

INITIAL STATEMENT OF REASONS
FOR
PROPOSED BUILDING STANDARDS
OF THE
DIVISION OF THE STATE ARCHITECT (DSA)
REGARDING THE ADMINISTRATIVE CODE,
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 1

Article 5-104 – FEES and 5-106 – Revision of Plans and Specifications

The Administrative Procedure Act (APA) requires that an Initial Statement of Reasons be available to the public upon request when rulemaking action is being undertaken. The following information required by the APA pertains to this particular rulemaking action:

STATEMENT OF SPECIFIC PURPOSE, PROBLEM, RATIONALE and BENEFITS:

The Department of General Services, Division of the State Architect (DSA) proposes to the California Building Standards Commission (CBSC) to amend California Building Standards Administrative Code, Title 24, Part 1, sections 5-104 and 5-106, which establish fees for access compliance services provided by DSA. DSA provides access compliance services for public school construction, State-owned buildings and facilities and also develops and maintains California's Accessibility Code and standards that are used for both public and private buildings throughout the State. Though DSA's accessibility program serves the entire State, the program is funded solely through access review fees charged for plan reviews of school facilities and State buildings.

DSA is currently aligning the State's 2013 Accessibility standards with 2010 federal American with Disabilities Act requirements. This code change is the most critical element towards guiding the entire State into compliance with federal accessibility requirements.

Significant and unreimbursed expenses occur when DSA must revise or rewrite California's Accessibility Codes and standards. DSA has spent the past year developing the 2013 Accessibility Code. The code proposal will be presented to the California Building Standards Commission in September 2012 and the Commission is expected to approve the Code in January 2013 with an implementation date of January 2014 (unless implemented earlier in accordance with SB1186). When this effort is completed, DSA will reevaluate access program expenses to determine if the proposed rate increases can and should be lowered.

Fees charged by the Division of the State Architect (DSA) to administer California's Accessibility Code are insufficient to cover the program's costs. DSA is currently forced to use reserve funding for ongoing operations, and without this proposed action the reserve fund balance will be depleted in early 2014. In FY 2011-12, over \$1.3 million of reserve funding was used to make up the revenue shortfall, and it is projected that use of almost \$1.7 million of reserve funds will be required in FY 2012-13.

RECOMMENDATION

This proposal increases DSA's billing rate for accessibility review to ensure revenue supports program operational and administration costs. Specifically:

- The minimum fee charged for accessibility plan reviews will increase from \$400.00 to \$500.00
- For projects up to \$500,000, the fee rate will increase from 0.4% of total project costs to 0.5% of total project cost.
- For projects between \$500,001 and \$2 million, the fee rate will increase from 0.2% of total project costs to 0.25% of total project cost.

- For projects over \$2 million, the fee rate will increase from 0.02% of total project costs to 0.1% of total project cost.

The proposed rate structure establishes the “maximum rate.” DSA will regularly review and analyze these rates. The rates could be reduced at the order of the State Architect if DSA’s fee analysis determines revenue generation will create an inordinate surplus of funds.

Though the percentage increase of these rates may appear to be high, it is not when viewed in terms of actual dollars. For instance, a seemingly alarming rate increase of 25 percent on a project that costs \$1.5 million project will only increase the access review fee from \$4,000 to \$5,000. This is an increase of only 67/1000 of a percentage point (.067%) of construction costs.

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:

- 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.

STATEMENT OF JUSTIFICATION FOR PRESCRIPTIVE STANDARDS:

(Government Code Section 11346.2(b)(4) requires a statement of the reasons why an agency believes any mandates for specific technologies or equipment or prescriptive standards are required.)

CONSIDERATION OF REASONABLE ALTERNATIVES

DSA has determined that no reasonable alternative 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.

- Do Nothing - If DSA’s continues with its current rate structure for access review, reserves will be depleted in early 2014 and the program will be insolvent. DSA will be forced to explore using funding from other programs in order to keep the program functional.
- Decrease the Proposed Fee Increase - A lower rate increase will not provide sufficient revenue for DSA to cover its program expenses. Though any increase will reduce pressure on the drawdown of reserve funds, a reduced increase will not prevent the program’s solvency issues.

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

No reasonable alternatives have been identified by DSA.

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

DSA 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.