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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 required 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.

20 The purpose of this Act is to require the disability and  
21 communication access board to charge a fee for the review,  
22 similar to other fees that are charged for permits, as part of



1 the design and construction process, and establish an accessible  
2 building design special account within the disability and  
3 communication access board special fund into which fees  
4 collected shall be deposited and expended.

5 SECTION 2. Chapter 348F, Hawaii Revised Statutes, is  
6 amended by adding a new section to be appropriately designated  
7 and to read as follows:

8 "§348F- Accessible building design special account. (a)

9 The board shall establish an accessible building design special  
10 account within the disability and communication access board  
11 special fund. Moneys collected pursuant to section 103-50(e)  
12 shall be deposited into the accessible building design special  
13 account. All interest earned or accrued on moneys deposited  
14 into the accessible building design special account pursuant to  
15 this section shall become part of the special account. Moneys  
16 from the accessible building design special account shall be  
17 administered by the board.

18 (b) Moneys in the accessible building design special  
19 account shall be expended to cover costs of administering the  
20 requirements of section 103-50."

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



1           **"§103-50 Building design to consider needs of persons with**  
2 **disabilities.** (a) Notwithstanding any other law to the  
3 contrary, all plans and specifications for the construction of  
4 public buildings, facilities, and sites shall be prepared so  
5 that the buildings, facilities, and sites are accessible to and  
6 usable by persons with disabilities. The buildings, facilities,  
7 and sites shall conform to the Americans with Disabilities Act  
8 Accessibility Guidelines, Title 36 Code of Federal Regulations  
9 Part 1191, and the requirements of the Federal Fair Housing  
10 Amendments Act of 1988, as established in Title 24 Code of  
11 Federal Regulations Part 100, Subpart D, as adopted and amended  
12 by the disability and communication access board under chapter  
13 348F.

14           (b) All state and county agencies subject to this section  
15 shall seek advice and recommendations from the disability and  
16 communication access board on any construction plans prior to  
17 commencing with construction.

18           (c) The disability and communication access board shall  
19 adopt rules pursuant to chapter 91 for the design of buildings,  
20 facilities, and sites, by or on behalf of the State and counties  
21 to effectuate the purposes of this section, except that the  
22 board, without regard to chapter 91, instead, may adopt federal



1 amendments to the Americans with Disabilities Act Accessibility  
2 Guidelines, Title 36 Code of Federal Regulations Part 1191.

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

6 (e) The disability and communication access board shall  
7 charge a fee for services rendered. The fees shall be based on  
8 estimated construction costs as follows:

9	<u>Estimated Construction Costs</u>	<u>Fees</u>
10	(1) <u>No application</u>	
11	<u>(to Americans with Disabilities</u>	
12	<u>Act Accessibility Guidelines)</u>	<u>\$50</u>
13	(2) <u>Up to \$100,000</u>	<u>\$200</u>
14	(3) <u>\$100,001 to \$500,000</u>	<u>\$500</u>
15	(4) <u>\$500,001 to \$1,000,000</u>	<u>\$1,000</u>
16	(5) <u>\$1,000,001 to \$2,500,000</u>	<u>\$2,000</u>
17	(6) <u>\$2,500,001 to \$5,000,000</u>	<u>\$3,000</u>
18	(7) <u>\$5,000,001 to \$10,000,000</u>	<u>\$4,000</u>
19	(8) <u>More than \$10,000,000</u>	<u>\$5,000 + \$1,000</u>
20		<u>for each</u>
21		<u>additional</u>
22		<u>\$5,000,000 or</u>



1 portion thereof.

2 In addition, there shall be a \$3,000 maximum plan review  
3 fee charged at the discretion of the disability and  
4 communication access board for infrastructure projects and  
5 projects managed by private non-profit entities.

6 (f) The disability and communication access board shall  
7 report to the legislature annually regarding the revenues  
8 collected under this section. The report shall include a  
9 summary of the number and types of plans reviewed and the fees  
10 collected from each state or county department or agency.

11 ~~(e)~~ (g) For the purposes of this section, "public  
12 buildings, facilities, and sites" means buildings, facilities,  
13 and sites that:

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

17 (2) House state or county programs, services, or  
18 activities that are intended to be accessed by the  
19 general public; or

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



1 SECTION 4. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect on July 1, 2011.



**Report Title:**

Persons with Disabilities; Building Plan and Design Review; Fees

**Description:**

Requires the Disability and Communication Access Board to charge fees to defray expenses of reviewing construction plans to ensure compliance with law and establishes a fee schedule. Establishes an Accessible Building Design Special Account for plan review fees and cost of compliance with Americans with Disabilities Act design requirements. Effective July 1, 2011. (SB150 HD2)

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

