

AMENDED IN ASSEMBLY JULY 2, 2008

AMENDED IN SENATE MAY 27, 2008

AMENDED IN SENATE MAY 6, 2008

AMENDED IN SENATE APRIL 21, 2008

**SENATE BILL**

**No. 1608**

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**Introduced by Senators Corbett, Harman, Steinberg, Runner, and Calderon**

(Principal coauthors: Assembly Members Smyth and Wolk)

February 22, 2008

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An act to amend Section 5600 of the Business and Professions Code, to add Section 55.3 to, and to add Part 2.52 (commencing with Section 55.51) to Division 1 of, the Civil Code, to amend Section 4459.5 of, and to add Chapter 3.7 (commencing with Section 8299) to Division 1 of Title 2 of, the Government Code, and to amend ~~Sections 18945 and~~ *Section* 18949.29 of the Health and Safety Code, relating to disability access.

LEGISLATIVE COUNSEL'S DIGEST

SB 1608, as amended, Corbett. Disabled persons: equal access rights: civil actions.

(1) Existing law provides for the licensure and regulation of persons engaged in the practice of architecture by the California Architects Board.

This bill would require a person licensed to practice architecture, as a condition of license renewal, to complete coursework regarding disability access requirements, as specified, certify that completion to the California Architects Board, and provide specified documentation from the course provider.

(2) Existing law prohibits any person, firm, or corporation from denying or interfering with a disabled person's admittance to or enjoyment of public facilities, or from otherwise interfering with the rights of an individual with a disability, including the right to be accompanied by a guide dog, signal dog, or service dog, as specified. Existing federal law, the Americans with Disabilities Act of 1990, prohibits discrimination against an individual with a disability on the basis of that disability in specified situations, including employment opportunities and access to public accommodations, services, and transportation.

This bill would require an attorney to provide a specified written advisory to a building owner or tenant with each demand for money or complaint for any ~~alleged~~ construction-related accessibility ~~violation~~ *claim*, as defined, in a form to be developed by the Judicial Council, and on a separate page clearly distinguishable from the demand for money, as specified.

(3) Existing law authorizes the State Architect to establish a program for voluntary certification by the state of any person who meets specified criteria as a certified access specialist with respect to access to buildings for persons with disabilities.

This bill would authorize the State Architect to implement that program with startup funds derived, as a loan, from the reserve of the Public School Planning, Design, and Construction Review Revolving Fund, upon appropriation by the Legislature, to be repaid as specified. The bill would enact the Construction-Related Accessibility Standards Compliance Act, which would provide for the inspection of sites by certified access specialists and the provision of specified certificates and reports regarding those inspections. The bill would require that, commencing July 1, 2009, all inspections of a ~~privately owned~~ place of public accommodation that relate to permitting, plan checks, or new construction be conducted by a building inspector who is a certified access specialist. It would require a local agency to employ or retain a sufficient number of building inspectors, and in no event less than one, who are certified access specialists. The bill would allow a local government to charge or increase inspection fees to the extent necessary to offset the costs of complying with these provisions. By imposing a new requirement on local agencies with respect to building inspectors, the bill would impose a state-mandated local program.

The bill would require a court, with respect to an action involving ~~an~~ *a construction-related* accessibility claim, to issue an order that, among

other things, grants a 90-day stay of the ~~action~~ *proceedings with respect to that claim* and schedules an early evaluation conference if the defendant has satisfied certain requirements relating to inspection of the site at issue. *The bill would require that early evaluation conferences be conducted by a superior court judge or commissioner, or a court early evaluation conference officer, as defined.* The bill would provide that damages may be recovered—~~only~~ for a violation of a construction-related accessibility standard that ~~personally and actually deterred the plaintiff~~ *denied the plaintiff full and equal access only if that violation was personally encountered by the plaintiff on a particular occasion or deterred the plaintiff on a particular occasion.*

(4) Existing law establishes various boards and commissions within state government.

The bill would establish the California Commission on Disability Access for certain purposes relating to disability access, and would require the commission to conduct studies and make reports to the Legislature, as specified.

~~(5) Existing law provides that any person adversely affected by a regulation or other specified action of any state agency respecting the administration of any building standard may appeal the issue for resolution to the California Building Standards Commission. Existing law also provides that, if any local agency having authority to enforce a state building standard and any person adversely affected by any regulation or other specified action of that agency respecting that building standard both wish to appeal the issue for resolution to the commission, then both parties may appeal to the commission. Existing law provides that the commission may accept that appeal only if it determines that the issues involved in the appeal have statewide significance.~~

~~This bill would provide, in addition, that, with respect to a building standard adopted by the commission relating to making public accommodations accessible to and usable by people with disabilities, if either a local agency having authority to enforce that building standard or a person adversely affected by a regulation or other specified action of that agency respecting that building standard wishes to appeal the issue for resolution to the commission, then either party may appeal to the commission. It would provide that the commission may accept the appeal only if it determines that the issues involved in the appeal have statewide significance. The bill would authorize the commission to~~

~~charge a fee to the appealing party to the extent necessary to offset the costs of complying with these provisions.~~

~~(6)~~

(5) Existing law requires all construction inspectors, plans examiners, and building officials to complete a minimum of 45 hours of continuing education for every 3-year period, as specified.

This bill would require that at least 8 of those hours of continuing education relate to disability access requirements, as specified. The bill would allow a local government to charge or increase inspection fees to the extent necessary to offset any added costs incurred in complying with these provisions.

~~(7)~~

(6) The bill would provide that certain provisions described above shall become operative only upon the funding, and commencement of operations, of the California Commission on Disability Access, and shall cease to be operative 60 days following the cessation of operations of the commission.

~~(8)~~

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 5600 of the Business and Professions
- 2 Code is amended to read:
- 3 5600. (a) All licenses issued or renewed under this chapter
- 4 shall expire at 12 midnight on the last day of the birth month of
- 5 the licenseholder in each odd-numbered year following the issuance
- 6 or renewal of the license.
- 7 (b) To renew an unexpired license, the licenseholder shall,
- 8 before the time at which the license would otherwise expire, apply
- 9 for renewal on a form prescribed by the board and pay the renewal
- 10 fee prescribed by this chapter.
- 11 (c) The renewal form shall include a statement specifying
- 12 whether the licensee was convicted of a crime or disciplined by

1 another public agency during the preceding renewal period and  
2 that the licensee’s representations on the renewal form are true,  
3 correct, and contain no material omissions of fact, to the best  
4 knowledge and belief of the licensee.

5 (d) (1) As a condition of license renewal, a licensee shall have  
6 completed coursework regarding disability access requirements  
7 pursuant to paragraphs (2) and (3). A licensee shall certify to the  
8 board, as a part of the license renewal process, that he or she has  
9 completed the required coursework prior to approval of his or her  
10 license renewal and shall provide documentation from the course  
11 provider that shall include the course title, subjects covered, name  
12 of provider and trainer or educator, date of completion, number  
13 of hours completed, and a statement about the trainer or educator’s  
14 knowledge and experience background.

15 (2) (A) For licenses renewed on and after July 1, 2009, and  
16 before January 1, 2010, a licensee shall have completed one hour  
17 of coursework.

18 (B) For licenses renewed on and after January 1, 2010, and  
19 before January 1, 2011, a licensee shall have completed two and  
20 one-half hours of coursework.

