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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 nine hundred to one thousand plans each year on



1 average. Currently, the review process is offered to the  
2 architectural and design community at no charge.

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

13 The legislature believes that the fees authorized by this  
14 Act for the disability and communication access board should be  
15 incorporated into the capitalization costs of the projects. A  
16 reasonable fee schedule would generate revenues sufficient to  
17 pay for the salaries of the staff conducting the reviews. The  
18 fees provide a mechanism to defray a portion or all of the costs  
19 of the review process, which would continue to be funded through  
20 appropriations from the general fund.

21 The purpose of this Act is to authorize the disability and  
22 communication access board to charge a fee for the review,



1 similar to other fees that are charged for permits, as part of  
2 the design and construction process.

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

5 **"§103-50 Building design to consider needs of persons with**  
6 **disabilities.** (a) Notwithstanding any other law to the  
7 contrary, all plans and specifications for the construction of  
8 public buildings, facilities, and sites shall be prepared so  
9 that the buildings, facilities, and sites are accessible to and  
10 usable by persons with disabilities. The buildings, facilities,  
11 and sites shall conform to the Americans with Disabilities Act  
12 Accessibility Guidelines, Title 36 Code of Federal Regulations  
13 Part 1191, and the requirements of the Federal Fair Housing  
14 Amendments Act of 1988, as established in Title 24 Code of  
15 Federal Regulations Part 100, Subpart D, as adopted and amended  
16 by the disability and communication access board under chapter  
17 348F.

18 (b) All state and county agencies subject to this section  
19 shall seek advice and recommendations from the disability and  
20 communication access board on any construction plans prior to  
21 commencing with construction[?] for which the board may



1 establish, pursuant to rules adopted under section 348F-6,  
2 reasonable tiered fees based upon estimated construction costs.

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 alternate design when an alternate  
12 design provides equal or greater access.

13 (e) To defray the expenses of the disability and  
14 communication access board to perform its duties under this  
15 section, the board shall charge a fee for services rendered by  
16 the board pursuant to this section; provided that the board  
17 shall establish a reasonable fee schedule pursuant to rules  
18 adopted under chapter 91.

19 The disability and communication access board shall report  
20 to the legislature annually regarding the revenues generated by  
21 the fees charged under this subsection including but not limited  
22 to a general description of the review of each plan, the hours



1 of service rendered to review each plan and by whom, and the  
2 amount of fees charged for the review of each plan.

3 [~~(e)~~] (f) For the purposes of this section, "public  
4 buildings, facilities, and sites" means buildings, facilities,  
5 and sites that:

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

9 (2) House state or county programs, services, or  
10 activities that are intended to be accessed by the  
11 general public; or

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

14 SECTION 3. For purposes of section 2 of this Act and until  
15 the disability and communication access board adopts rules  
16 pursuant to chapter 91, Hawaii Revised Statutes, to supersede  
17 the fees specified in this section, the fees shall be based upon  
18 estimated construction costs as follows:

19	(1) No application	\$50
20	(2) Up to \$100,000	\$200
21	(3) \$100,001 to \$500,000	\$500
22	(4) \$500,001 to \$1,000,000	\$1,250



1	(5)	\$1,000,001 to \$5,000,000	\$2,500
2	(6)	\$5,000,001 to \$10,000,000	\$3,000
3	(7)	More than \$10,000,000	\$4,000 and \$1,000
4			more for each
5			additional
6			\$10,000,000 or
7			portion thereof;

8 In addition, there shall be a \$3,000 maximum plan review fee,  
9 charged in the discretion of the disability and communication  
10 access board, for public rights-of-way projects and projects  
11 managed by private non-profit entities.

12 SECTION 4. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14 SECTION 5. This Act shall take effect on January 1, 2050.



**Report Title:**

Persons with Disabilities; Fees

**Description:**

Allows the disability and communication access board to charge a fee to defray expenses of review of construction plans to ensure compliance with law. Establishes temporary fees until the board adopts permanent fees. Effective date 1/1/2050. (SD1)

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

