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AMENDED IN ASSEMBLY MAY 31, 2016

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AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2873**

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**Introduced by Assembly Member Thurmond**

February 19, 2016

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An act to amend Section 55.53 of the Civil Code, and to amend Sections 4459.5 and 4467 of the Government Code, relating to public contracts, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2873, as amended, Thurmond. Certified access specialists.

The Construction-Related Accessibility Standards Compliance Act establishes standards for making new construction and existing facilities accessible to persons with disabilities, including inspections by private persons or building inspectors who are certified access specialists (CASps), and provides for construction-related accessibility claims for violations of those standards. That act requires a local agency, commencing January 1, 2014, to employ or retain a sufficient number of building inspectors who are CASps to conduct permitting and plan check services to review for compliance with state construction-related accessibility standards by a place of public accommodation with respect to new construction. The act requires, if a local agency employs or retains 2 or more CASps, that at least half of the CASps be building inspectors who are CASps.

This bill would require, commencing January 1, ~~2020~~, 2021, that all building inspectors employed or retained by a local agency who conduct permitting and plan check services to review for compliance with state construction-related accessibility standards by a place of public accommodation with respect to new construction or renovations, including, but not limited to, projects relating to tenant improvements that may impact access, be CASps. *The bill would also require all new employees employed or retained by a local agency on or after January 1, 2018, and who will conduct permitting and plan check services to review for compliance with state construction-related accessibility standards by a place of public accommodation, to be certified access specialists within 24 months of their initial date of employment.* By adding to the duties of a local entity, this bill would impose a state-mandated local program.

Existing law requires the State Architect to establish a program for voluntary certification by the state of any person who meets specified criteria as a CASp with respect to access to buildings for persons with disabilities and to determine minimum criteria for certification.

This bill would require the minimum criteria to include familiarity with the applicability and content of various accessibility requirements, including but not limited to specific federal and state requirements. *The bill would require the State Architect, on or before January 1, 2018, to commence testing and certification of building inspectors as certified access specialists, as specified.*

Until December 31, 2018, existing law requires any applicant for a local business license or equivalent instrument or permit, or renewal of a local business license or equivalent instrument or permit, to pay an additional state fee of \$1 for that license, instrument, or permit. Under existing law, the city, county, or city and county that collected the fee retains 70% of the fee, and the remaining 30% of the fee is deposited into the Disability Access and Education Revolving Fund, a continuously appropriated fund.

This bill would increase that state fee to \$4 from January 1, 2017, through December 31, 2019. *The bill would also require any applicant for a building permit in a city, county, or city and county that does not issue business licenses or an equivalent instrument or permit to pay an additional fee of \$4 for that building permit from January 1, 2017, through December 31, 2019.* The bill would increase the percentage of the fee retained by a local agency to 90% and the remaining 10% would be deposited into the Disability Access and Education Revolving Fund.

By increasing revenue to a continuously appropriated fund, ~~by increasing the fee and by extending the fee indefinitely,~~ *fee, extending the period of time during which the fee will be collected, and imposing an additional fee,* this bill would make an appropriation. The bill would make an appropriation by authorizing local government entities to retain an increased percentage of the increased fee. The bill would require that the moneys retained by a local agency be placed in a special fund established by the local agency, to be known as the “CASp Certification and Training Fund.” The bill would require that fees collected in a CASp Certification and Training Fund be used for increased certified access specialist training and certification in the local jurisdiction, *thereby* making an appropriation by expanding the purposes for which the retained fee moneys are required to be spent.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.  
 State-mandated local program: yes.

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

1 SECTION 1. Section 55.53 of the Civil Code is amended to  
 2 read:  
 3 55.53. (a) For purposes of this part, a certified access specialist  
 4 (CASp) shall, upon completion of the inspection of a site, comply  
 5 with the following:  
 6 (1) For a site that meets applicable standards, if the CASp  
 7 determines the site meets all applicable construction-related  
 8 accessibility standards, the CASp shall provide a written inspection  
 9 report to the requesting party that includes both of the following:  
 10 (A) An identification and description of the inspected structures  
 11 and areas of the site.  
 12 (B) A signed and dated statement that includes both of the  
 13 following:  
 14 (i) A statement that, in the opinion of the CASp, the inspected  
 15 structures and areas of the site meet construction-related

1 accessibility standards. The statement shall clearly indicate whether  
2 the determination of the CASp includes an assessment of readily  
3 achievable barrier removal.