21 (C) For licenses renewed on and after January 1, 2011, a licensee  
22 shall have completed five hours of coursework within the previous  
23 two years.

24 (3) Coursework regarding disability access requirements shall  
25 include information and practical guidance concerning  
26 requirements imposed by the Americans with Disabilities Act of  
27 1990 (Public Law 101-336; 42 U.S.C. Sec. 12101 et seq.), state  
28 laws that govern access to public facilities, and federal and state  
29 regulations adopted pursuant to those laws. Coursework provided  
30 pursuant to this paragraph shall be presented by trainers or  
31 educators with knowledge and expertise in these requirements.  
32 The board shall verify that a licensee has met the requirements of  
33 this subdivision as a condition of license renewal.

34 SEC. 2. Section 55.3 is added to the Civil Code, to read:

35 55.3. (a) For purposes of this section, the following shall apply:

36 (1) “Complaint” means a civil complaint that is filed or is to be  
37 filed with a court and is sent to or served upon a defendant on the  
38 basis of one or more ~~alleged~~ construction-related accessibility  
39 ~~violations~~ *claims*, as defined in this section.

1 (2) “Demand for money” means a written document that is  
 2 provided to a building owner or tenant, or an agent or employee  
 3 of a building owner or tenant, that contains a request for money  
 4 on the basis of one or more ~~alleged~~ construction-related  
 5 accessibility ~~violations~~ *claims*, as defined in paragraph (3).

6 (3) ~~“Construction-related accessibility violation” means any~~  
 7 ~~claim” means any claim of a violation of any construction-related~~  
 8 accessibility standard, as defined by paragraph (6) of subdivision  
 9 (a) of Section 55.52. ~~“Construction-related accessibility violation”~~  
 10 ~~claim”~~ does not include *a claim of* interference with housing  
 11 ~~accommodations~~ within the meaning of paragraph (2) of  
 12 subdivision (b) of Section 54.1, or any *claim of* interference caused  
 13 by something other than the construction-related accessibility  
 14 condition of the property, including, but not limited to, the conduct  
 15 of any person.

16 (b) An attorney shall provide a written advisory with each  
 17 demand for money or complaint sent to or served *by him or her*  
 18 upon a defendant, in the form described in subdivision (c), and on  
 19 ~~a single page that is~~ *page or pages that are* separate and clearly  
 20 distinguishable from the demand for money or complaint, as  
 21 follows:

22  
 23 **IMPORTANT INFORMATION FOR BUILDING OWNERS**  
 24 **AND TENANTS**  
 25

26 This form is available in English, Spanish, Chinese,  
 27 Vietnamese, and Korean through the Judicial Council of  
 28 California. Persons with visual impairments can get assistance  
 29 in viewing this form through the Judicial Council Internet Web  
 30 site at <http://www.courtinfo.ca.gov>.

31 Existing law requires that you receive this information  
 32 because the demand for money or complaint you received with  
 33 this document claims that your building or property does not  
 34 comply with one or more existing ~~state~~ *construction-related*  
 35 *accessibility* laws or regulations protecting the civil rights of  
 36 persons with disabilities to access public places.

37 **YOU HAVE IMPORTANT LEGAL OBLIGATIONS.**  
 38 Compliance with disability access laws is a serious and  
 39 significant responsibility that applies to all California building  
 40 owners and tenants with buildings open for business to the

1 public. You may obtain information about your legal  
2 obligations and how to comply with disability access laws  
3 through the Division of the State Architect. Commencing  
4 September 1, 2009, information will also be available from  
5 the California Commission on Disability Access Internet Web  
6 site.

7 **YOU HAVE IMPORTANT LEGAL RIGHTS.** You are not  
8 required to pay any money unless and until a court finds you  
9 liable. Moreover, **RECEIPT OF THIS ADVISORY DOES**  
10 **NOT NECESSARILY MEAN YOU WILL BE FOUND**  
11 **LIABLE FOR ANYTHING.**

12 You may wish to promptly consult an attorney experienced  
13 in this area *of the law* to get helpful legal advice or  
14 representation in responding to the demand for money or  
15 complaint you received. You may contact the local bar  
16 association in your county for information on available  
17 attorneys in your area. If you have insurance, you may also  
18 wish to contact your insurance provider. You have the right  
19 to seek assistance or advice about this demand for money or  
20 complaint from any person of your choice, and no one may  
21 instruct you otherwise. Your best interest may be served by  
22 seeking legal advice or representation from an attorney.

23 If a complaint has been filed and served on you and your  
24 property has been inspected by a Certified Access Specialist  
25 (~~CASp~~) (*CASp*; see [www.dsa.dgs.ca.gov/casp](http://www.dsa.dgs.ca.gov/casp)), you may have  
26 the right to a court stay (temporary stoppage) and early  
27 evaluation conference to evaluate the merits of the  
28 construction-related accessibility claim against you pursuant  
29 to Civil Code Section 55.54. At your option, you may be, but  
30 need not be, represented by an attorney to file a reply and to  
31 file an application for a court stay and early evaluation  
32 conference. If you choose not to hire an attorney to represent  
33 you, you may obtain additional information about how to  
34 represent yourself and how to file a reply without hiring an  
35 attorney through the Judicial Council Internet Web site at  
36 <http://www.courtinfo.ca.gov/selfhelp/>. You may also obtain  
37 a form to file your reply to the lawsuit, as well as the form and  
38 information for filing an application to request the court stay  
39 and early evaluation conference at that same Web site.

1 If you choose to hire an attorney to represent you, the  
 2 attorney who sent you the demand for money or complaint is  
 3 prohibited from contacting you further unless your attorney  
 4 ~~is present or your attorney~~ has given the other attorney  
 5 permission to contact you. If the other attorney does try to  
 6 contact you, you should immediately notify your attorney.

7  
 8 (c) On or before July 1, 2009, the Judicial Council shall adopt  
 9 a form that may be used by attorneys to comply with the  
 10 requirements of subdivision (b). The form shall be in ~~at least~~  
 11 ~~14-point boldface type and shall contain only those statements~~  
 12 ~~required pursuant to this section and any other statements~~  
 13 ~~determined necessary by the Judicial Council to implement this~~  
 14 ~~section~~ *substantially the same format and include all of the text*  
 15 *set forth in subdivision (b)*. The form shall be available in English,  
 16 Spanish, Chinese, Vietnamese, and Korean, and shall include a  
 17 statement that the form is available in additional languages, and  
 18 the Judicial Council Internet Web site address where the different  
 19 versions of the form may be located. The form shall include  
 20 Internet Web site information for the Division of the State Architect  
 21 and, when operational, the California Commission on Disability  
 22 Access.

23 (d) Subdivision (b) shall apply only to a demand for money or  
 24 complaint made by an attorney. Nothing in this section is intended  
 25 to affect the right to file a civil complaint under any other law or  
 26 regulation protecting the physical access rights of persons with  
 27 disabilities. Additionally, nothing in this section requires a party  
 28 acting in propria persona to provide or send a demand for money  
 29 to another party before proceeding against that party with a civil  
 30 complaint.

