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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, free of charge, an average of nine hundred to one  
18 thousand plans each year.



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

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

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



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

3 "§103-50 **Building design to consider needs of persons with**  
4 **disabilities[-]; review fees.** (a) Notwithstanding any other  
5 law to the contrary, all plans and specifications for the  
6 construction of public buildings, facilities, and sites shall be  
7 prepared so that the buildings, facilities, and sites are  
8 accessible to and usable by persons with disabilities. The  
9 buildings, facilities, and sites shall conform to the Americans  
10 with Disabilities Act Accessibility Guidelines, Title 36 Code of  
11 Federal Regulations Part 1191, and the requirements of the  
12 Federal Fair Housing Amendments Act of 1988, as established in  
13 Title 24 Code of Federal Regulations Part 100, Subpart D, as  
14 adopted and amended by the disability and communication access  
15 board under chapter 348F.

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

20 (c) The disability and communication access board shall  
21 adopt rules pursuant to chapter 91 for the design of buildings,  
22 facilities, and sites, by or on behalf of the State and counties



1 to effectuate the purposes of this section, except that the  
2 board, without regard to chapter 91, instead, may adopt federal  
3 amendments to the Americans with Disabilities Act Accessibility  
4 Guidelines, Title 36 Code of Federal Regulations Part 1191.

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

8 (e) The disability and communication access board shall  
9 charge a review fee for services rendered pursuant to section  
10 348F-3. The review fees shall be four-tenths of one per cent  
11 for the first \$500,000 of the estimated construction cost plus  
12 two-tenths of one per cent of the estimated construction costs  
13 greater than \$500,000 up to and including \$2,000,000 plus two  
14 one-hundredths of one per cent of the estimated construction  
15 costs over \$2,000,000 except as follows:

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

19 (2) The disability and communication access board may  
20 limit the maximum review fee for plans and  
21 specifications of infrastructure projects or projects  
22 managed by private nonprofit entities to \$3,000; and



1       (3) There shall be a \$50 review fee for projects with  
2           plans and specifications that do not reflect any  
3           elements subject to accessibility guidelines under  
4           this section.

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

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

15       ~~(e)~~ (h) For the purposes of this section[~~,"public~~]:  
16       "Infrastructure" or "infrastructure project" includes  
17       water, drainage, sewer, waste disposal and waste treatment  
18       systems, roads, and street lighting and projects relating to  
19       that infrastructure. Projects with significant work to  
20       accessible elements and spaces shall not be considered  
21       infrastructure projects.



1        "Public buildings, facilities, and sites" means buildings,  
2 facilities, [~~and~~] sites, and the infrastructure thereof that:

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

6        (2) House state or county programs, services, or  
7                activities that are intended to be accessed by the  
8                general public; or

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

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

13        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. (SD2)

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

