

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 990

SPONSOR: Regulated Industries Committee and Senator Campbell

SUBJECT: Elevator Inspections/Funds Collected

DATE: February 13, 2002 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	RI	Favorable/CS
2.	_____	_____	AGG	_____
3.	_____	_____	AP	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill:

- Deletes a requirement that the department review service maintenance contracts and determine whether they ensure safe operation of the elevator
- Provides that inspections for temporary elevator use are to be conducted by a private inspector, not a state elevator inspector.
- Requires that a certified elevator inspector file a copy of an elevator inspection report within 5 days after the inspection and subjects the inspector to discipline for failure to do so.
- Requires an annual inspection for all elevators.
- Allows a local government that assumes elevator inspection duties to hire private inspector to conduct inspections.
- Requires the department to maintain a separate account within the Hotel and Restaurant Trust Fund for elevator inspection program revenue.

The bill substantially amends the following sections of the Florida Statutes: 399.01, 399.02, 399.03, 399.049, 399.061, 399.07, 399.105, 399.106, 399.125, 399.13, and 509.072.

II. Present Situation:

Section 509.072, F.S., creates the Hotel and Restaurant Trust Fund to be used by the Division of Hotels and Restaurants (the division) of the Department of Business and Professional Regulation for expenses of administration and operation and carrying out all laws and rules relating to public lodging and public food services establishments and inspection of elevators. All funds collected by the division and the amounts paid for licenses and fees are to be deposited into the trust fund.

III. Effect of Proposed Changes:

Section 1. Amends s. 399.01, F.S., the definitions for the Elevator Safety Act. It deletes the definition of "certificate of competency" as this term is being replaced by "elevator certificate of competency." It deletes the definition of "escalator" at subsection (8) as subsection (7)(b) also defines this term. It amends the definition of "certified elevator inspector" to use the credentials of the American Society of Mechanical Engineers as opposed to the National Association of Elevator Safety Authorities. It amends the definition of "elevator certificate of competency" to provide further qualifications to obtain an elevator certificate of competency.

Section 2. Amends s. 399.02, F.S., to delete a requirement that the department review service maintenance contracts and determine whether they ensure safe operation of the elevator. The section also makes each elevator owner responsible for inspections after a certificate of operation has been issued.

Section 3. Amends s. 399.03, F.S., to transfer modified provisions for temporary operation inspections to this section from s. 399.07(2), F.S., with the required inspection done by a private inspector, not a state elevator inspector. As these were the last inspections required of state elevator inspectors, this completes the privatization of elevator inspections. The section also requires that an original inspection report be filed with the department within 5 days of the inspection and provides additional requirements for application for elevator permits.

Section 4. Amends s. 399.049, F.S., to revise the grounds for suspension or revocation of certification or registration. New grounds include failure of a certified elevator inspector to file a copy of an elevator inspection report within 5 days of the inspection and fraud, misrepresentation, or bribery in the practice of the profession. The ground of a failure to notify the department and the certificate of operation holder of an elevator that is out of compliance with the elevator safety code is deleted.

Section 5. Amends s. 399.061, F.S., to delete the current exception to the requirement for annual inspections that allows inspections every two years for elevators that are subject to service maintenance contracts, thereby requiring an annual inspection for all elevators. This section also requires that a report on service maintenance contracts be filed at least annually.

Section 6. Amends s. 399.07, F.S., to extend the period of validity of a certificate of operation from one to two years. The provisions on certificates of operation in paragraph (1)(d) are reorganized and moved to newly designated subsection (1). The section also deletes the provisions on temporary use permits, which are modified and transferred to s. 399.03, F.S. among the modifications is requiring inspection by a private inspector, not a state elevator inspector. As the state is no longer conducting these inspections, an inspection fee provided in current paragraph (2)(d) is not contained in the new provisions in s. 399.03.

Section 7. Amends s. 399.105, F.S., to delete a restriction on issuance of a fine for commencing installation of an elevator without a construction permit, to shorten the time for correction of a violation from 60 days to 30 days, with discretion to extend the time for good cause shown, and to subject an elevator owner who continues to operate an elevator after it has been sealed by the Department to civil fine.

Section 8. Amends s. 300.106, F.S., to make a technical correction.

Section 9. Amends s. 399.125, F.S., to delete a requirement that an “incident” occurring in or upon any elevator be reported to the division, with “accidents” still to be reported.

Section 10. Amends s. 399.13, F.S., to allow a local government that assumes elevator inspection duties to hire private inspector to conduct inspections.

Section 11. Requires the department to maintain a separate account within the trust fund for funds collected for inspection of elevators. It requires that, to the maximum extent possible, the department directly charge all expenses to the account for elevator inspections. “Direct charge expenses” include, but are not limited to, costs for investigations, examinations, or legal services. The department is to proportionately allocate expenses that cannot be directly charged among the accounts of expenses incurred by the department. The department is required to maintain adequate records to support its allocation of expenses. The bill prohibits using elevator inspection funds to pay for hotel and restaurant regulation expenses. It prohibits transfer of the funds to any other trust fund.

Section 12. Provides that the bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

To the extent that elevator funds have been used to subsidize hotel and restaurant regulation, there will have to be decreases in hotel and restaurant regulation or increases in collection of revenue related to this regulation.

C. Government Sector Impact:

To the extent that elevator funds have been used to subsidize hotel and restaurant regulation, there will have to be decreases in hotel and restaurant regulation or increases in collection of revenue related to this regulation. Details as to any past subsidization and the effects of this bill on other regulatory programs were unavailable at the time of drafting.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