31 SEC. 3. Part 2.52 (commencing with Section 55.51) is added  
 32 to Division 1 of the Civil Code, to read:

33  
 34 PART 2.52. CONSTRUCTION-RELATED ACCESSIBILITY  
 35 STANDARDS COMPLIANCE  
 36

37 55.51. This part shall be known, and may be cited, as the  
 38 Construction-Related Accessibility Standards Compliance Act.  
 39 Notwithstanding any other provision of law, the provisions of this  
 40 part shall apply to any construction-related accessibility claim, as

1 defined in this part, including, but not limited to, any claim brought  
2 under Section 51, 54, 54.1, or 55.

3 55.52. (a) For purposes of this part, the following definitions  
4 apply:

5 (1) ~~“Accessibility claim” or “construction-related~~  
6 *“Construction-related accessibility claim”* means any civil claim  
7 in a civil action, including, but not limited to, a claim brought  
8 under Section 51, 54, 54.1, or 55, based wholly or in part on an  
9 alleged violation of any construction-related accessibility standard,  
10 as defined in paragraph (6).

11 (2) “Application for stay and early evaluation conference” means  
12 an application to be filed with the court that meets the requirements  
13 of subdivision (c) of Section 55.54.

14 (3) “Certified access specialist” or “CASp” means any person  
15 who has been certified pursuant to Section 4459.5 of the  
16 Government Code.

17 (4) “CASp-inspected” means the site was inspected by a CASp  
18 and determined to meet all applicable construction-related  
19 accessibility standards pursuant to paragraph (1) of subdivision  
20 (a) of Section 55.53.

21 (5) “CASp determination pending” means the site was inspected  
22 by a CASp and is pending a determination by the CASp that the  
23 site meets applicable construction-related accessibility standards  
24 pursuant to paragraph (2) of subdivision (a) of Section 55.53.

25 (6) “Construction-related accessibility standard” means a  
26 provision, standard, or regulation under state or federal law  
27 requiring compliance with standards for making new construction  
28 and existing facilities accessible to persons with disabilities,  
29 including, but not limited to, any such provision, standard, or  
30 regulation set forth in Section 51, 54, 54.1, or 55 of this code,  
31 Section 19955.5 of the Health and Safety Code, the California  
32 Building Standards Code (Title 24 of the California Code of  
33 Regulations), the Americans with Disabilities Act of 1990 (Public  
34 Law 101-336; 42 U.S.C. Sec. 12101 et seq.), and the Americans  
35 with Disabilities Act Accessibility Guidelines (Appendix A to Part  
36 36, Title 28, Code of Federal Regulations).

37 (7) “Place of public accommodation” has the same meaning as  
38 “public accommodation,” as set forth in Section 12181(7) of Title  
39 42 of the United States Code and the federal regulations adopted  
40 pursuant to that section.

1 (8) “Qualified defendant” means a defendant in an action that  
2 ~~includes an accessibility claim that is based in whole or in part on~~  
3 ~~includes a construction-related accessibility claim that is asserted~~  
4 ~~against a place of public accommodation that met the requirements~~  
5 ~~of “CASp-inspected” or “CASp determination pending” prior to~~  
6 ~~the date the defendant was served with the summons and complaint~~  
7 ~~in an action that includes an accessibility claim that action.~~ To be  
8 a qualified defendant, the defendant is not required to have been  
9 the party who hired ~~the~~ *any* CASp, so long as the basis of the  
10 alleged liability of the defendant is a ~~qualified site~~  
11 ~~construction-related accessibility claim.~~ To determine whether a  
12 defendant is a qualified defendant, the court need not make a  
13 finding that the place of public accommodation complies with all  
14 applicable ~~construction~~ *construction-related* accessibility standards  
15 as a matter of law. The court need only determine that the place  
16 of public accommodation has a status of “CASp-inspected” or  
17 “CASp determination pending.”

18 (9) “Site” means a place of public accommodation.

19 (b) Unless otherwise indicated, terms used in this part relating  
20 to civil procedure have the same meanings that those terms have  
21 in the Code of Civil Procedure.

22 55.53. (a) For purposes of this part, a certified access specialist  
23 shall, upon completion of the inspection of a site, comply with the  
24 following:

25 (1) For a CASp-inspected site, if the CASp determines the site  
26 meets all applicable construction-related accessibility standards,  
27 the CASp shall provide a written inspection report to the requesting  
28 party that includes both of the following:

29 (A) An identification and description of the inspected structures  
30 and areas of the site.

31 (B) A signed and dated statement of compliance that includes  
32 both of the following:

33 (i) A statement that, in the opinion of the CASp, the inspected  
34 structures and areas of the site meet construction-related  
35 accessibility standards. *The statement shall clearly indicate whether*  
36 *the determination of the CASp includes an assessment of readily*  
37 *achievable barrier removal.*

38 (ii) If corrections were made as a result of the CASp inspection,  
39 an itemized list of all corrections and dates of completion.

1 (2) For a CASp determination pending site, if the CASp  
2 determines that the corrections are needed to the site in order for  
3 the site to meet all applicable construction-related accessibility  
4 standards, the CASp shall do both of the following:  
5 (A) Provide a *signed and dated* written inspection report to the  
6 requesting party that includes all of the following:  
7 (i) An identification and description of the inspected structures  
8 and areas of the site.  
9 (ii) *A statement that, in the opinion of the CASp, the inspected*  
10 *structures and areas of the site need correction to meet*  
11 *construction-related accessibility standards. This statement shall*  
12 *clearly indicate whether the determination of the CASp includes*  
13 *an assessment of readily achievable barrier removal.*  
14 (ii)  
15 (iii) An identification and description of the structures or areas  
16 of the site that need correction *and the correction needed.*  
17 (iii) ~~A schedule of completion~~  
18 (iv) *A schedule of completion for each of the corrections within*  
19 *a reasonable timeframe.*  
20 (B) ~~Monitor the corrections no less than once every 180~~ *progress*  
21 *of corrections to ensure reasonably timely completion no less than*  
22 *once every 90 days* and, if applicable, provide a signed and dated  
23 statement of progress that includes both of the following:  
24 (i) ~~A statement that, in the opinion of the CASp, the corrections~~  
25 ~~are in progress and timely.~~  
26 (i) *A statement indicating whether, in the opinion of the CASp,*  
27 *progress toward completion of the corrections is being made in a*  
28 *reasonably timely fashion.*  
29 (ii) If applicable, an updated schedule for completion of  
30 corrections within a reasonable timeframe.  
31 (b) For purposes of this section, in determining whether the site  
32 meets applicable construction-related accessibility standards when  
33 there is a conflict or difference between a state and federal  
34 provision, standard, or regulation, the state provision, standard, or  
35 regulation shall apply unless the federal provision, standard, or  
36 regulation is more protective of accessibility rights.  
37 (c) Every CASp who conducts an inspection of a ~~privately~~  
38 ~~owned~~ place of public accommodation shall, upon completing the  
39 inspection of the site, provide the building owner or tenant who  
40 requested the inspection with the following notice, which the State

1 Architect shall make available as a form on the State Architect’s  
2 Internet Web site:

3

4 NOTICE TO PRIVATE PROPERTY OWNER/TENANT:  
5 YOU ARE ADVISED TO KEEP IN YOUR RECORDS  
6 ANY WRITTEN INSPECTION REPORT AND ANY OTHER  
7 DOCUMENTATION CONCERNING YOUR PROPERTY  
8 SITE THAT IS GIVEN TO YOU BY A CERTIFIED ACCESS  
9 SPECIALIST.

