

**FINAL STATEMENT OF REASONS FOR
PROPOSED BUILDING STANDARDS
OF THE
DIVISION OF THE STATE ARCHITECT – ACCESS COMPLIANCE (DSA-AC)**

**REGARDING THE CALIFORNIA CODE OF REGULATIONS,
TITLE 24, PART 1, CHAPTER 5**

AMEND ARTICLE 1, SECTIONS 5-104 and 5-106

The Administrative Procedure Act requires that every agency shall maintain a file of each rulemaking that shall be deemed to be the record for that rulemaking proceeding. The rulemaking file shall include a final statement of reasons. The Final Statement of Reasons shall be available to the public upon request when rulemaking action is being undertaken. The following are the reasons for proposing this particular rulemaking action:

UPDATES TO THE INITIAL STATEMENT OF REASONS

The Initial Statement of Reasons has been updated as indicated below. DSA response to the public comment received during the 45 Day Public Comment Period is provided, commencing on page 2.

STATEMENT OF SPECIFIC PURPOSE AND RATIONALE

Section 5-104

The Department of General Services, Division of the State Architect – Access Compliance (DSA-AC), proposes to the California Building Standards Commission (CBSC) to amend California Building Standards Administrative Code, Title 24, Part 1, Section 5-104 that establish fees for access compliance services provided by DSA-AC. The fees are deposited into the Disability Access Account pursuant to Government Code Section 4454(d) to fund plan review services and maintenance of accessibility standards.

The Disability Access Account fee structure for the DSA-AC activities was established through the California Building Standards Commission in 1990. This fee schedule was updated effective February 13, 2010.

California Code of Regulations (Section 5-104 of Title 24, Part 1) directs the DSA to conduct a review of the fee schedule in 2011 and within every four years thereafter. Upon review of the fee schedule, DSA may reduce the fees or propose a fee schedule increase. DSA's review of the fee schedule performed in June 2011 has determined that a 55 percent fee increase is necessary to assure sufficient resources in the Disability Access Account.

Section 5-106

DSA proposes to amend this section to clarify approval requirements for revisions to approved construction documents, and that fees to recover incurred expenses may be charged for the review of significant revisions. This code change proposal is consistent with current practices within DSA's accessibility plan review process.

TECHNICAL, THEORETICAL, AND EMPIRICAL STUDY, REPORT, OR SIMILAR DOCUMENTS

Preparation of an analysis entailed a review of statutes and codes that govern DSA-AC operations and fee structure as well as the following fiscal information:

- Changes in the number of authorized positions for DSA-AC and accompanying salary increases from fiscal year (FY) 2000-01 through FY 2009-10;
- Actual and estimated project costs from FY 2005-06 through FY 2016-17;
- Workload analysis for accessibility plan reviews;
- Actual and projected income and expenses from FY 2000-01 through FY 2016-17 assuming no fee increase; and,

- Actual and projected income and expenses from FY 2000-01 through FY 2016-17 assuming the proposed fee increase becomes effective.

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 state agency representative listed in the Notice of Proposed Action.

CONSIDERATION OF REASONABLE ALTERNATIVES

DSA-AC has determined that no reasonable alternative considered by the DSA-AC 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 as and less burdensome to affected private persons than the proposed action.

REASONABLE ALTERNATIVES THE AGENCY HAS IDENTIFIED THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS

No reasonable alternatives have been identified by DSA-AC.

FACTS, EVIDENCE, DOCUMENTS, TESTIMONY, OR OTHER EVIDENCE OF NO SIGNIFICANT ADVERSE IMPACT ON BUSINESS

DSA-AC has identified no facts, evidence, documents, testimony, or other evidence of any significant adverse economic impact on business in proposing this action.

DUPLICATION OR CONFLICTS WITH FEDERAL REGULATIONS

There are no federal statutes or regulations with which this action might conflict.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Division of the State Architect has determined that the proposed regulatory action does not impose a mandate on local agencies or school districts.

OBJECTIONS OR RECOMMENDATIONS MADE REGARDING THE PROPOSED REGULATION(S)

45 DAY PUBLIC COMMENT PERIOD (one comment was received by DSA)

Comment #1 – DSA-AC 02-10, dated Sept. 5, 2011

Commenter: Mark Taylor, Long Beach Community College District

Commenter's Request: Disapproval of the proposed fee increase

Commenter's Stated Reason:

(note: the commenter did not identify any nine-point criteria applicable to the stated concerns)

A fee increase is not warranted after a similar base accessibility fee (was) adjusted in 2010 by 100%. In addition, a fee increase can not be justified when we already face lengthy review timelines and there is no guarantee that the fee increase will result in service or value that will be realized by our districts and it is unclear that the DSA will have the authority to hire the increased staff to increase service.

DSA Response:

This proposal is the result of complying with Title 24, Part 1, Section 5-104 (e) ii, which requires DSA to conduct a cost and fee study in 2011 to determine if fees are adequate to maintain the program. Further, this code provision requires that if DSA determines a fee increase is necessary to maintain the program,

DSA shall propose a fee increase to cover the program costs. In accordance with Title 24, Part 1, Section 5-104 (e) ii, program fees and costs will be evaluated within every four year period commencing in 2011, and adjustments to the fee schedule will be proposed accordingly.

This proposal, if adopted would provide the revenue necessary to maintain DSA's current accessibility plan review and approval process for public schools, community colleges and state facilities. If this proposal is not approved, consequences will likely include reduction of program staffing and significantly longer accessibility compliance review processing for projects under DSA jurisdiction.

DETERMINATION OF ALTERNATIVES CONSIDERED AND EFFECT ON PRIVATE PERSONS

DSA has determined that no alternative considered would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the adopted regulation

REJECTED PROPOSED ALTERNATIVE THAT WOULD LESSEN THE ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES:

There are no rejected proposed alternatives to consider. This proposal will not have an adverse economic impact on small businesses.