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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 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 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 four-tenths of one per cent for the first \$500,000 of  
16 the estimated construction cost plus two-tenths of one per cent  
17 of the estimated construction costs greater than \$500,000 up to  
18 and including \$2,000,000 plus two one-hundredths of one per cent  
19 of the estimated construction costs over \$2,000,000 except as  
20 follows:



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

4       (2) The disability and communication access board in its  
5       discretion, may limit the maximum fee for plans and  
6       specifications of infrastructure projects or projects  
7       managed 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       accessible elements and spaces are not infrastructure projects.

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

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

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

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

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 Statutory material to be repealed is bracketed  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

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



**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. Effective 1/1/2013. (SD1)

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

