

NEIL ABERCROMBIE
GOVERNOR



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STATE OF HAWAII
DEPARTMENT OF ACCOUNTING
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TESTIMONY
OF
BRUCE A. COPPA, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
SENATE COMMITTEE
ON
HUMAN SERVICES
ON
February 10, 2011

S.B. 150

RELATING TO BUILDING DESIGN FOR PERSONS WITH DISABILITIES

Chair Chun-Oakland and members of the Committee, thank you for the opportunity to testify on S.B. No. 150.

The Department of Accounting and General Services (DAGS) supports passage of this bill for the following reasons:

1. The fees are not an additional cost to the state or the general public. The fees are just another means of funding for the DCAB Facility Access Unit staff which is currently funded through general funds. In this bill the fees would come from project funds which would be more appropriate.
2. It should be noted that only State and County projects are required by law HRS 103-50 to send plans for review and this does not affect private sector projects except for private

developments having public rights of way. If DCAB is not funded, all State and County projects will not be able to comply with this law.

3. Without continued funding, DCAB's design review unit could cease to exist. This will have a very significant negative impact as their expertise, reviews, advice, training, keeping up with changes to ADA, and informing the design community would be lost. The negative result of this, are costly lawsuits and change orders. DCAB has saved the State and Counties millions of dollars.
4. The State Building Code Council has recently adopted the 2006 International Building Code with the exception of Chapter 11 – Accessibility. The reason for not adopting Chapter 11 is that the State and County will rely on DCAB. Counties have historically stayed away from ADA reviews on for building permits because there is a huge potential liability and they have relied on DCAB in the past.
5. ADA requirements for projects are more than just ramps and parking stalls. They include items for which many design professionals have limited expertise such as visual fire alarms for the deaf, telecommunication systems for the deaf, Braille signage, tactile and detectable warnings for blind persons, accessible furniture and equipment, etc. Complex interpretations and guidance is often needed from credible sources that are consistent across all government projects. DCAB provides this credibility and consistency for all State and County projects and protects us from potential costly law suits and change orders.

Thank you for the opportunity to testify on this matter.



DISABILITY AND COMMUNICATION ACCESS BOARD

919 Ala Moana Boulevard, Room 101 • Honolulu, Hawaii 96814
Ph. (808) 586-8121 (V/TDD) • Fax (808) 586-8129

February 10, 2011

TESTIMONY TO THE SENATE COMMITTEE ON HUMAN SERVICES

Senate Bill 150 - Relating to Building Design for Persons with Disabilities

The Disability and Communication Access Board (DCAB) strongly supports Senate Bill 150 with amendments. This bill will permit our office to assess a review fee for the service of conducting a plan review to ensure that buildings, facilities, and sites meet the requirements of §103-50, Hawaii Revised Statutes. Attached to our testimony is a fact sheet explaining the pertinent data for the program and the proposed bill.

DCAB is the State agency responsible for the overall coordination and administration of §103-50, Hawaii Revised Statutes. This review process ensures that government buildings, facilities, and sites meet the design requirements of the Americans with Disabilities Act and the federal Fair Housing Act for access to persons with disabilities. The DCAB review is the State's best risk management strategy to avoid design and construction errors that will result in costly legal costs and reconstruction to remedy noncompliance.

The program currently is one hundred percent general funded and operates with 5.5 staff. This bill will shift the cost of the program from the general fund to the costs of design and construction. As with any other cost related to construction, this is the most appropriate method to pay for building design, construction, and compliance costs.

We prefer the contents of a similar bill, Senate Bill 1299 that has been introduced by the Administration. The substance of the bill is identical although the format is different and several provisions are clearer. We ask that you delete the contents of Senate Bill 150 and replace it with the contents of Senate Bill 1299.

Should this bill pass, DCAB commits to reducing the cost of the program in its general fund appropriation in the subsequent fiscal year beginning July 1, 2012. We ask that you not make any adjustments this year, as program expenses will not be moved to, nor charged against, the Special Fund until July 1, 2012.

Thank you for the opportunity to testify.

