
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 an average of nine hundred to one thousand plans each



1 year. Up until now, the review process has been offered to the
2 architectural, engineering, 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 before construction, which prevents costly litigation
12 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 will generate
17 revenues sufficient to pay for the salaries of the staff
18 conducting the reviews after June 30, 2013. The review process
19 will remain funded by the general fund until June 30, 2013. The
20 fees will provide a mechanism to defray all or a portion of the
21 costs of the review process.



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

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

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

20 (b) All state and county agencies subject to this section
21 shall seek advice and recommendations from the disability and



1 communication access board on any construction plans prior to
2 commencing with construction.

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

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

13 (e) The disability and communication access board shall
14 charge a review fee for services rendered. The review fees
15 shall be forty-five hundredths of one per cent for the first
16 \$3,000,000 of the estimated construction cost plus twenty-five
17 hundredths of one per cent of the excess of the estimated
18 construction cost over \$3,000,000, except as follows:

19 (1) The minimum review fee for plans and specifications
20 subject to requirements guidelines under this section
21 shall be \$200;



1 (2) The maximum review fee for plans and specifications
2 subject to accessibility requirements under this
3 section shall be \$20,000; provided that the disability
4 and communication access board in its discretion, may
5 limit the maximum fee for plans and specifications of
6 plans for infrastructure projects or projects managed
7 by private nonprofit entities to \$3,000; and

8 (3) There shall be a \$50 fee for projects for which the
9 plans and specifications do not reflect any elements
10 subject to accessibility guidelines under this
11 section.

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

15 (g) The disability and communication access board shall
16 report to the legislature annually no later than twenty days
17 prior to the convening of each regular session regarding the
18 revenues collected under this section. The report shall include
19 a summary of the number and types of plans reviewed and the fees
20 collected from each state or county department or agency.

21 [~~(e)~~] (h) For the purposes of this section[~~, "public~~]:



1 "Infrastructure" includes but is not limited to, water,
2 drainage, sewer, waste disposal and waste treatment systems,
3 roads, and street lighting. Projects with significant work to
4 publicly accessible elements and spaces are not infrastructure
5 projects.

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

- 8 (1) Are designed, constructed, purchased, or leased with
9 the use of any state or county funds or federal funds
10 administered by the State or a county;
- 11 (2) House state or county programs, services, or
12 activities that are intended to be accessed by the
13 general public; or
- 14 (3) Are constructed on state or county lands or lands that
15 will be transferred to the State or a county."

16 SECTION 3. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 4. This Act shall take effect upon its approval;
19 provided that section 2 shall take effect on January 1, 2013;
20 and provided further that on December 31, 2017, this Act shall
21 be repealed and section 103-50, Hawaii Revised Statutes, shall



- 1 be reenacted in the form in which it read on the day prior to
- 2 the effective date of this Act.



Report Title:

Persons with Disabilities; Disability and Communication Access Board; Fees

Description:

Requires the Disability and Communication Access Board to charge fees to defray expenses of reviewing construction plans to ensure compliance with state and federal law relating to accessibility. Establishes a fee schedule. (HB2553 HD2)

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

