

NEIL ABERCROMBIE
GOVERNOR



BRUCE A. COPPA
Comptroller

RYAN OKAHARA
Deputy Comptroller

STATE OF HAWAII
DEPARTMENT OF ACCOUNTING
AND GENERAL SERVICES
P.O. BOX 119
HONOLULU, HAWAII 96810-0119

WRITTEN TESTIMONY
OF
BRUCE A. COPPA, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
HOUSE COMMITTEE
ON
FINANCE
ON
April 1, 2011

S.B. 150, S.D. 2, H.D. 1

RELATING TO BUILDING DESIGN FOR PERSONS WITH DISABILITIES

Chair Oshiro and members of the Committee, thank you for the opportunity to testify on S.B. 150, S.D. 2, H.D. 1.

The Department of Accounting and General Services (DAGS) supports S.B. 150, S.D. 2, H.D. 1, for the following reasons:

1. The fees are not a direct 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, and private sector landlords who design tenant

improvements for State agencies leasing commercial office lease space. 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

April 1, 2011

TESTIMONY TO THE HOUSE COMMITTEE ON FINANCE

Senate Bill 150, SD2, HD1 - Relating to Building Design for Persons with Disabilities

The Disability and Communication Access Board (DCAB) strongly supports Senate Bill 150, SD2, HD1 with one amendment. 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.

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.

The amendment we request is to change the effective date to January 1, 2012.

Thank you for the opportunity to testify.

Respectfully submitted,

BARBARA FISCHLOWITZ-LEONG
Chairperson
Legislative Committee

FRANCINE WAI
Executive Director

**DEPARTMENT OF DESIGN AND CONSTRUCTION
CITY AND COUNTY OF HONOLULU**

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PETER B. CARLISLE
MAYOR

COLLINS D LAM, P.E.
DIRECTOR

LORI M. KAHIKINA, P.E.
DEPUTY DIRECTOR



March 31, 2011

The Honorable Marcus R. Oshiro, Chair
and Members
Committee on Finance
State Capitol
Honolulu, Hawaii 96813

Dear Chair Oshiro and Members:

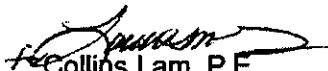
Subject: Senate Bill No. 150, SD2, HD1
Relating to Building Design for Persons with Disabilities

The Department of Design and Construction (DDC) respectfully recommends that any revisions to SB150, SD2, HD1, retain a maximum plan review fee not greater than \$3,000 for infrastructure projects. Many infrastructure projects include improvements at wastewater treatment plants, wastewater pump stations and sewer lines, solid waste landfills, and similar facilities. Such projects, which represent a majority of DDC projects, typically have very large construction costs with very few components related to the Americans with Disabilities Act (ADA). The Disability Communication Access Board (DCAB) only reviews project components related to the ADA. For example, the recent Sand Island Wastewater Treatment Plant Primary Expansion Phase 1, Odor Control Systems and Gravity Thickener Modifications project was awarded at \$67.9 million; however, the total cost of the ADA-related components of the project was approximately \$1.0 million. As illustrated by this example, the proposed maximum plan review fee prevents overcharging large projects with small ADA-related components compared to smaller projects with major ADA-related components.

Also, please note that the phrase, "In addition," at the beginning of the last sentence of Section 4 is confusing and misleading and should be eliminated, because it can be interpreted as indicating that the "maximum plan review fee" is charged in addition to the tabulated fees based on project cost. This interpretation would be inconsistent with the fact sheet attached to the DCAB testimony of February 14, 2011 to the House Committee on Water, Land, and Ocean Resources (enclosed herewith).

Thank you for the opportunity to testify.

Very truly yours,


Collins Lam, P.E.
Director

CDL:WB:hm

Enclosure



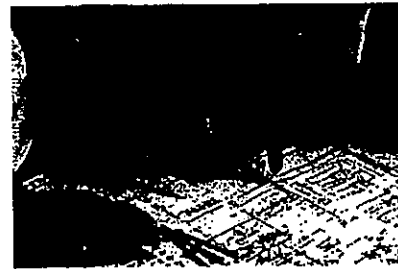
DISABILITY AND COMMUNICATION ACCESS BOARD

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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, DNLR, 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.