10 IF YOU BECOME A DEFENDANT IN A LAWSUIT  
11 THAT INCLUDES A CLAIM CONCERNING A SITE  
12 INSPECTED BY A CERTIFIED ACCESS SPECIALIST,  
13 YOU MAY BE ENTITLED TO A STAY (TEMPORARY  
14 STOPPAGE) OF THE CLAIM AND AN EARLY  
15 EVALUATION CONFERENCE.

16 IN ORDER TO REQUEST THE STAY AND EARLY  
17 EVALUATION CONFERENCE, YOU WILL NEED TO  
18 VERIFY THAT A CERTIFIED ACCESS SPECIALIST HAS  
19 INSPECTED THE SITE THAT IS THE SUBJECT OF THE  
20 CLAIM. YOU WILL ALSO BE REQUIRED TO PROVIDE  
21 THE COURT AND THE PLAINTIFF WITH A COPY OF A  
22 WRITTEN INSPECTION REPORT BY THE CERTIFIED  
23 ACCESS SPECIALIST, AS SET FORTH IN CIVIL CODE  
24 SECTION 55.54. THE APPLICATION FORM AND  
25 INFORMATION ON HOW TO REQUEST A STAY AND  
26 EARLY EVALUATION CONFERENCE MAY BE  
27 OBTAINED AT <http://www.courtinfo.ca.gov/selfhelp/>.

28 YOU ARE ENTITLED TO REQUEST, FROM A  
29 CERTIFIED ACCESS SPECIALIST WHO HAS  
30 CONDUCTED AN INSPECTION OF YOUR PROPERTY,  
31 A WRITTEN INSPECTION REPORT AND OTHER  
32 DOCUMENTATION AS SET FORTH IN CIVIL CODE  
33 SECTION 55.53. YOU ARE ALSO ENTITLED TO  
34 REQUEST THE ISSUANCE OF A DISABILITY ACCESS  
35 *INSPECTION* CERTIFICATE, WHICH YOU MAY POST  
36 ON YOUR PROPERTY IF IT IS FOUND TO MEET  
37 APPLICABLE CONSTRUCTION-RELATED  
38 ACCESSIBILITY STANDARDS.

39

1 (d) Commencing July 1, 2009, all inspections of a ~~privately~~  
2 ~~owned~~ place of public accommodation that relate to permitting,  
3 plan checks, or new construction, including, but not limited to,  
4 inspections relating to tenant improvements that may impact access,  
5 shall be conducted by a building inspector who is a certified access  
6 specialist. To timely comply with this provision, a local agency  
7 shall employ or retain a sufficient number of building inspectors,  
8 and in no event less than one, who are certified access specialists.  
9 A local government may charge or increase inspection fees to the  
10 extent necessary to offset the costs of complying with this  
11 subdivision, and revenues generated from the charge or increase  
12 shall be used solely to offset the costs incurred to comply with this  
13 subdivision. *An inspection by a building inspector who is certified*  
14 *as an access specialist shall be treated the same as any other*  
15 *inspection by a CASp and shall not be entitled to any additional*  
16 *legal significance.*

17 (e) (1) Every CASp who completes an inspection of a ~~privately~~  
18 ~~owned~~ place of public accommodation shall, upon a determination  
19 that the site meets applicable construction-related accessibility  
20 standards pursuant to paragraph (1) of subdivision (a), provide the  
21 building owner or tenant requesting the inspection with a numbered  
22 disability access *inspection* certificate indicating that status. The  
23 disability access *inspection* certificate shall be dated and signed  
24 by the CASp inspector, and shall contain the inspector's *name and*  
25 license number. Upon issuance of a certificate, the CASp ~~inspector~~  
26 shall record the issuance of the numbered certificate and the name  
27 and address of the recipient in a record book the CASp ~~inspector~~  
28 shall maintain for that purpose.

29 (2) Beginning March 1, 2009, the State Architect shall make  
30 available for purchase by ~~local building departments and CASp~~  
31 ~~inspectors~~ *any local building department or CASp* sequentially  
32 numbered disability access *inspection* certificates that are printed  
33 with a watermark or other feature to deter forgery. The certificate  
34 shall be in substantially the following form:

~~THE PUBLIC PLACES AT THIS SITE  
MEET APPLICABLE  
CONSTRUCTION-RELATED  
ACCESSIBILITY STANDARDS.~~



~~Certificate No. (preprinted sequential #)~~

~~Watermark  
if used~~

Inspected on: \_\_\_\_\_

By: \_\_\_\_\_  
(Name and license # of Certified Access Specialist)

Restaurants, hotels, stores and other places that serve the public may post this sign at their site. If any construction changes take place after the date of inspection, this sign must be taken down until the site is inspected again and determined to meet applicable standards.

These premises have been inspected  
by a Certified Access Specialist



**ACCESS**

Inspection Date: \_\_\_\_\_ Inspected By: \_\_\_\_\_

[www.dsa.dgs.ca.gov/casp](http://www.dsa.dgs.ca.gov/casp)

1 (3) The *disability access inspection* certificate may be posted  
 2 on the premises of the place of public accommodation, unless,  
 3 following the date of inspection, the inspected site has been  
 4 modified or construction has commenced to modify the inspected  
 5 site *in a way that may impact compliance with construction-related*  
 6 *accessibility standards.*

7 (f) Nothing in this section or any other provision of law is  
 8 intended to require a property owner or tenant to hire a CASp. A  
 9 property owner’s or tenant’s election not to hire a CASp shall not  
 10 be admissible to prove that person’s lack of intent to comply with  
 11 the law.

12 55.54. (a) (1) An attorney who causes a summons and  
 13 complaint to be served in an action that includes—~~an~~ *a*  
 14 *construction-related* accessibility claim, including, but not limited  
 15 to, a claim brought under Section 51, 54, 54.1, or 55, shall, at the  
 16 same time, cause to be served a copy of the application form  
 17 specified in subdivision (c) and a copy of the following notice to  
 18 the defendant on separate papers that shall be ~~attached to~~ *served*  
 19 *with* the summons and complaint:

20  
 21 NOTICE TO DEFENDANT

22  
 23 YOU MAY BE ENTITLED TO ASK FOR A STAY  
 24 (TEMPORARY STOPPAGE) AND EARLY EVALUATION  
 25 CONFERENCE IN THIS LAWSUIT.

26 If the *construction-related* accessibility claim pertains to a  
 27 site that has been inspected by a Certified Access Specialist  
 28 (CASp) and you have an inspection report for that site, you  
 29 may make an immediate request for a court stay and early  
 30 evaluation conference in the *construction-related* accessibility  
 31 claim by filing the attached application form with the court.  
 32 You may be entitled to the court stay and early evaluation  
 33 conference ~~in~~ *regarding* the accessibility claim only if ALL  
 34 of the statements in the application form are true.

35 The court will schedule the conference to be held within ~~35~~  
 36 50 days after you file the attached application form. The court  
 37 will also issue an immediate stay of the proceedings unless  
 38 the plaintiff has obtained a temporary restraining order in the  
 39 *construction-related* accessibility claim. At your option, you  
 40 may be, but need not be, represented by an attorney to file the

1 application to request the early evaluation conference. You  
2 may obtain a copy of the application form, filing instructions,  
3 and additional information about the stay and early evaluation  
4 conference through the Judicial Council Internet Web site at  
5 <http://www.courtinfo.ca.gov/selfhelp/>.

