construction costs as follows:

14	<u>Construction Costs</u>	<u>Fees</u>
15	(1) No application (to Americans with Disabilities Act	
16	Accessibility Guidelines)	\$50
17	(2) Up to \$100,000	\$200
18	(3) \$100,001 to \$500,000	\$500
19	(4) \$500,001 to \$1,000,000	\$1,000
20	(5) \$1,000,001 to \$2,500,000	\$2,000
21	(6) \$2,500,001 to \$5,000,000	\$3,000
22	(7) \$5,000,001 to \$10,000,000	\$4,000



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

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

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 Statutory material to be repealed is bracketed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

12 SECTION 6. This Act shall take effect on January 1, 2012;
13 provided that section 4 shall be repealed on July 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 HD2)

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