NOTICE OF PROPOSED ACTION
TO
BUILDING STANDARDS
OF THE
DIVISION OF THE STATE ARCHITECT

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

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

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of Division of the State Architect (DSA), proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 1. The DSA is proposing building standards related to fees collected for review of applications and revisions.

PUBLIC COMMENT PERIOD

A public hearing has not been scheduled; however, written comments will be accepted from **October 26, 2012** until **5:00 PM** on **December 10, 2012**. Please address your comments to:

California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Attention: Jim McGowan, 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 days prior to the close of the written comment period, that a public hearing be held.

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

(Government Code Section 11346.5(a)(18))

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

(Government Code Section 11346.5(a)(2))

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 Section 4450 through 4461. The Department of General Services/Division of the State Architect is proposing this regulatory action based on Government Code Section 4454.

INFORMATIVE DIGEST

(Government Code Section 11346.5(a)(3))

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 of the Government Code requires the Department of General Services' review and approval of building projects utilizing state funds (including public school and community colleges) to ensure compliance with accessibility standards. Section 4454 also authorizes the Department to collect a filing fee for the services and include the cost of carrying out the responsibilities for development of building standards as part of the plan review costs in determining fees.

Summary of Existing Regulations

- Existing administrative standards allow the Division of the State Architect (DSA) to collect fees as a percentage of the estimated construction costs for projects submitted for plan review.

- 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.

Summary of Effect

The proposed regulatory action will result in a revised fee schedule for projects submitted to the DSA for review and approval of compliance with accessibility standards pursuant to Government Code section 4454(d). The fees are based on percentage of the estimated costs of construction projects submitted for plan review.

Comparable Federal Statute or Regulations

There are no comparable Federal statues or regulations to these proposed State regulations regarding fees.

Policy Statement Overview

The Disability Access Account fee structure for the DSA activities was established through the California Building Standards Commission in 1990. This fee schedule was updated effective February 13, 2010. Those regulation amendments also implemented a periodic fee review process starting in 2011.

Evaluation of consistency

There are no inconsistent or incompatible regulations proposed.

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

(Government Code Section 11346.5(a)(4))

There are no other matters prescribed by statute applicable to the Division of the State Architect, or to any specific regulation or class of regulations.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

(Government Code Section 11346.5(a)(5))

The Division of the State Architect has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts. [If the proposed action would impose a mandate, discuss whether the mandate requires reimbursement pursuant to Part 7 (commencing with Section 17500 of Division 4 of the Government Code)]

ESTIMATE OF COST OR SAVINGS

A. Cost or Savings to any state agency: **NO**
B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**
C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**
D. Other nondiscretionary cost or savings imposed on local agencies: **NO**
E. Cost or savings in federal funding to the state: **NO**

Estimate: Not applicable

INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

The Division of the State Architect 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

No facts, evidence, documents, testimony or other evidence has been relied upon to support he initial determination of no effect.

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

The proposed action does not require a report by any business or agency, so the Division of the State Architect has not made a finding of necessity for public's health, safety or welfare.

COST IMPACT ON REPRESENTIVE PRIVATE PERSON OR BUSINESS

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

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

The Division of the State Architect 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.

  The DSA has determined that the proposed action has no effect.

- The creation of new businesses or the elimination of existing businesses within the State of California.

  The DSA has determined that the proposed action has no effect.

- The expansion of businesses currently doing business with the State of California.

  The DSA has determined that the proposed action has no effect.

- The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

  The DSA has determined that the proposed action has no effect.

INITIAL DETERMINATION OF SIGNIFICANT EFFECT ON HOUSING COSTS

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

(The CBSC contact designated below will make the DSA evaluation of the effect of the proposed regulatory action on housing costs available upon request.)

CONSIDERATION OF ALTERNATIVES

The DSA has determine that no reasonable alternative considered by the state agency or that has otherwise been identified and brought to the attention of the agency 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, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

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/codes/adoptcycle/45day15day.aspx

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:

Enrique M. Rodriguez, Associate Construction Analyst
Michael Nearman, Deputy Executive Director
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:

Dale Kuroda, Business Operations Deputy
Department of General Services-Division of the State Architect
(916) 322-0600
Dale.Kurdoa@dgs.ca.gov
(916) 324-0207