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

6 (2) For a site that has been inspected by a CASp, if the CASp  
7 determines that corrections are needed to the site in order for the  
8 site to meet all applicable construction-related accessibility  
9 standards, the CASp shall provide a signed and dated written  
10 inspection report to the requesting party that includes all of the  
11 following:

12 (A) An identification and description of the inspected structures  
13 and areas of the site.

14 (B) The date of the inspection.

15 (C) A statement that, in the opinion of the CASp, the inspected  
16 structures and areas of the site need correction to meet  
17 construction-related accessibility standards. This statement shall  
18 clearly indicate whether the determination of the CASp includes  
19 an assessment of readily achievable barrier removal.

20 (D) An identification and description of the structures or areas  
21 of the site that need correction and the correction needed.

22 (E) A schedule of completion for each of the corrections within  
23 a reasonable timeframe.

24 (3) The CASp shall provide, within 30 days of the date of the  
25 inspection of a business that qualifies for the provisions of  
26 subparagraph (A) of paragraph (3) of subdivision (g) of Section  
27 55.56, a copy of a report prepared pursuant to that subparagraph  
28 to the business.

29 (4) The CASp shall file, within 10 days of inspecting a business  
30 pursuant to subparagraph (A) of paragraph (3) of subdivision (g)  
31 of Section 55.56, a notice with the State Architect for listing on  
32 the State Architect’s Internet Web site, as provided by subdivision  
33 (d) of Section 4459.7 of the Government Code, indicating that the  
34 CASp has inspected the business, the name and address of the  
35 business, the date of the filing, the date of the inspection of the  
36 business, the name and license number of the CASp, and a  
37 description of the structure or area inspected by the CASp.

38 (5) The CASp shall post the notice described in paragraph (4),  
39 in a form prescribed by the State Architect, in a conspicuous  
40 location within five feet of all public entrances to the building on

1 the date of the inspection and instruct the business to keep it in  
2 place until the earlier of either of the following:

3 (A) One hundred twenty days after the date of the inspection.

4 (B) The date when all of the construction-related violations in  
5 the structure or area inspected by the CASp are corrected.

6 (b) For purposes of this section, in determining whether the site  
7 meets applicable construction-related accessibility standards when  
8 there is a conflict or difference between a state and federal  
9 provision, standard, or regulation, the state provision, standard, or  
10 regulation shall apply unless the federal provision, standard, or  
11 regulation is more protective of accessibility rights.

12 (c) Every CASp who conducts an inspection of a place of public  
13 accommodation shall, upon completing the inspection of the site,  
14 provide the building owner or tenant who requested the inspection  
15 with the following notice, which the State Architect shall make  
16 available as a form on the State Architect's Internet Web site:

17

18 NOTICE TO PRIVATE PROPERTY OWNER/TENANT:

19

20 YOU ARE ADVISED TO KEEP IN YOUR RECORDS ANY  
21 WRITTEN INSPECTION REPORT AND ANY OTHER  
22 DOCUMENTATION CONCERNING YOUR PROPERTY SITE  
23 THAT IS GIVEN TO YOU BY A CERTIFIED ACCESS  
24 SPECIALIST.

25 IF YOU BECOME A DEFENDANT IN A LAWSUIT THAT  
26 INCLUDES A CLAIM CONCERNING A SITE INSPECTED  
27 BY A CERTIFIED ACCESS SPECIALIST, YOU MAY BE  
28 ENTITLED TO A COURT STAY (AN ORDER TEMPORARILY  
29 STOPPING ANY LAWSUIT) OF THE CLAIM AND AN EARLY  
30 EVALUATION CONFERENCE.

31 IN ORDER TO REQUEST THE STAY AND EARLY  
32 EVALUATION CONFERENCE, YOU WILL NEED TO VERIFY  
33 THAT A CERTIFIED ACCESS SPECIALIST HAS INSPECTED  
34 THE SITE THAT IS THE SUBJECT OF THE CLAIM. YOU  
35 WILL ALSO BE REQUIRED TO PROVIDE THE COURT AND  
36 THE PLAINTIFF WITH THE COPY OF A WRITTEN  
37 INSPECTION REPORT BY THE CERTIFIED ACCESS  
38 SPECIALIST, AS SET FORTH IN CIVIL CODE SECTION  
39 55.54. THE APPLICATION FORM AND INFORMATION ON  
40 HOW TO REQUEST A STAY AND EARLY EVALUATION

1 CONFERENCE MAY BE OBTAINED AT  
 2 [www.courts.ca.gov/selfhelp-start.htm](http://www.courts.ca.gov/selfhelp-start.htm).  
 3 YOU ARE ENTITLED TO REQUEST, FROM A CERTIFIED  
 4 ACCESS SPECIALIST WHO HAS CONDUCTED AN  
 5 INSPECTION OF YOUR PROPERTY, A WRITTEN  
 6 INSPECTION REPORT AND OTHER DOCUMENTATION AS  
 7 SET FORTH IN CIVIL CODE SECTION 55.53. YOU ARE ALSO  
 8 ENTITLED TO REQUEST THE ISSUANCE OF A DISABILITY  
 9 ACCESS INSPECTION CERTIFICATE, WHICH YOU MAY  
 10 POST ON YOUR PROPERTY.