6 You may file the application after you are served with a  
7 summons and complaint, but no later than your first court  
8 pleading or appearance in this case, which is due within 30  
9 days after you receive the summons and complaint. If you do  
10 not have an attorney, you will need to file the application  
11 within 30 days after you receive the summons and complaint  
12 to request the stay and early evaluation conference. If you do  
13 not file the application, you will still need to file your reply  
14 to the lawsuit within 30 days after you receive the summons  
15 and complaint to contest it. You may obtain more information  
16 about how to represent yourself and how to file a reply without  
17 hiring an attorney at <http://www.courtinfo.ca.gov/selfhelp/>. If  
18 a plaintiff representing himself or herself hires an attorney  
19 after the case is filed, you will have 30 days to file an  
20 application for a court stay and early evaluation conference  
21 after you receive a Notice of Substitution of Counsel, unless  
22 an early evaluation conference or settlement conference has  
23 already been held.

24 You may file the application form without the assistance of  
25 an attorney, but it may be in your best interest to immediately  
26 seek the assistance of an attorney experienced in disability  
27 access laws when you receive a summons and complaint. *You*  
28 *may make an offer to settle the case, and it may be in your*  
29 *interest to put that offer in writing so that it may be considered*  
30 *under Civil Code Section 55.55.*

31  
32 (2) An attorney who files a Notice of Substitution of Counsel  
33 to appear as counsel for a plaintiff who, acting in propia persona,  
34 had previously filed a complaint in an action that includes ~~an~~ *a*  
35 *construction-related* accessibility claim, including, but not limited  
36 to, a claim brought under Section 51, 54, 54.1, or 55, shall, at the  
37 same time, cause to be served a copy of the application form  
38 specified in subdivision (c) and a copy of the notice specified in  
39 paragraph (1) upon the defendant on separate pages that shall be  
40 attached to the Notice of Substitution of Counsel.

1 (b) (1) Notwithstanding any other provision of law, upon being  
2 served with a summons and complaint ~~in an~~ *asserting a*  
3 *construction-related* accessibility claim, including, but not limited  
4 to, a claim brought under Section 51, 54, 54.1, or 55, a qualified  
5 defendant may file a request for a court stay and early evaluation  
6 conference in the proceedings of that claim prior to or simultaneous  
7 with the qualified defendant's responsive pleading or other initial  
8 appearance in the action that includes the claim. If the qualified  
9 defendant filed a timely request for stay and early evaluation  
10 conference before a responsive pleading was due, the period for  
11 filing a responsive pleading shall ~~commence on the date~~ *be tolled*  
12 *until* the stay is lifted. Any responsive pleading filed simultaneously  
13 with a request for stay and early evaluation conference may be  
14 amended without prejudice, and the period for filing that  
15 amendment shall ~~commence on the date~~ *be tolled until* the stay is  
16 lifted.

17 (2) Notwithstanding any other provision of law, if the plaintiff  
18 had acted in propria persona in filing a complaint that includes ~~an~~  
19 *a construction-related* accessibility claim, including, but not limited  
20 to, a claim brought under Section 51, 54, 54.1, or 55, a qualified  
21 defendant who is served with a Notice of Substitution of Counsel  
22 shall have 30 days to file an application for a stay and an early  
23 evaluation conference. The application may be filed prior to or  
24 after the defendant's filing of a responsive pleading or other initial  
25 appearance in the action that includes the claim, except that an  
26 application may not be filed in a claim in which an early evaluation  
27 conference or settlement conference has already been held on the  
28 claim.

29 (c) (1) An application for an early evaluation conference and  
30 stay shall include a signed declaration that declares both of the  
31 following:

32 (A) The site identified in the complaint has been  
33 CASp-inspected or is CASp determination pending *and, if the site*  
34 *is CASp-inspected, there have been no modifications completed*  
35 *or commenced since the date of inspection that may impact*  
36 *compliance with construction-related accessibility standards.*

37 (B) An inspection report pertaining to the site has been issued  
38 by a CASp. The inspection report shall be provided to the court  
39 and the plaintiff at least 15 days prior to the court date set for the  
40 early evaluation conference.

1 (2) The following provisional request form may be used and  
2 filed by a qualified defendant until a form is adopted by the Judicial  
3 Council for that purpose pursuant to subdivision (k):





7. A copy of this Notice and Order and the Defendant's Application shall be served on the plaintiff or plaintiff's attorney by hand delivering it or mailing it to the address listed on the complaint on the same date that the court issues this Notice and Order of Stay of Proceedings and Early Evaluation Conference.

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

More information about this Notice and Order and the defendant's application, and instructions to assist plaintiffs and defendants in complying with this Notice and Order, may be obtained at <http://www.courtinfo.ca.gov/selfhelp>

**Requests for Accommodation**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least 5 days before the date on which you are to appear. Contact the clerk's office or go to [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms) for Request for Accommodations by Persons with Disabilities and Order (form MC-410). (Civil Code Section 54.8)

**Proof of Service**

(Required from Defendant Filing Application for Stay and Early Evaluation Conference)

I served a copy of the defendant's Application For Stay and Early Evaluation Conference Pursuant To Civil Code Section 55.54 and the court Notice and Order of Stay of Proceedings and Early Evaluation Conference (check one):

\_\_\_\_\_ On the Plaintiff's attorney

\_\_\_\_\_ On the Plaintiff who is not represented by an attorney

By hand delivering it or mailing it to the address listed on the complaint on the day the court signed this Notice and Order of Stay of Proceedings and Early Evaluation Conference.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct.

Date: \_\_\_\_\_

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Address of named person

1 (3) The provisional form and any replacement Judicial Council  
2 form shall also provide space for the court’s order pursuant to  
3 subdivision (d), the defendant’s declaration of proof of service of  
4 the application, and the notice of the court’s order.

5 (d) Upon the filing of an application for stay and early evaluation  
6 conference by a qualified defendant, the court shall immediately  
7 issue an order that does all of the following:

8 (1) Grants a 90-day stay of the proceedings ~~in the~~ *with respect*  
9 *to the construction-related* accessibility claim, unless the plaintiff  
10 has obtained temporary injunctive relief that is still in place for  
11 the *construction-related* accessibility claim.

12 (2) Schedules a mandatory early evaluation conference for a  
13 date as soon as possible from the date of the order, but in no event  
14 later than ~~35~~ *50* days after issuance of the order, and in no event  
15 earlier than 21 days after the filing of the request.

16 (3) Directs the parties, and any other person whose authority is  
17 required to negotiate and enter into settlement, to appear in person  
18 at the time set for the conference. Appearance by counsel shall not  
19 satisfy the requirement that the parties or those with negotiation  
20 and settlement authority personally appear, *provided, however,*  
21 *that the court may allow a plaintiff who is unable to attend in*  
22 *person due to his or her disability to participate in the hearing by*  
23 *telephone or other alternative means or through a representative*  
24 *authorized to settle the case.*

25 (4) Directs the defendant to file with the court and serve on the  
26 plaintiff a copy of any relevant CASp inspection report at least 15  
27 days before the date of the conference.

28 (5) Directs the plaintiff to file with the court and serve on the  
29 defendant at least 15 days before the date of the conference a  
30 statement that includes, to the extent reasonably known, *for use*  
31 *solely for the purpose of the early evaluation conference*, all of  
32 the following:

33 (A) An itemized list of specific conditions on the subject  
34 premises that are the basis of the claimed violations of  
35 construction-related accessibility standards in the plaintiff’s  
36 complaint.