March 31, 2011

Email: <http://www.capitol.hawaii.gov/emailtestimony>

Email copy: Representative Kyle Yamashita, repyamashita@Capitol.hawaii.gov

Subject: **SB150, SD2, HD 1 (HSCR978)/ Relating to Building Design for Persons with Disabilities:**

Honorable Representatives:

It has come to my attention that the State House Committee on Finance will be reviewing **SB150, SD2, HD 1 (HSCR978)** which will allow the Disability and Communication Access Board to charge fees to defray expenses of reviewing construction plans to ensure compliance with law and establishes an Accessible Building Design Special Account for plan review fees and cost of compliance with ADA design requirements.

As an architect on Maui for the past 38 years, and working on numerous state and county projects for many years, I have had all of these projects reviewed by DCAB (since their existence) for compliance with the ADAAG, UFAS, and other accessibility regulations since DCAB was created by the State. Lately this has included the recently completed University of Hawaii- Maui College Nursing Classroom project and various repair and maintenance projects for the college and the Maui County Parks Department which will bring their facilities into compliance with the ADAAG.

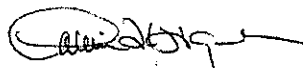
The County of Maui Building Division requires the review and a final document letter from DCAB for their approval of the building permits for all state and county projects pursuant to HRS 103-50. This statute requires DCAB's review for designs of all state and county projects and those that are on government lands or funded by the county and state including many non-profit organization projects such as the Boys and Girls Club of Maui clubhouses (which I designed).

Although this added an additional step in the building permit process, it has provided an effective means for the state and counties (and their consultants) to have a more consistent interpretation of all the accessibility laws which would apply to the affected projects. This consistency not only provided more credibility to the interpretations, it also provided more protection for both government and their consultants from liability suits. As consultants, we have so many different codes, standard, regulations, etc. to follow, it has been a blessing to have an agency such as DCAB to assist us in providing for accessible design. They have been able to respond to questions of interpretations of the guidelines and standards and have gone as far as to publish "interpretative opinions" which have helped consultants in their designs. They are willing to meet with us to review questions of interpretation on any applicable projects. They have also taken a pro-active approach to their work by providing for annual conference with workshops (with nationally recognized consultants and federal government speakers) for the ADA and have a newsletter on their website which keeps the design professionals in tune with the laws and the latest interpretations. As a new version of the ADAAG is being adopted, their willingness to educate us through several workshops has been very important. In the past couple of years, DCAB's funding has been reduced significantly almost to the point of losing the technical review section. In order for them to survive and be self-sustaining, plan review fees are essential.

It is for these reasons, that I humbly request your support of this bill to provide for DCAB to charge plan review fees and the establishment of a special fund for this purpose.

Any questions, please contact me at this email address.

Thank you for your consideration,



Calvin S. Higuchi AIA

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March 31, 2011

Website: <http://www.capitol.hawaii.gov/emailtestimony>

Subject: Senate Bill No. 150 (SB150, SD2, HD1) / 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 SB150 (SD2, HD1). 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) and the Fair Housing Accessibility Guidelines. In the past I have been ably assisted in accessibility design issues by the DCAB staff and consider them an invaluable resource.

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

Testimony of
Dean T. Aoki
Architect

Committee on Finance
Friday, April 1, 2011 at 4:00 p.m.

Senate Bill No. 150, Senate Draft 2, House Draft 1 (SB 150, SD2, HD1)
Relating to Building Design for Persons with Disabilities

Aloha Members of the Committee on Finance:

Thank you for this opportunity to **SUPPORT** Senate Bill No. 150, Senate Draft 2, House Draft 1, 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 nineteen years, I have seen the benefit of the Disability and Communication Access Board .Facility Access Unit reviews and opinions since its inception. The Facility Access Unit plays a key role to ensure maximum compliance with the requirements of the Americans with Disabilities Act design standards for all Title II 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 guideline requirements and interpretations.