11  
 12 (d) (1) Commencing July 1, 2010, a local agency shall employ  
 13 or retain at least one building inspector who is a certified access  
 14 specialist. The certified access specialist shall provide consultation  
 15 to the local agency, permit applicants, and members of the public  
 16 on compliance with state construction-related accessibility  
 17 standards with respect to inspections of a place of public  
 18 accommodation that relate to permitting, plan checks, or new  
 19 construction, including, but not limited to, inspections relating to  
 20 tenant improvements that may impact access. If a local agency  
 21 employs or retains two or more certified access specialists to  
 22 comply with this subdivision, at least one-half of the certified  
 23 access specialists shall be building inspectors who are certified  
 24 access specialists.

25 (2) (A) Commencing January 1, ~~2020~~, 2021, all building  
 26 inspectors employed or retained by a local agency who conduct  
 27 permitting and plan check services to review for compliance with  
 28 state construction-related accessibility standards by a place of  
 29 public accommodation with respect to new construction or  
 30 renovation, including, but not limited to, projects relating to tenant  
 31 improvements that may impact access, shall be certified access  
 32 specialists.

33 (B) *New employees employed or retained by a local agency on*  
 34 *or after January 1, 2018, and who will conduct permitting and*  
 35 *plan check services to review for compliance with state*  
 36 *construction-related accessibility standards by a place of public*  
 37 *accommodation shall be certified access specialists within 24*  
 38 *months of their initial date of employment.*

39 (3) If a permit applicant or member of the public requests  
 40 consultation from a certified access specialist, the local agency

1 may charge an amount limited to a reasonable hourly rate, an  
2 estimate of which shall be provided upon request in advance of  
3 the consultation. A local government may additionally charge or  
4 increase permitting, plan check, or inspection fees to the extent  
5 necessary to offset the costs of complying with this subdivision.  
6 Any revenues generated from an hourly or other charge or fee  
7 increase under this subdivision shall be used solely to offset the  
8 costs incurred to comply with this subdivision. A CASp inspection  
9 pursuant to subdivision (a) by a building inspector who is a  
10 certified access specialist shall be treated equally for legal and  
11 evidentiary purposes as an inspection conducted by a private CASp.  
12 Nothing in this subdivision shall preclude permit applicants or any  
13 other person with a legal interest in the property from retaining a  
14 private CASp at any time.

15 (e) (1) Every CASp who completes an inspection of a place of  
16 public accommodation shall, upon a determination that the site  
17 meets applicable standards pursuant to paragraph (1) of subdivision  
18 (a) or is inspected by a CASp pursuant to paragraph (2) of  
19 subdivision (a), provide the building owner or tenant requesting  
20 the inspection with a numbered disability access inspection  
21 certificate indicating that the site has undergone inspection by a  
22 certified access specialist. The disability access inspection  
23 certificate shall be dated and signed by the CASp inspector, and  
24 shall contain the inspector's name and license number. Upon  
25 issuance of a certificate, the CASp shall record the issuance of the  
26 numbered certificate, the name and address of the recipient, and  
27 the type of report issued pursuant to subdivision (a) in a record  
28 book the CASp shall maintain for that purpose.

29 (2) Beginning March 1, 2009, the State Architect shall make  
30 available for purchase by any local building department or CASp  
31 sequentially numbered disability access inspection certificates that  
32 are printed with a watermark or other feature to deter forgery and  
33 that comply with the information requirements specified in  
34 subdivision (a).

35 (3) The disability access inspection certificate may be posted  
36 on the premises of the place of public accommodation, unless,  
37 following the date of inspection, the inspected site has been  
38 modified or construction has commenced to modify the inspected  
39 site in a way that may impact compliance with construction-related  
40 accessibility standards.

1 (f) Nothing in this section or any other law is intended to require  
2 a property owner or tenant to hire a CASp. A property owner's or  
3 tenant's election not to hire a CASp shall not be admissible to  
4 prove that person's lack of intent to comply with the law.