37 (B) The amount of damages claimed.

38 (C) The amount of attorney’s fees and costs incurred to date, if  
39 any, that are being claimed.

40 (D) Any demand for settlement of the case in its entirety.

1 (e) (1) A party failing to comply with any court order may be  
2 subject to court sanction at the court's discretion.

3 (2) The court shall lift the stay when the defendant has failed  
4 to file and serve the CASp inspection report prior to the early  
5 evaluation conference and has failed also to produce the report at  
6 the time of the early evaluation conference, unless the defendant  
7 shows good cause for that failure.

8 (3) The court may lift the stay at the conclusion of the early  
9 evaluation conference upon a showing of good cause by the  
10 plaintiff. *Good cause may include the defendant's failure to make*  
11 *reasonably timely progress toward completion of corrections noted*  
12 *by a CASp.*

13 (f) All discussions at the early evaluation conference shall be  
14 subject to Section 1152 of the Evidence Code. It is the intent of  
15 the Legislature that the purpose of the evaluation conference shall  
16 include, but not be limited to, evaluation of all of the following:

17 (1) Whether the defendant is entitled to the 90-day stay for some  
18 or all of the identified issues in the case, as a qualified defendant.

19 (2) ~~Whether~~ *The current condition of the site and the status of*  
20 *any plan of corrections, including whether the qualified defendant*  
21 *has corrected or is willing to correct the alleged violations, and*  
22 *the timeline for doing so.*

23 (3) Whether the case, *including any claim for damages or*  
24 *injunctive relief*, can be settled in whole or in part.

25 (4) *Whether the parties should share other information that may*  
26 *facilitate early evaluation and resolution of the dispute.*

27 (g) Nothing in this section precludes any party from making an  
28 offer to compromise pursuant to Section 998 of the Code of Civil  
29 Procedure.

30 (h) The court may schedule additional conferences and may  
31 extend the 90-day stay for good cause shown, but not to exceed  
32 one additional 90-day extension.

33 (i) *Early evaluation conferences shall be conducted by a*  
34 *superior court judge or commissioner, or a court early evaluation*  
35 *conference officer. A commissioner shall not be qualified to*  
36 *conduct early evaluation conferences pursuant to this subdivision*  
37 *unless he or she has received training regarding disability access*  
38 *requirements imposed by the Americans with Disabilities Act of*  
39 *1990 (Public Law 101-336, 42 U.S.C. Sec. 12101 et seq.), state*  
40 *laws that govern access to public facilities, and federal and state*

1 *regulations adopted pursuant to those laws. For purposes of this*  
2 *subdivision, a “court early evaluation conference officer” means*  
3 *an attorney employed by the court who has received training*  
4 *regarding disability access requirements imposed by the Americans*  
5 *with Disabilities Act of 1990, state laws that govern access to*  
6 *public facilities, and federal and state regulations adopted pursuant*  
7 *to those laws. Attorneys serving in this capacity may also be*  
8 *utilized by the court for other purposes not related to these*  
9 *proceedings.*

10 ~~(i)~~

11 (j) Nothing in this part shall be deemed to make any inspection  
12 report, opinion, *statement, certificate*, or other finding or conclusion  
13 of a CASp binding on the court, or to abrogate in any manner the  
14 ultimate authority of the court to make all appropriate findings of  
15 fact and law.

16 ~~(j)~~

17 (k) Nothing in this part shall be construed to invalidate or limit  
18 any California construction-related accessibility standard that  
19 provides greater or equal protection for the rights of individuals  
20 with disabilities than is afforded by the Americans with Disabilities  
21 Act (Public Law 101-336; 42 U.S.C. Sec. 12101 et seq.) and the  
22 federal regulations adopted pursuant to that act.

23 ~~(k)~~

24 (l) (1) The Judicial Council shall prepare and post on its Internet  
25 Web site instructions and a form for a qualified defendant to use  
26 to file an application for stay and early evaluation conference as  
27 provided in subdivisions (b) and (c), and a form for the court’s  
28 notice of stay and early evaluation conference. Until those forms  
29 are adopted, the Judicial Council shall post on its Internet Web  
30 site the provisional forms set forth in subdivision (c).

31 (2) The Judicial Council shall also prepare and post on its  
32 Internet Web site instructions and a cover page to assist plaintiffs  
33 and defendants, respectively, to comply with their filing  
34 responsibilities under subdivision (d). The cover page shall also  
35 provide for the party’s declaration of proof of service of the  
36 pertinent document served under the court order.

37 ~~(l) The stay provisions shall not apply to any accessibility claim~~

38 (m) *The stay provisions shall not apply to any*  
39 *construction-related accessibility claim* in which the plaintiff has  
40 been granted temporary injunctive relief that remains in place.

1 55.55. Notwithstanding subdivision ~~(d)~~ (f) of Section 55.54,  
 2 in determining an award of reasonable attorney’s fees and  
 3 recoverable costs in any construction-related accessibility claim,  
 4 the court may consider, along with other relevant information,  
 5 *written* settlement offers made and rejected by the parties. *Nothing*  
 6 *in this section affects or modifies the inadmissibility of evidence*  
 7 *regarding offers of compromise pursuant to Section 1152 of the*  
 8 *Evidence Code, including, but not limited to, inadmissibility to*  
 9 *prove injury or damage.*

10 ~~55.56. Damages may be recovered for a violation of a~~  
 11 ~~construction-related accessibility standard that personally and~~  
 12 ~~actually deterred the plaintiff. Evidence that the violation~~  
 13 ~~personally and actually deterred the plaintiff may include, but not~~  
 14 ~~be limited to, evidence that the plaintiff experienced difficulty,~~  
 15 ~~discomfort, or embarrassment because of the violation.~~

16 55.56. *Damages may be recovered for a violation of a*  
 17 *construction-related accessibility standard that denied the plaintiff*  
 18 *full and equal access only if that violation was personally*  
 19 *encountered by the plaintiff on a particular occasion or deterred*  
 20 *the plaintiff on a particular occasion. Evidence that the violation*  
 21 *was personally encountered by the plaintiff on a particular*  
 22 *occasion may include, but is not limited to, evidence that the*  
 23 *plaintiff experienced difficulty, discomfort, or embarrassment*  
 24 *because of the violation. A plaintiff shows that he or she was*  
 25 *deterred on a particular occasion if he or she had actual knowledge*  
 26 *of a violation, which deterred the plaintiff from visiting or*  
 27 *otherwise using a place of public accommodation that the plaintiff*  
 28 *would have made use of but for the violation.*

29 55.57. *This part shall apply only to claims filed on or after*  
 30 *January 1, 2009. Nothing in this part is intended to affect litigation*  
 31 *filed before that date, and no inference shall be drawn from*  
 32 *provisions contained in this part concerning the state of the law*  
 33 *as it existed prior to January 1, 2009.*

34 SEC. 4. Section 4459.5 of the Government Code is amended  
 35 to read:

36 4459.5. (a) The State Architect shall establish and publicize  
 37 a program for voluntary certification by the state of any person  
 38 who meets specified criteria as a certified access specialist. No  
 39 later than January 1, 2005, the State Architect shall determine  
 40 minimum criteria a person is required to meet in order to be a

1 certified access specialist, which may include knowledge sufficient  
2 to review, inspect, or advocate universal design requirements,  
3 completion of specified training, and testing on standards governing  
4 access to buildings for persons with disabilities.

