

# H.B. NO. 2553

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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 plans would  
15 be corrected prior to the construction of the building,  
16 facility, or site. The disability and communication access  
17 board reviews an average of nine hundred to one thousand plans

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

1           The purpose of this Act is to require the disability and  
2 communication access board to charge a fee for the review,  
3 similar to other fees that are charged for permits, as part of  
4 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. (a) Notwithstanding any other law to the  
9 contrary, all plans and specifications for the construction of  
10 public buildings, facilities, and sites shall be prepared so  
11 that the buildings, facilities, and sites are accessible to and  
12 usable by persons with disabilities. The buildings, facilities,  
13 and sites shall conform to the Americans with Disabilities Act  
14 Accessibility Guidelines, Title 36 Code of Federal Regulations  
15 Part 1191, and the requirements of the Federal Fair Housing  
16 Amendments Act of 1988, as established in Title 24 Code of  
17 Federal Regulations Part 100, Subpart D, as adopted and amended  
18 by the disability and communication access board under chapter  
19 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 based on estimated construction costs as follows:

<u>Estimated Construction Costs</u>	<u>Fees</u>
(1) <u>Plans and specifications not subject</u> <u>to accessibility guidelines</u> <u>under this section</u>	<u>\$50</u>
(2) <u>Up to \$ 50,000</u>	<u>\$200</u>
(3) <u>\$50,001 to \$100,000</u>	<u>\$400</u>

1	<u>(4) \$100,001 to \$500,000</u>	<u>\$1,000</u>
2	<u>(5) \$500,001 to \$1,000,000</u>	<u>\$2,000</u>
3	<u>(6) \$1,000,001 to \$2,500,000</u>	<u>\$3,000</u>
4	<u>(7) \$2,500,001 to \$5,000,000</u>	<u>\$4,000</u>
5	<u>(8) \$5,000,001 to \$10,000,000</u>	<u>\$5,000</u>
6	<u>(9) More than \$10,000,000</u>	<u>\$6,000 + \$1,000</u>
7		<u>for each</u>
8		<u>additional</u>
9		<u>\$5,000,000 or</u>
10		<u>portion thereof.</u>

11 In addition, there shall be a \$3,000 maximum plan review  
 12 fee charged at the discretion of the disability and  
 13 communication access board for infrastructure projects and  
 14 projects managed by private non-profit entities.

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

18 (g) The disability and communication access board shall  
 19 report to the legislature annually regarding the revenues  
 20 collected under this section. The report shall include a

1 summary of the number and types of plans reviewed and the fees  
2 collected from each state or county department or agency.

3 [~~e~~] (h) 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. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16 SECTION 4. This Act shall take effect upon its approval;  
17 provided that the fees established in section 103-50(e), Hawaii  
18 Revised Statutes, shall take effect on January 1, 2013.

19  
20 INTRODUCED BY: Calvin K. Iyama

21 BY REQUEST  
JAN 23 2012

H.B. NO. 2553

**Report Title:**

Persons with Disabilities; Disability and Communication Access Board; Fees

**Description:**

Requires the Disability and Communication Access Board (DCAB) to charge fees to defray expenses of reviewing construction plans to ensure compliance with law, establishes a fee schedule to be effective January 1, 2013, and requires the fees to be deposited into the DCAB special fund.

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

JUSTIFICATION SHEET

DEPARTMENT: Health

TITLE: A BILL FOR AN ACT RELATING TO BUILDING DESIGN FOR PERSONS WITH DISABILITIES.

PURPOSE: The purpose of this bill is to permit the Disability and Communication Access Board (DCAB) to charge a fee for the blueprint review process, similar to other fees that are charged for permits, as part of the design and construction process, and deposits fees collected into the DCAB Special Fund.

MEANS: Amend section 103-50, Hawaii Revised Statutes.

JUSTIFICATION: The Disability and Communication Access Board reviews an average of nine hundred to one thousand plans each year, offered to the architectural and design community at no charge, to help buildings, facilities, and sites conform to the Americans with Disabilities Act Accessibility Guidelines and the Federal Fair Housing Amendments Act of 1988. A reasonable fee schedule would generate revenues sufficient to pay for the salaries of the staff conducting the reviews.

Impact on the public: The public benefit is the freeing up of general funds otherwise obligated to fund the review process, converting into more of a self-sustaining activity. Fees for the review would be rolled up into the total cost of planning and construction for the project.

Impact on the department and other agencies: None.



GENERAL FUND:           Should the bill pass in 2012, the DCAB  
                              General Fund will be reduced in the  
                              subsequent biennium by approximately  
                              \$327,000.

OTHER FUNDS:           None.

PPBS PROGRAM  
DESIGNATION:           HTH 520.

OTHER AFFECTED  
AGENCIES:              Departments with CIP projects.

EFFECTIVE DATE:        January 1, 2013.