5 SEC. 2. Section 4459.5 of the Government Code is amended  
6 to read:

7 4459.5. (a) The State Architect shall establish and publicize  
8 a program for voluntary certification by the state of any person  
9 who meets specified criteria as a certified access specialist. No  
10 later than January 1, 2005, the State Architect shall determine  
11 minimum criteria a person is required to meet to be a certified  
12 access specialist, which may include knowledge sufficient to  
13 review, inspect, or advocate universal design requirements,  
14 completion of specified training, and testing on standards governing  
15 access to buildings, including but not limited to housing, for  
16 persons with disabilities. The minimum criteria shall include  
17 familiarity with the applicability and content of various  
18 accessibility requirements, including but not limited to the federal  
19 requirements described in subdivision (c) of Section 4459 and the  
20 state standards established in Chapter 11A (commencing with  
21 Section 1101A) and Chapter 11B (commencing with Section  
22 11B-101) of Title 24 of the California Code of Regulations.

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

29 *(c) The State Architect is authorized to work with various*  
30 *training organizations to ensure an adequate level of training and*  
31 *educational efforts are provided on a statewide basis to prepare*  
32 *individuals to become access specialists as required by paragraph*  
33 *(2) of subdivision (d) of Section 55.53 of the Civil Code.*

34 *(d) On or before January 1, 2018, the State Architect shall*  
35 *commence testing and certification of individuals as certified*  
36 *access specialists at a level commensurate with the demand*  
37 *attributed to compliance with paragraph (2) of subdivision (d) of*  
38 *Section 55.53 of the Civil Code.*

39 SEC. 3. Section 4467 of the Government Code is amended to  
40 read:



1 4467. (a) (1) On and after January 1, 2017, through December  
2 31, 2019, any applicant for a local ~~building permit~~ *business license*  
3 *or equivalent instrument or permit, and from any applicant for the*  
4 *renewal of a business license or equivalent instrument or permit,*  
5 shall pay an additional fee of four dollars (\$4) for that ~~building~~  
6 ~~permit, license, instrument, or permit~~ which shall be collected by  
7 the city, county, or city and county that issues the ~~building permit.~~  
8 *license, instrument, or permit.*

9 (2) *On and after January 1, 2017, through December 31, 2019,*  
10 *in any city, county, or city and county that does not issue business*  
11 *licenses or an equivalent instrument or permit, any applicant for*  
12 *a building permit shall pay an additional fee of four dollars (\$4)*  
13 *for that building permit, which shall be collected by the city,*  
14 *county, or city and county that issued the building permit.*

15 (b) The city, county, or city and county shall retain 90 percent  
16 of the fees collected under this section, of which up to 5 percent  
17 of the retained moneys may be used for related administrative costs  
18 of this chapter. The remaining moneys shall be placed by the city,  
19 county, or city and county in a special fund established by the city,  
20 county, or city and county, to be known as the “CASp Certification  
21 and Training Fund.” The fees collected in a CASp Certification  
22 and Training Fund shall be used for increased certified access  
23 specialist training and certification in that local jurisdiction and to  
24 facilitate compliance with construction-related accessibility  
25 requirements. The highest priority shall be given to the training  
26 and retention of certified access specialists to meet the needs of  
27 the public in the jurisdiction as provided in Section 55.53 of the  
28 Civil Code.

29 (c) The remaining 10 percent of all fees collected under this  
30 section shall be transmitted on a quarterly basis to the Division of  
31 the State Architect for deposit in the Disability Access and  
32 Education Revolving Fund established under Sections 4465 and  
33 4470. The funds shall be transmitted within 15 days of the last day  
34 of the fiscal quarter. The Division of the State Architect shall  
35 develop and post on its Internet Web site a standard reporting form  
36 for use by all local jurisdictions. Up to 75 percent of the collected  
37 funds in the Disability Access and Education Revolving Fund shall  
38 be used to establish and maintain oversight of the CASp program  
39 and to moderate the expense of CASp certification and testing.

1 (d) Each city, county, or city and county shall make an annual  
2 report, commencing March 1, 2014, to the Division of the State  
3 Architect of the total fees collected in the previous calendar year  
4 and of its distribution, including the moneys spent on administrative  
5 services, the activities undertaken and moneys spent to increase  
6 CASp training, certification, and services, the activities undertaken  
7 and moneys spent to fund programs to facilitate accessibility  
8 compliance, and the moneys transmitted to the Disability Access  
9 and Education Revolving Fund.

10 SEC. 4. If the Commission on State Mandates determines that  
11 this act contains costs mandated by the state, reimbursement to  
12 local agencies and school districts for those costs shall be made  
13 pursuant to Part 7 (commencing with Section 17500) of Division  
14 4 of Title 2 of the Government Code.