

**NOTICE OF PROPOSED CHANGES
TO
BUILDING STANDARDS
OF THE
DIVISION OF THE STATE ARCHITECT- ACCESS COMPLIANCE (DSA/AC)

REGARDING THE PROPOSED CHANGES TO ADMINISTRATIVE CODE
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 1

AMEND ARTICLE 5-104 IN CHAPTER 5 OF PART 1**

Notice is hereby given that the State and Consumer Services Agency, (SCSA) on behalf of Division of The State Architect-Access Compliance, proposes to the California Building Standards Commission (CBSC) to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 1 related to section 5-104 (a), Part 1, Title 24, California Code of Regulations.

PUBLIC COMMENT PERIOD

Written comments will be accepted by the California Building Standards Commission regarding the proposed changes from May 15, 2009 until 5:00 PM on June 29, 2009.

Please address your comments to:

California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Attention: Dave Walls, Executive Director

Written Comments may also be faxed to (916) 263-0959 or E-mailed to CBSC@dgs.ca.gov.

Pursuant to Government Code Section 11346.5 (a) 17, any interested person or his or her duly authorized representative may request, no later than 15 prior to the close of the written comment period that a public hearing be held.

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Following the public comment period, the CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

The California Building Standards Commission proposes to adopt these building standards under the authority granted by Health and Safety Code Sections 18930 and 18949.1. The purpose of these building standards is to implement, interpret, and make specific the provisions of Government Code Sections 4450, 4454, and 12955.1.

INFORMATIVE DIGEST

Summary of Existing Laws

Health and Safety Code Section 18930 states any building standard adopted or proposed by state agencies shall be submitted to, and approved or adopted by, the California Building Standards

Commission prior to codification. Building standards adopted by state agencies and submitted to the commission for approval shall be accompanied by an analysis written by the adopting agency or state agency that proposes the building standards which shall, to the satisfaction of the Building Standards Commission, justify the approval thereof in terms of criteria for costs and benefits.

Section 18949.1 of the Health and Safety Code states that any responsibilities of the State Architect to adopt regulations relating to building standards are hereby transferred to the California Building Standards Commission.

Section 4450 of the Government Code authorizes the State Architect to establish building standards for making buildings, structures, sidewalks, curbs, and related facilities accessible to and usable by persons with disabilities.

Section 4454 (f) of the Government Code states the Department of General Services, Division of the State Architect, shall include the cost of carrying out the responsibilities identified in this chapter as part of the plan review costs in determining fees.

Section 12955.1(d) of the Government Code authorizes the State Architect to establish building standards for public housing.

Summary of Existing Regulations

Existing administrative standards allows the Division of the State Architect to collect fees as a percentage of the estimated construction costs for projects submitted for plan review. These fees are intended to fund all accessibility services. The Division of the State Architect is the Access code developer for commercial buildings, public schools K-12, community colleges, state universities, publicly funded charter schools, all state owned and/or state leased properties, low-income housing and essential services buildings. These administrative standards are contained in Title 24, Part 1, Chapter 5, Section 5-104.

Summary of Effect

Disability Access Account funds, pursuant to Government Code Sections 4454(f) and 4459(b), are used to perform regulatory development, in addition to plan review operational costs. The fees are deposited into the Disability Access Account pursuant to Government Code Section 4454(d). California Building Standards Administrative Code, Title 24, Part 1, Section 5-104 establishes the fee schedule. The current fee schedule has been in place since 1990, and this proposal would amend Section 5-104 to increase the fees to keep up with agency expenditures for the development of accessibility compliance standards, the increase in overall workload and provisions for field oversight.

Comparable Federal Statute or Regulations

Federal Certification of Title 24 Access Compliance has been in progress for several years.

Policy Statement Overview

The Disability Access Account current fee structure for the Division of the State Architect-Access Compliance (DSA-AC) activities was established through the California Building Standards Commission in 1990. This fee structure has remained unchanged for 19 years, and revenues have not been keeping up with expenditures for the development of accessibility compliance standards, the increase in overall workload and provisions for field oversight.

OTHER MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

None. There are no other matters prescribed by statute applicable to the DSA-AC, or to any specific regulation or class of regulations. This amendment does not create a change in regulatory effect.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The DSA/AC has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

- A. Cost or Savings to any state agency: **Costs for DSA accessibility fees for state buildings and essential buildings are projected to at least double with this fee structure proposal.**
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **Costs for DSA accessibility fees for K-12 public school facilities and community college facilities are projected to at least double with this fee structure proposal.**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **Costs for DSA accessibility fees for K-12 public school facilities and community college facilities are projected to at least double with this fee structure proposal.**
- D. Other nondiscretionary cost or savings imposed on local agencies: **None**
- E. Cost or savings in federal funding to the state: **None**

INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

The DSA/AC has made an initial determination that the adoption/amendment/repeal of this regulation will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with business in other states.

DECLARATION OF EVIDENCE

DSA-AC has identified no documents, testimony, or other evidence to support its initial determination of no adverse impact.

FINDING OF NECESSITY FOR THE PUBLIC'S HEALTH, SAFETY, OR WELFARE

The proposed regulatory action does not require a report by any business or agency, therefore DSA-AC has not made a finding of necessity for public's health, safety or welfare.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

DSA-AC is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with this proposed regulatory action.

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ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

DSA-AC has assessed whether or not and to what extent this proposal will affect the following:

- The creation or elimination of jobs within the State of California.

DSA-AC has determined that this proposed action has no effect. This amendment does not create a change in regulatory effect.
- The creation of new businesses or the elimination of existing businesses within the State of California.

DSA-AC has determined that this proposed action has no effect. This amendment does not create a change in regulatory effect.
- The expansion of businesses currently doing business with the State of California.

DSA-AC has determined that this proposed action has no effect. This amendment does not create a change in regulatory effect.

INITIAL DETERMINATION OF SIGNIFICANT EFFECT ON HOUSING COSTS

DSA-AC has made an initial determination that this proposal would not have a significant effect on housing costs.

CONSIDERATION OF ALTERNATIVES

DSA-AC has determined that no reasonable alternative considered by the state agency or that has otherwise been identified and brought to the attention of DSA-AC would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF RULEMAKING DOCUMENTS

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the California Building Standards Commission website:

<http://www.bsc.ca.gov/>

Interested parties may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or at the California Building Standards Commission website.

CBSC CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS

General questions regarding procedural and administrative issues should be addressed to:

Erika Keeler, Erika.keeler@dgs.ca.gov
Jane Taylor, jane.taylor@dgs.ca.gov
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833

Telephone No.: (916) 263-0916

Facsimile No.: (916) 263-0959

PROPOSING STATE AGENCY CONTACT PERSON FOR SUBSTANTIVE AND/OR TECHNICAL QUESTIONS ON THE PROPOSED CHANGES TO BUILDING STANDARDS

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Rene Gutierrez Ph. (916)651-0991 Rene.gutierrez@scsa.ca.gov

State and Consumer Services Agency
915 Capitol Mall, Suite 200
Sacramento, CA 95814