Respectfully submitted,

BARBARA FISCHLOWITZ-LEONG *esp*
Chairperson
Legislative Committee

FRANCINE WAI
Executive Director



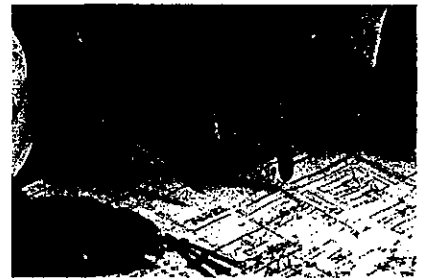
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Facility Access Overview of Plan Reviews, Proposed Fee, and Other Services

Plan Reviews

- Hawaii Revised Statutes, Section 103-50 and Hawaii Administrative Rules, Title 11, Chapter 216 and 217 requires all plans and specifications of State and county projects to be submitted to the Disability and Communication Access Board (DCAB) for a plan review to the Americans with Disabilities Act Accessibility Guidelines (ADAAG) and Fair Housing Accessibility Guidelines.
- DCAB conducted 883 plan reviews in fiscal year 2009-2010.
 - State agencies who submit plans include, but are not limited to, DAGS, DOE, DOT, DNL, and UH.
 - Examples of plans and specifications reviewed include, but are not limited to, Maui Regional Public Safety Complex, Waimea High School Architectural Barrier Removal, Honolulu International Airport Temporary Commuter Terminal Facility, and University of Hawaii at Manoa Campus Center Renovation and Expansion.
- Effective January 1, 2011, DCAB will review plans and specifications of State and County projects for compliance with the 2004 ADAAG, which is consistent the Department of Justice's ADA regulations revised in 2010. The prior standard was the 1991 ADAAG.
- DCAB's plan review is required advice and recommendations, not an approval. DCAB does not enforce the ADA or Fair Housing Act. However, state law is equivalent to federal law. DCAB's plan review is seen as both good faith effort as well as substantial equivalency should a complaint be filed. In addition, DCAB's plan review minimizes costly redesign and reconstruction to remove architectural barriers.



Proposed Plan Review Fee

- Legislation proposes the following plan review fee schedule effective January 1, 2012. The fee will sunset when HAR 11-216 and 217 is amended through the public hearing process to address rules and procedures for a permanent review fee.

Estimated Construction Cost	Proposed Plan Review Fee
No application	\$50
Less than \$100,000	\$200
\$100,000 to \$500,000	\$500
\$500,001 to \$1,000,000	\$1,000
\$1,000,001 to \$2,500,000	\$2,000
\$2,500,001 to \$5,000,000	\$3,000
\$5,000,001 to \$10,000,000	\$4,000
More than \$10,000,000	\$5,000 + \$1,000 for each \$10,000,000 over \$10,000,000

*\$3,000 maximum plan review fee for public rights-of-way projects and projects managed by private non-profit entities.

- The proposed plan review fee will only apply to State or county projects covered under HRS §103-50. Private projects that are not covered under HRS §103-50 are not required to be submitted to DCAB for a plan review; therefore, will not be subject to the proposed plan review fee.
- Projects with “no application” to the accessibility guidelines, such as reroofing, will be charged a \$50 plan review fee regardless of the project’s estimated construction cost.
- The plan review fee must be provided with the first submittal of plans and specifications. No additional plan review fee will be charged when plans and specifications are revised and resubmitted for plan review, unless the project has significant design or scoping changes.
- 5.5 positions, filled by design professionals, conduct DCAB’s plan reviews and provide other facility access services. The cost to fund the 5.5 positions with the special fund is \$484,271 per year (fiscal year 2011 dollars). Based on plans and specifications submitted to DCAB in calendar year 2010, the proposed plan review fee schedule is estimated to generate \$550,000 per year.
- Starting January 1, 2012, the plan review fee will be deposited into DCAB’s special fund. DCAB’s facility access program will remain general funded until June 30, 2012. The six-month overlap will help maintain a positive balance within the special fund. DCAB will adjust its budget for the fiscal year beginning July 1, 2012 by reducing its general fund by 5.5 positions and approximately \$323,000 per year and creating 6.0 positions in the special fund.
- California has a state agency that reviews plans and specifications for facility access compliance, similar to DCAB. DCAB’s proposed plan review fee is considerably less than California’s access compliance plan review fee, as shown in the comparison chart below.