5 (b) The State Architect may implement the program described  
6 in subdivision (a) with startup funds derived, as a loan, from the  
7 reserve of the Public School Planning, Design, and Construction  
8 Review Revolving Fund, upon appropriation by the Legislature.  
9 That loan shall be repaid when sufficient fees have been collected  
10 pursuant to Section 4459.8.

11 SEC. 5. Chapter 3.7 (commencing with Section 8299) is added  
12 to Division 1 of Title 2 of the Government Code, to read:

13  
14 CHAPTER 3.7. THE CALIFORNIA COMMISSION ON DISABILITY  
15 ACCESS  
16

17 8299. The Legislature finds and declares that, despite the fact  
18 that state law has provided individuals with disabilities the right  
19 to full and equal access to public facilities since 1968, and that a  
20 violation of the right of any individual under the Americans with  
21 Disabilities Act of 1990 (Public Law 101-336; 42 U.S.C. Sec.  
22 12101 et seq.) has also constituted a violation of the Unruh Civil  
23 Rights Act (Section 51 of the Civil Code) since 1992, individuals  
24 with disabilities are still being denied full and equal access to  
25 public facilities in many instances. The Legislature further finds  
26 and declares that businesses in California have the responsibility  
27 to provide full and equal access to public facilities as required in  
28 the laws and regulations, but that compliance may be thwarted in  
29 some cases by conflicting state and federal regulations, which in  
30 turn results in unnecessary litigation. With a view to developing  
31 recommendations that will enable individuals with disabilities to  
32 exercise their right to full and equal access to public facilities, and  
33 that will facilitate business compliance with the laws and  
34 regulations to avoid unnecessary litigation, the Legislature has  
35 created the California Commission on Disability Access.

36 8299.01. (a) There shall be established in the state government,  
37 on or before May 1, 2009, the California Commission on Disability  
38 Access. The commission shall consist of 11 public members, and  
39 six ex officio nonvoting members, appointed as follows:

1 (1) Two public members appointed by the Senate Committee  
2 on Rules, with one appointee from the business community and  
3 one appointee from the disability community. The Senate  
4 Committee on Rules shall request and consider nominations from  
5 the business community and the disability community for these  
6 appointments.

7 (2) Two public members appointed by the Speaker of the  
8 Assembly, with one appointee from the business community and  
9 one appointee from the disability community. The Speaker of the  
10 Assembly shall request and consider nominations from the business  
11 community and the disability community for these appointments.

12 (3) Seven public members appointed by the Governor, with the  
13 consent of the Senate. Four of the Governor's appointees shall be  
14 from the disability community and shall represent a cross section  
15 of that community, including a person with a physical disability,  
16 a person who is visually impaired or blind, a person with a  
17 cognitive disability, and a person who is hard of hearing or deaf.  
18 Three appointees shall be from the business community, including  
19 an appointee representative from either the California Chamber  
20 of Commerce or an association representing commercial building  
21 owners. The Governor shall request and consider nominations  
22 from the business community and the disability community for  
23 these appointments.

24 (4) The State Architect, or his or her representative, as a  
25 nonvoting ex officio member.

26 (5) The Attorney General, or his or her representative, as a  
27 nonvoting ex officio member.

28 (6) Two members of the Senate, appointed by the Senate  
29 Committee on Rules as nonvoting ex officio members. One  
30 member shall be from the majority party and one member shall be  
31 from the minority party.

32 (7) Two members of the Assembly, appointed by the Speaker  
33 of the Assembly, as nonvoting ex officio members. One member  
34 shall be from the majority party, and one member shall be from  
35 the minority party.

36 (b) It is the intent of this section that the commission shall be  
37 broadly representative of the ethnic, gender, and racial diversity  
38 of the population of California.

39 (c) Public members shall be appointed for three-year terms,  
40 except that, with respect to the initial appointees, the Governor

1 shall appoint three members for a one-year term, two members for  
2 a two-year term, and two members for a three-year term. The  
3 Senate Committee on Rules and the Speaker of the Assembly shall  
4 each initially appoint one member for a two-year term and one  
5 member for a three-year term. Public members may be reappointed  
6 for additional terms.

7 (d) Vacancies shall be filled by the appointing authority for the  
8 unexpired portion of the terms.

9 8299.02. (a) Public members of the commission shall receive  
10 one hundred dollars (\$100) per diem while on official business of  
11 the commission, not to exceed 12 days per year. Each member of  
12 the commission shall also be entitled to receive his or her actual  
13 necessary traveling expenses while on official business of the  
14 commission.

15 (b) The commission shall select annually from its membership  
16 a chairperson and a vice chairperson.

17 8299.03. Meetings of the commission shall be subject to the  
18 Bagley-Keene Open Meeting Act (Article 9 (commencing with  
19 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2).

20 8299.04. The commission shall have the powers and authority  
21 necessary to carry out the duties imposed upon it by this chapter,  
22 including, but not limited to, the following:

23 (a) To employ any administrative, technical, or other personnel  
24 that may be necessary for the performance of its powers and duties.

25 (b) To hold hearings, make and sign any agreement, and do or  
26 perform any act that may be necessary, desirable, or proper to carry  
27 out the purposes of this chapter.

28 (c) To cooperate with, and secure the cooperation of, any  
29 department, division, board, bureau, commission, or other agency  
30 of the state to facilitate the proper execution of its powers and  
31 duties under this chapter.

32 (d) To appoint advisers or advisory committees from time to  
33 time when the commission determines that the experience or  
34 expertise of those advisers or advisory committees is needed for  
35 projects of the commission. Section 11009 shall apply to advisers  
36 or advisory committees.

37 (e) To accept any federal funds granted by an act of Congress  
38 or by executive order for any purpose of this chapter.

39 (f) To accept any gift, donation, grant, or bequest for any  
40 purpose of this chapter.

1 8299.05. (a) The commission shall study and make reports to  
2 the Legislature on the following:

3 (1) Issues regarding compliance with state laws and regulations  
4 that are raised by either individuals with disabilities or businesses.

5 (2) State laws and regulations that promote equal access for  
6 individuals with disabilities, and whether there are conflicting  
7 federal laws and regulations that might create compliance issues.

8 (3) Whether public and private inspection programs, including  
9 the Certified Access Specialist Program, are meeting the needs of  
10 both the business community and the disability community by the  
11 provision of timely, competent inspections that properly identify  
12 violations and order appropriate remedial measures.

13 (4) Whether existing training and continuing education  
14 requirements for personnel involved in designing, plan checking,  
15 building, or inspecting a structure are sufficient to provide the  
16 personnel with sufficient knowledge of the state disability access  
17 laws and regulations.

18 (5) Whether training and continuing education requirements  
19 should be enacted for landscape architects, professional engineers,  
20 and contractors to provide these professionals with sufficient  
21 knowledge of the state and federal disability access laws and  
22 regulations. This study and report shall be completed and delivered  
23 to the Legislature no later than July 1, 2010.

24 (b) (1) The commission shall act as an information center on  
25 the status of compliance in California with state laws and  
26 regulations providing individuals with disabilities full and equal  
27 access to public facilities. To this end, it shall publish an annual  
28 report, which may be combined with the biennial report required  
29 in odd-numbered years pursuant to subdivision (e), on the state of  
30 disability access compliance by both the public and private sector.  
31 The report shall be written in general terms and shall not identify  
32 any particular violators.

