



GOV. MSG. NO. 1380

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

July 06, 2012

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

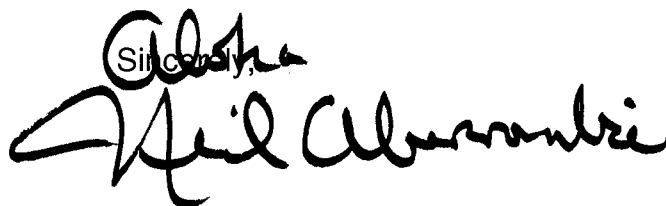
The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on July 06, 2012, the following bill was signed into law:

HB2553 HD2 SD2

RELATING TO BUILDING DESIGN FOR
PERSONS WITH DISABILITIES.
Act 277 (12)

Sincerely,


NEIL ABERCROMBIE
Governor, State of Hawaii

Approved by the Governor

ORIGINAL

on JUL 6 2012

HOUSE OF REPRESENTATIVES
TWENTY-SIXTH LEGISLATURE, 2012
STATE OF HAWAII

ACT 277

H.B. NO. 2553
H.D. 2
S.D. 2

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 persons with
4 disabilities may access and use the buildings, facilities, and
5 sites. Section 103-50, Hawaii Revised Statutes, requires that
6 buildings, facilities, and sites conform to the Americans with
7 Disabilities Act Accessibility Guidelines and the Federal Fair
8 Housing Amendments Act of 1988, which establish the design
9 standard for accessibility to persons with disabilities.

10 The legislature established a mechanism for the review by
11 the disability and communication access board of all plans and
12 specifications for state and county buildings, facilities, and
13 sites or buildings, facilities, and sites funded with state or
14 county funds to ensure that design and construction plans are
15 compliant before the construction of the building, facility, or
16 site begins. The disability and communication access board
17 reviews, free of charge, an average of nine hundred to one
18 thousand plans each year.



1 The legislature finds that compliance with the statutory
2 design requirements to ensure accessibility is not consistent or
3 uniformly understood in the architectural, engineering, and
4 design community. The legislature further finds that the review
5 process by the disability and communication access board is a
6 valuable service that should be continued. The review process
7 ensures appropriate access to people with disabilities by
8 uncovering design flaws that are corrected before construction,
9 which prevents costly litigation and retrofits.

10 The legislature believes that the fees required to be
11 charged under this Act by the disability and communication
12 access board should be incorporated into the capitalization
13 costs of the projects. A reasonable fee schedule will generate
14 revenues sufficient to pay for the salaries of the staff
15 conducting the reviews after June 30, 2013. The review process
16 will remain funded by the general fund until June 30, 2013. The
17 fees will provide a mechanism to defray all or a portion of the
18 costs of the review process.

19 The purpose of this Act is to require the disability and
20 communication access board to charge established fees for their
21 review, similar to other fees that are charged for permits, as
22 part of the design and construction process.



1 SECTION 2. Section 103-50, Hawaii Revised Statutes, is
2 amended to read as follows:

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

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

20 (c) The disability and communication access board shall
21 adopt rules pursuant to chapter 91 for the design of buildings,
22 facilities, and sites, by or on behalf of the State and counties



1 to effectuate the purposes of this section, except that the
2 board, without regard to chapter 91, instead, may adopt federal
3 amendments to the Americans with Disabilities Act Accessibility
4 Guidelines, Title 36 Code of Federal Regulations Part 1191.

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

8 (e) The disability and communication access board shall
9 charge a review fee for services rendered pursuant to section
10 348F-3. The review fees shall be four-tenths of one per cent
11 for the first \$500,000 of the estimated construction cost plus
12 two-tenths of one per cent of the estimated construction costs
13 greater than \$500,000 up to and including \$2,000,000 plus two
14 one-hundredths of one per cent of the estimated construction
15 costs over \$2,000,000 except as follows:

16 (1) The minimum review fee for plans and specifications
17 subject to accessibility guidelines under this section
18 shall be \$200;

19 (2) The disability and communication access board may
20 limit the maximum review fee for plans and
21 specifications of infrastructure projects or projects
22 managed by private nonprofit entities to \$3,000; and



1 (3) There shall be a \$50 review fee for projects with
2 plans and specifications that do not reflect any
3 elements subject to accessibility guidelines under
4 this section.

5 (f) All moneys collected as review fees shall be deposited
6 into the disability and communication access board special fund
7 established under section 348F-7.

8 (g) The disability and communication access board shall
9 report to the legislature annually no later than twenty days
10 prior to the convening of each regular session regarding the
11 revenues collected under this section. The report shall include
12 a summary of the number and types of plans reviewed and the
13 amount of review fees collected from each state or county
14 department or agency.

15 ~~(e)~~ (h) For the purposes of this section~~[, "public"]~~
16 "Infrastructure" or "infrastructure project" includes
17 water, drainage, sewer, waste disposal and waste treatment
18 systems, roads, and street lighting and projects relating to
19 that infrastructure. Projects with significant work to
20 accessible elements and spaces shall not be considered
21 infrastructure projects.



1 "Public buildings, facilities, and sites" means buildings,
2 facilities, [~~and~~] sites, and the infrastructure thereof that:

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


6 (2) House state or county programs, services, or
7 activities that are intended to be accessed by the
8 general public; or

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

11 SECTION 3. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 4. This Act shall take effect on January 1, 2013.

APPROVED this 6 day of JUL , 2012



GOVERNOR OF THE STATE OF HAWAII