Estimated Construction Cost	Proposed DCAB Plan Review Fee	California Access Compliance Plan Review Fee	Honolulu Building Permit Fee (does not include any accessibility review)
No application	\$50	Not applicable	Not applicable
\$90,000	\$200	\$400	\$1,430
\$500,000	\$500	\$2,000	\$5,160
\$1,000,000	\$1,000	\$3,000	\$7,415
\$2,000,000	\$2,000	\$5,000	\$11,915
\$5,000,000	\$3,000	\$5,600	\$23,915
\$10,000,000	\$4,000	\$6,600	\$43,915
\$20,000,000	\$5,000	\$8,600	\$83,915

Other Facility Access Services

- In addition to plan reviews, DCAB provides the following facility access services:
 - Issue design specifications, site specific alternate designs, and interpretive opinions.
 - Review State and county master plans, such as the Statewide Pedestrian Master Plan.
 - Provide consultation and technical assistance via fax/phone/email to design professionals.
 - Conduct and coordinate training, such as the annual Disability Access Conference.
 - Prepare and distribute an Access E-Bulletin.
 - Sponsor the annual Accessible Design Awards.
 - Provide facility access policy guidance to the State and counties.
 - Review federal, state, and local building codes/guidelines.



ChunOakland2 - Tyrell

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 08, 2011 2:10 PM
To: HMS Testimony
Cc: Tlenzer@hawaii.rr.com
Subject: Testimony for SB150 on 2/10/2011 1:45:00 PM

Testimony for HMS 2/10/2011 1:45:00 PM SB150

Conference room: 016
Testifier position: support
Testifier will be present: No
Submitted by: Anthony Lenzer, Ph.D.
Organization: Disability and Communication Access Board
Address: 222 Kuukama Street Kailua, HI 96734
Phone: 261-2095
E-mail: Tlenzer@hawaii.rr.com
Submitted on: 2/8/2011

Comments:

Chairwoman Chun Oakland and Members of the Committee on Human Services:

My name is Anthony Lenzer. I am a retired University of Hawaii professor and former director of the Center on Aging at the University of Hawaii at Manoa. I am currently a board member for several senior advocacy organizations, as well as a member of the Disability Communication and Access Board (DCAB). I am testifying today on behalf of the Board in strong support of Senate Bill 150.

The main purpose of this bill is to create a fee schedule and to allow DCAB to collect fees to defray the costs of reviewing plans of public buildings, facilities, and sites to assure that such buildings will be in compliance with applicable laws regarding access for persons with disabilities. DCAB now reviews 900-1000 such plans annually, and does not charge for this valuable service. This DCAB staff review is especially useful, in that it frequently uncovers design flaws which are not compatible with ADA specifications. This can result in added costs for the constructing agency, either in In re drafting plans or retrofitting facilities.

I might add that, given the state's current budget problems, it is highly desirable that state agencies be enabled to reduce some of their expenses by charging fees for services.

I hope you will support this desirable legislation, and thank you for the opportunity to testify on this matter.



NEXT DESIGN

Testimony of
Michael S. Okamoto
Principal, Next Design LLC, and
Board of Directors, Disability and Communication Access Board

Before the
Senate Committee on Human Services
Thursday, February 10, 2011 at 1:45 P.M.

In Consideration of
Senate Bill 150
Relating to Building Design for Persons with Disabilities

Aloha Chair Chun Oakland and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill 150, which proposes to establish an accessible building design special account for the Disability and Communication Access Board, and also enables the Disability and Communication Access Board to charge a fee for the review of projects as required by Section 103-50 of the Hawaii Revised Statutes.

As a member of the design community for the past fifteen years, I have seen the benefit of the Disability and Communication Access Board - Facility Access Unit reviews and opinions since its inception. Projects by architects and engineers are designed to comply with the 2010 ADA Standards for Accessible Design; however, these are minimum guidelines and are subject to some interpretation of its guidelines and tolerances. The Facility Access Unit plays a key role to ensure maximum compliance with the 2010 ADA Standards for Accessible Design for all public projects in the State of Hawaii. The Facility Access Unit also maintains a strong and consistent dialog with the United States Access Board and United States Department of Justice in order to forward opinions and seek clarifications on the 2010 ADA Standards for Accessible Design, and its predecessor the Americans with Disabilities Act Accessibility Guidelines.

As the Disability and Communication Access Board - Facility Access Unit is currently funded through general budget of the Disability and Communication Access Board; it is subject to the challenges of the department's annual budget. Senate Bill 150 proposes that funding for the Disability and Communication Access Board - Facility Access Unit come from separate fees which are assessed based upon the estimated construction cost of a project. This will afford the department greater flexibility so that they may adapt to the increasing or decreasing construction climate.

