

The Florida Senate
PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Prepared By: Regulated Industries Committee

BILL: CS/SB 2484

INTRODUCER: Regulated Industries Committee and Senator Haridopolos

SUBJECT: Lodging and Food Service Establishments

DATE: April 16, 2007

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	Fav/CS
2.			HE	
3.			GA	
4.				
5.				
6.				

I. Summary:

The bill increases the number of voting members from five to six for the advisory council that assists the Division of Hotels and Restaurants (division) on matters affecting the private-sector entities regulated by the division. The bill changes the reference to the Florida Hotel and Motel Association to the Florida Restaurant and Lodging Association (FRLA), and provides for the FRLA to designate one representative from the lodging industry and one representative from the food service industry to serve as voting members of the council. Currently, the former Florida Hotel and Motel Association is authorized to designate only one voting member of the council.

The bill changes the title of the person appointed from a college or university from “hospitality administration educator” to “hospitality education administrator,” and increases the term of this appointment from two to four years. The bill eliminates the position of “director of education,” and authorizes the director of the division, with advice from the advisory council, to administer the Hospitality Education Program (HEP).

The bill specifies the types of training and training related activities that the council must administer and fund, and specifies that education enhancement activities that must be funded by grants and the application process for the grants. The bill requires that HEP funded training and transition programs must be provided through the public school system utilizing a nationally recognized curriculum approved by the division, and excludes the state universities and community colleges from providing HEP funded training and transition programs.

The bill specifies the expenses that may be funded by the grants. It provides that funds distributed by the council are subject to audit by the division.

The bill increases from \$150,000 to \$250,000 the maximum amount of funds that the advisory council may designate annually to support school-to-career transition programs.

It authorizes the division to adopt rules to provide criteria for grant program approval and the procedures for processing grant program applications. The bill specifies the criteria for evaluating grant program applications. It limits grants to 4-year terms, with funding provided on an annual basis.

The bill provides that administrative fines assessed by the Division of Hotels and Restaurants may be used to fund the training of licensees through the HEP.

The bill provides an effective date of July 1, 2007.

This bill substantially amends the following sections of the Florida Statutes: 509.291, 509.302, and 509.072.

II. Present Situation:

The Division of Hotels and Restaurants (division) within the Department of Business and Professional Regulation (department) is the state agency charged with enforcing the provisions of ch. 509, F.S., and all other applicable laws relating to the inspection and regulation of public lodging establishments and public food service establishments for the purpose of protecting the public health, safety, and welfare. According to the department, there are over 43,000 licensed public food service establishments.¹

Public Food Service Establishment

Section 509.013(5), defines a public food service establishment as follows:

- (a) "Public food service establishment" means any building, vehicle, place, or structure, or any room or division in a building, vehicle, place, or structure where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared prior to being delivered to another location for consumption.
- (b) The following are excluded from the definition in paragraph (a):
 1. Any place maintained and operated by a public or private school, college, or university:
 - a. For the use of students and faculty; or
 - b. Temporarily to serve such events as fairs, carnivals, and athletic contests.
 2. Any eating place maintained and operated by a church or a religious, nonprofit fraternal, or nonprofit civic organization:
 - a. For the use of members and associates; or
 - b. Temporarily to serve such events as fairs, carnivals, or athletic contests.

¹ For FY 2005-2006, there were 43,216 licensed public food service establishments. *Annual Report, Fiscal Year 2005-2006*, Division of Hotels and Restaurants, Department of Business and Professional Regulation. A copy is available at: http://www.myflorida.com/dbpr/hr/annualreports/ar2005_06.pdf (Last visited April 11, 2007).

