

A Bill for an Act Relating to Building Design for Persons with Disabilities.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Hawaii law requires that all plans and specifications for the construction of public buildings, facilities, and sites be prepared so that persons with disabilities may access and use the buildings, facilities, and sites. Section 103-50, Hawaii Revised Statutes, requires that buildings, facilities, and sites conform to the Americans with Disabilities Act Accessibility Guidelines and the Federal Fair Housing Amendments Act of 1988, which establish the design standard for accessibility to persons with disabilities.

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

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

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

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

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

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

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

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

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

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

- (1) The minimum review fee for plans and specifications subject to accessibility guidelines under this section shall be \$200;
- (2) The disability and communication access board may limit the maximum review fee for plans and specifications of infrastructure projects or projects managed by private nonprofit entities to \$3,000; and
- (3) There shall be a \$50 review fee for projects with plans and specifications that do not reflect any elements subject to accessibility guidelines under this section.

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

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

(e) (h) For the purposes of this section[, “public”]

“Infrastructure” or “infrastructure project” includes water, drainage, sewer, waste disposal and waste treatment systems, roads, and street lighting and projects relating to that infrastructure. Projects with significant work to accessible elements and spaces shall not be considered infrastructure projects.

“Public buildings, facilities, and sites” means buildings, facilities, [and] sites, and the infrastructure thereof that:

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

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

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

(Approved July 6, 2012.)