I apologize for not being able to testify in person, but I ask that you pass Senate Bill 150.

Kimmey Unabia Architects, Ltd.
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February 8, 2011

Email: HLTtestimony@Capitol.hawaii.gov

Subject: SB 150 / Relating to Building Design for Persons with Disabilities:

Dear Sirs,

I am a licensed architect and have been a resident of Maui for the past 26 years. I am a Past President of both the American Institute of Architects (AIA) Maui Chapter and the AIA Hawaii State Council. For the past eight years I served as a member of the State Disability and Communication Access Board (DCAB) Board of Directors.

I am writing in support of SB 150. This legislation will allow DCAB to charge a fee to defray the expenses for reviewing construction plans for State construction projects. This will ensure compliance with the American with Disabilities Act Accessibility Guidelines (ADA). It is my understanding that the fees to be charged for DCAB are less than the building permit and plan check fees which are already being paid for County review of construction projects and will support several positions in the DCAB office.

None of the County Building Departments currently review for ADA for any projects. The potential for damages accruing to the State for expensive change orders or even more expensive lawsuits filed after unreviewed projects are completed incorrectly puts the State in real jeopardy. The DCAB related legislation is well thought out and will in the end cost the State virtually nothing. In turn it will provide peace of mind for the design and construction industries as well as the State of Hawaii.

Sincerely,

Marie Kimmey AIA ME

ChunOakland2 - Tyrell

From: Anthony Riecke-Gonzales [anthony@rskarchitects.com]
Sent: Tuesday, February 08, 2011 1:07 PM
To: HMS Testimony
Subject: Senate Bill No. 150

Aloha Committee members,

I support **Senate Bill No. 150 Relating to Building Design for Persons with Disabilities**. I am a practicing architect on Maui, and a DCAB Board member. I have been approached by other AIA Maui chapter members that have been concerned in the past that DCAB reviews were being discussed on a funding level as no longer needed. They wanted me to know how important they felt the reviews were to them and their practices. That due to the variability of interpretation regarding accessibility, a government agency was the best institution to assist in interpreting the ever changing law. I see Bill 150 as the best way to insure that DCAB facility access reviews will be able to continue into the future, and be funded by entities needing and benefitting from the reviews.

Aloha,

Anthony

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ChunOakland2 - Tyrell

From: Lloyd Higa [HigaL@Yamasato.com]
Sent: Tuesday, February 08, 2011 3:59 PM
To: HMS Testimony
Subject: Senate Bill No. 150, Thursday February 10, 2011, 1:45 PM

I am in support of Senate Bill No. 150.

The DCAB has provided the members in the architectural profession with greatly needed assistance with the interpretation of the ADA requirements since it became a federal law back in 1990. We support Bill 150 because it will allow DCAB to continue to support the architectural profession in reviewing Hawaii State and City projects. In allowing DCAB to be self supporting there should also be an amendment to the law which would take out the requirement for DCAB to review all City and State projects and have them concentrate on projects that require review. This would allow them not to review projects that have no bearing on accessibility such as roof projects. This would make the agency better utilized by allowing time to review more pertinent projects.

Lloyd M. Higa, AIA
Architect

ChunOakland2 - Tyrell

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 08, 2011 5:20 PM
To: HMS Testimony
Cc: miyajij@yamasato.com
Subject: Testimony for SB150 on 2/10/2011 1:45:00 PM

Testimony for HMS 2/10/2011 1:45:00 PM SB150

Conference room: 016
Testifier position: support
Testifier will be present: No
Submitted by: Jarrett Miyaji
Organization: Individual
Address: 1100 Ward Avenue Honolulu, Hi
Phone: 808-531-8825
E-mail: miyajij@yamasato.com
Submitted on: 2/8/2011

Comments:

I offer support for SB150, allowing DCAB the authority to charge a fee, to defray expenses of reviewing construction plans. In these economic times, we must look toward alternate means of being sustainable. Beyond economics, DCAB offers the design community a review body to check for compliance to the myriad of accessible issues faced when designing public facilities. The department has been helpful with clarifications that not necessarily involves a specific project. Without DCAB, there may be a possible increase of accessibility litigation, which is merely creating more burdens on other governmental branches. With the passing of SB150, I hope to see an efficient department that continues to serve the needs of both the design community and the disabled community.