TO: House Committee on Finance
Friday, Apr. 1, 2011 at 4:00 p.m.
Conference Room 308

FROM: Kirby L. Shaw
425 Ena Road, #706-A, Honolulu, HI 96815
kirby@hawaiiantel.net, 944-0828

SUBJ: SB 150, SD2, HD1 - RELATING TO BUILDING DESIGN FOR
PERSONS WITH DISABILITIES

Rep. Marcus R. Oshiro, Chair, Committee on Finance
Rep. Marilyn B. Lee, Vice Chair, Committee on Finance
Members of the House Committee on Finance
Kirby L. Shaw – Individual with a mobility disability
Friday, Apr. 1, 2011

Support for SB 150, SD2, HD1 - Relating to Building Design for Persons with Disabilities

Dear Members of the Finance Committee,

My name is Kirby Shaw. I am an individual with a disability who uses a power wheelchair. Access to public buildings and facilities is important to me because I would not otherwise be able to conduct business with the State and counties. For me and others similarly situated, accessibility involves sidewalks, curb ramps at intersections, building entrance and interior space ingress and egress, hardware on doors, restroom stalls, lavatories, transaction counters, and parking. In addition, accessibility for persons with vision and hearing disabilities involves a host of other features without which public buildings and facilities would not be accessible or safe.

Therefore, it is tremendously important for the State to have an agency (1) that is competent in its understanding of the accessibility design requirements of the Americans with Disabilities Act and the Fair Housing Amendments Act, (2) that consistently applies the standards when conducting plan reviews, and (3) that provides continuity with regard to expertise and institutional memory for the purpose of providing technical consultation to design professionals. Fortunately, we have such an agency – the Disability and Communication Access Board (DCAB).

I am writing to express **strong support for SB 150, SD2, HD1 - Relating to Building Design for Persons with Disabilities**. The bill is important because it will require DCAB to charge reasonable fees based on a logical scale to cover the costs of plan reviews. This is significant because it will remove the DCAB unit responsible for plan reviews from the uncertainties of the budgeting process and allow DCAB to provide the uninterrupted competence, consistency, and continuity noted above. Lastly, public buildings and facilities will be accessible to persons with disabilities into the future because the Legislature recognized the significance of the measure.

Therefore, **I urge the committee to support this bill**. Thank you for considering my testimony. Please contact me by mail, e-mail, or phone if you have any questions. Mahalo nui.

Sincerely,

/s/
KIRBY L. SHAW

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 31, 2011 10:18 AM
To: FINTestimony
Cc: Tlenzer@hawaii.rr.com
Subject: Testimony for SB150 on 4/1/2011 4:00:00 PM

Testimony for FIN 4/1/2011 4:00:00 PM SB150

Conference room: 308
Testifier position: support
Testifier will be present: No
Submitted by: Anthony Lenzer, Ph.D
Organization: Disability and Communication Access Board
Address:
Phone:
E-mail: Tlenzer@hawaii.rr.com
Submitted on: 3/31/2011

Comments:
Chair Oshiro and Members of the Committee on Finance:

My name is Anthony Lenzer. I am a member of the Disability and Communication Access Board (DCAB), and am testifying in strong support of SB 150. As you know, the Bill's basic purpose is to allow DCAB to charge reasonable fees for review of plans for public buildings and facilities to assure that they are in accordance with Federal and State laws regarding access into and use of by persons with disabilities. These fees would be included in the capital costs of such projects. At present, DCAB staff do such plan reviews at no charge to the constructing organizations. Thus this process is now paid for through state general funds.

There is no doubt that DCAB is performing a valuable service, in that the review process catches many potential violations, which could result in added construction costs, either through redrafting plans or retrofitting buildings if violations are later uncovered. Thus, it seems entirely reasonable to add plan review fees to construction costs. This will also serve to reduce the drain on the general fund, at a time when the state faces a mounting budget crises.

Thank you for the opportunity to testify in support of SB 150.

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 31, 2011 11:40 AM
To: FINTestimony
Cc: janna_mihara@notes.k12.hi.us
Subject: Testimony for SB150 on 4/1/2011 4:00:00 PM

Testimony for FIN 4/1/2011 4:00:00 PM SB150

Conference room: 308
Testifier position: support
Testifier will be present: No
Submitted by: Janna Mihara
Organization: DOE
Address:
Phone:
E-mail: janna_mihara@notes.k12.hi.us
Submitted on: 3/31/2011

Comments:

The Department of Education supports Senate Bill No. 150, Senate Draft 2, House Draft 1 (SB 150, SD2, HD1) Relating to Building Design for Persons with Disabilities.

The Disabilities Communication Access Board (DCAB) reviews are very important and provide an essential service in helping the Department of Education (DOE) bring existing school campuses into compliance as well as insuring that our new facilities are accessible. The reviews DCAB provides are for accessibility compliance and are not a duplication of services by other government agencies. The fees being proposed are very reasonable and far less than fees being charged to obtain a building permit.

Thank you for the opportunity to provide testimony.