3. Any eating place located on an airplane, train, bus, or watercraft which is a common carrier.
4. Any eating place maintained by a hospital, nursing home, sanitarium, assisted living facility, adult day care center, or other similar place that is regulated under s. 381.0072.
5. Any place of business issued a permit or inspected by the Department of Agriculture and Consumer Services under s. 500.12.
6. Any place of business where the food available for consumption is limited to ice, beverages with or without garnishment, popcorn, or prepackaged items sold without additions or preparation.
7. Any theater, if the primary use is as a theater and if patron service is limited to food items customarily served to the admittees of theaters.
8. Any vending machine that dispenses any food or beverages other than potentially hazardous foods, as defined by division rule.
9. Any vending machine that dispenses potentially hazardous food and which is located in a facility regulated under s. 381.0072.
10. Any research and development test kitchen limited to the use of employees and which is not open to the general public.

Public Lodging Establishments

The division is also charged with enforcing the provisions of ch. 509, F.S., and all other applicable laws relating to the inspection and regulation of public lodging establishments and public food service establishments for the purpose of protecting the public health, safety, and welfare. According to the department, there are over 36,000 licensed public lodging establishments.² The Florida Restaurant and Lodging Association estimates that there are over 400,000 hotel and motel rooms in Florida.

Section 509.013(4), F.S., defines a public lodging establishment, and provides:

(4)(a) “Public lodging establishment” means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings, which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests. License classifications of public lodging establishments, and the definitions therefor, are set out in s. 509.242. For the purpose of licensure, the term does not include condominium common elements as defined in s. 718.103.

(b) The following are excluded from the definition in paragraph (a):

1. Any dormitory or other living or sleeping facility maintained by a public or private school, college, or university for the use of students, faculty, or visitors;
2. Any hospital, nursing home, sanitarium, assisted living facility, or other similar place;
3. Any place renting four rental units or less, unless the rental units are advertised or held out to the public to be places that are regularly rented to transients;

² *Id.* For FY 2005-2006 there were 36,906 licensed public lodging establishments.

4. Any unit or group of units in a condominium, cooperative, or timeshare plan and any individually or collectively owned one-family, two-family, three-family, or four-family dwelling house or dwelling unit that is rented for periods of at least 30 days or 1 calendar month, whichever is less, and that is not advertised or held out to the public as a place regularly rented for periods of less than 1 calendar month, provided that no more than four rental units within a single complex of buildings are available for rent;
5. Any migrant labor camp or residential migrant housing permitted by the Department of Health; under ss. 381.008-381.00895; and
6. Any establishment inspected by the Department of Health and regulated by chapter 513.³

Advisory Council

Section 509.291, F.S., creates an advisory council to assist the division by advising it on matters affecting the private-sector entities regulated by the division. The stated purpose is to “promote better relations, understanding, and cooperation between such industries and the division; to suggest means of better protecting the health, welfare, and safety of persons using the services offered by such industries; to give the division the benefit of its knowledge and experience concerning the industries and individual businesses affected by the laws and rules administered by the division; to promote and coordinate the development of programs to educate and train personnel for such industries; and perform other duties that may be prescribed by law.”

The secretary of the department appoints five members from the entities licensed and regulated by the division and one lay member from the general public. Specifically named statewide associations are each afforded the opportunity to name one representative to the council. The currently named associations are the Florida Hotel and Motel Association, the Florida Restaurant Association, the Florida Apartment Association, and the Florida Association of Realtors. Additionally, one member is a hospitality administration educator from an institution of higher learning affiliated with the Hospitality Education Program pursuant to s. 509.302(2), F.S. Members appointed by the secretary serve staggered terms of four years each but the educator serves a term of two years. The members designated by the associations serve two-year terms.

The Florida Hotel and Motel Association and the Florida Restaurant Association merged in the fall of 2005.⁴

Hospitality Education Program

Section 509.302, F.S., creates the Hospitality Education Program (HEP). The primary goal of the HEP is "to inform all individuals and businesses licensed under this chapter, in cooperation with recognized associations that represent the licensees, in the application of state and federal laws and rules. The program also includes:

³ Chapter 513, F.S., relates to the regulation of mobile home and recreational vehicle parks.