33 (2) The commission shall, to the extent feasible, coordinate with  
34 other state agencies and local building departments to ensure that  
35 information provided to the public on disability access requirements  
36 are uniform and complete.

37 (c) The commission shall recommend, develop, prepare, or  
38 coordinate materials, projects, or other activities, as appropriate,  
39 relating to any subject within its jurisdiction.

1 (d) The commission shall provide, within its resources, technical  
2 and consultative advice to public or private groups or persons  
3 concerned with any of the following:

4 (1) Preventing or minimizing problems of compliance by  
5 California businesses by engaging in educational outreach efforts  
6 and by preparing and hosting on its Internet Web site a Guide to  
7 Compliance with State Laws and Regulations Regarding Disability  
8 Access Requirements.

9 (2) Recommending programs to enable individuals with  
10 disabilities to obtain full and equal access to public facilities.

11 (e) The commission shall make reports on its activities, findings,  
12 and recommendations to the Legislature from time to time, but not  
13 less often than once during every odd-numbered year.

14 8299.06. The commission, as soon as practicable, but in no  
15 event later than July 1, 2010, shall develop, in consultation with  
16 the staff of the California Building Standards Commission, a master  
17 checklist for disability access compliance that may be used by  
18 building inspectors.

19 8299.07. The commission shall study the operation of Section  
20 55.54 of the Civil Code to assess whether it is operating to achieve  
21 its desired goal of reducing unnecessary civil actions that seek  
22 attorney's fees and damages but that do not facilitate compliance  
23 with state laws and regulations governing disability access, and  
24 whether that section is unduly impacting claims brought to facilitate  
25 compliance. The commission shall report its findings and any  
26 recommendations to the Legislature no earlier than July 1, 2013,  
27 and no later than July 1, 2014.

28 8299.08. (a) The commission is expressly authorized to inform  
29 the Legislature of its position on any legislative proposal pending  
30 before the Legislature and to urge the introduction of legislative  
31 proposals.

32 (b) The commission is expressly authorized to state its position  
33 and viewpoint on issues developed in the performance of its duties  
34 and responsibilities as specified in this chapter.

35 8299.09. With respect to its duties, the commission shall be  
36 an advisory commission only, and there shall be no right or  
37 obligation on the part of the state to implement the findings of the  
38 commission without further legislation that specifically authorizes  
39 that the evaluations, determinations, and findings of the  
40 commission be implemented.

1 8299.10. The commission shall hire staff or contract for those  
2 experts or technical and professional services that may be required  
3 for the completion of any study required by Section 8299.05. Staff  
4 hired pursuant to this section shall be hired in compliance with the  
5 State Civil Service Act (Part 2 (commencing with Section 18500)  
6 of Division 5 of Title 2). Contracts awarded pursuant to this section  
7 shall be in compliance with Section 19130.

8 8299.11. This chapter shall not be implemented unless funds  
9 are appropriated for that purpose by the Legislature in the annual  
10 Budget Act or another statute.

11 ~~SEC. 6. Section 18945 of the Health and Safety Code is~~  
12 ~~amended to read:~~

13 ~~18945. (a) Any person adversely affected by any regulation,~~  
14 ~~rule, omission, interpretation, decision, or practice of any state~~  
15 ~~agency respecting the administration of any building standard may~~  
16 ~~appeal the issue for resolution to the commission.~~

17 ~~(b) If any local agency having authority to enforce a state~~  
18 ~~building standard and any person adversely affected by any~~  
19 ~~regulation, rule, omission, interpretation, decision, or practice of~~  
20 ~~that agency respecting that building standard both wish to appeal~~  
21 ~~the issue for resolution to the commission, then both parties may~~  
22 ~~appeal to the commission. The commission may accept that appeal~~  
23 ~~only if the commission determines that the issues involved in the~~  
24 ~~appeal have statewide significance.~~

25 ~~(c) Notwithstanding subdivisions (a) and (b), with respect to a~~  
26 ~~building standard adopted by the commission and set forth in Part~~  
27 ~~2 of Title 24 of the California Code of Regulations relating to~~  
28 ~~making public accommodations accessible to and usable by people~~  
29 ~~with disabilities, if either a local agency having authority to enforce~~  
30 ~~that building standard or a person adversely affected by a~~  
31 ~~regulation, rule, omission, interpretation, decision, or practice of~~  
32 ~~that agency respecting that building standard wishes to appeal the~~  
33 ~~issue for resolution to the commission, then either party may appeal~~  
34 ~~to the commission. The commission may accept the appeal only~~  
35 ~~if the commission determines that the issues involved in the appeal~~  
36 ~~have statewide significance. The commission may charge a fee to~~  
37 ~~the appealing party to the extent necessary to offset the costs of~~  
38 ~~complying with this subdivision, and revenues generated from the~~  
39 ~~charge shall be used solely for this purpose.~~

1 ~~SEC. 7.~~

2 *SEC. 6.* Section 18949.29 of the Health and Safety Code is  
3 amended to read:

4 18949.29. (a) All construction inspectors, plans examiners,  
5 and building officials shall complete a minimum of 45 hours of  
6 continuing education for every three-year period, with at least eight  
7 hours regarding disability access requirements pursuant to  
8 subdivision (d). A local government may charge or increase  
9 inspection fees to the extent necessary to offset any added costs  
10 incurred in complying with this section.

11 (b) Providers of continuing education may include any  
12 organizations affiliated with the code enforcement profession,  
13 community colleges, or other providers of similar quality, as  
14 determined by the local agency.

15 (c) For purposes of this section, “continuing education” is  
16 defined as that education relating to the enforcement of Title 24  
17 of the California Code of Regulations, and any other locally  
18 enforced building and construction standards, including, but not  
19 limited to, the model uniform codes adopted by the state. When a  
20 local agency selects a model code organization as a provider of  
21 continuing education or certification programs regarding the  
22 enforcement of a model code adopted by the state, the local agency  
23 shall give preference to the organization responsible for  
24 promulgating or drafting that model code.

25 (d) Continuing education regarding disability access  
26 requirements shall include information and practical guidance  
27 concerning requirements imposed by the Americans with  
28 Disabilities Act of 1990 (Public Law 101-336; 42 U.S.C. Sec.  
29 12101 et seq.), state laws that govern access to public facilities,  
30 and federal and state regulations adopted pursuant to those laws.  
31 Continuing education provided pursuant to this subdivision shall  
32 be presented by trainers or educators with knowledge and expertise  
33 in these requirements.

34 ~~SEC. 8.~~

35 *SEC. 7.* Sections ~~2, 3, and 6~~ and 3 of this act shall become  
36 operative only upon the funding, and commencement of operations,  
37 of the California Commission on Disability Access, and shall cease  
38 to be operative 60 days following the cessation of operations of  
39 the commission.

1     ~~SEC. 9.~~  
2     *SEC. 8.* No reimbursement is required by this act pursuant to  
3 Section 6 of Article XIII B of the California Constitution because  
4 a local agency or school district has the authority to levy service  
5 charges, fees, or assessments sufficient to pay for the program or  
6 level of service mandated by this act, within the meaning of Section  
7 17556 of the Government Code.

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