⁴ See “12 Reasons Restaurants & Lodging Belong Together,” C. Dover, FRL, Florida Restaurant & Lodging, vol. 10, no. 6 November/December 2005.

- Career training,
- Management training,
- Continuing education programs,
- Awareness of food recovery programs, and
- Such other programs as may be deemed appropriate by the director of the division, the advisory council, and the director of education.

The Hospitality Education Program's office and resource library is located in the University Center at Florida State University. The library contains over 6,000 items, including over 60 periodicals. During FY 2004-2005, the Hospitality Education Program trained more than 20,000 hospitality industry employees in 2,495 workshops offered in communities throughout the state.⁵

Section 509.302, F.S., requires the division, with the advice of the advisory council, to "employ a director of education for the lodging and food service industry." The director is charged with the responsibility to develop and implement the HEP. The HEP is funded by a \$10 fee that is included in the annual license fee.⁶

Currently, there is an interagency agreement with Florida State University's (FSU) Department of Hospitality Administration for the daily management and oversight of the HEP which is housed on the campus of FSU. The HEP also affiliates with programs administered at Florida International University, the University of Central Florida, and the statutes specify that the program may be affiliated with any other member of the State University System, State Community College System, or with any privately funded college or university offering a program in hospitality administration and management.

For FY 2005-2006, the HEP had \$1,532,382.14 in total available resources, but only expended \$819,024.84 of that amount. Of the amount expended, \$41,024.66 was for training program grants.⁷ According to a representative for the hospitality industry, the amount expended for training program grants relates to "school-to-career training." The division uses HEP resources to provide two types of training. It provides "school-to-career training" which is intended hospitality students to help prepare them for their careers. The division also provides training to licensees.

III. Effect of Proposed Changes:

Advisory Council

The bill amends s. 509.291, F.S., to increase from five members to six members the number of advisory council voting members that must be appointed by the secretary of the department.

The bill changes the reference from the Florida Hotel and Motel Association to the Florida Restaurant and Lodging Association (FRLA). It also provides for the FRLA to designate one representative from the lodging industry and one representative from the food service industry to

⁵ *Supra* at n. 1.

⁶ A \$10 fee cap is provided in s. 509.302(3), F.S. The current fee is set at the cap amount.

⁷ *Supra* at n. 1.

serve as voting members of the council. Currently, the former Florida Hotel and Motel Association designates only one voting member of the council.

The bill changes the title of the person appointed to the council from a college or university from “hospitality administration educator” to “hospitality education administrator.” The bill increases the term of this appointment from two to four years.

Hospitality Education Program

The bill amends s. 509.302, F.S., to eliminate the position of “director of education.” The bill amends ss. 509.302(5), and (7), F.S., to delete the authority of the director of education to employ personnel, and to receive compensation.

It authorizes the director of the division, with advice from the advisory council, to administer the HEP. The bill removes the reference to the “entire industry” and specifies the HEP be offered for the benefit of the restaurant and lodging industries of this state.

The bill specifies the types of training and training related activities that the council shall administer and fund. These include:

- Training of licensees and their managers and employees in the application of state and federal laws and rules; and
- Funding of enhancement of school-to-career training and transition programs for students interested in pursuing careers in the food service or lodging industry.

The bill specifies that enhancement activities must be funded by grants and the application process for the grants must be administered by the division. The bill requires that HEP funded training and transition programs must be provided through the public school system utilizing a nationally recognized curriculum approved by the division and provided by “non-profit state-wide organizations in the hospitality field.” The term “nonprofit statewide organizations in the hospitality services” appears to exclude the state universities and community colleges from providing HEP funded training and transition programs.

The bill specifies that grant funding includes all expenses incident to providing those services, including:

the cost of staff support; student scholarships; compensation to program instructors for time spent in relevant training; special events or competitive events; and a reasonable stipend for travel, lodging, and meals for instructors and students participating in training or in related special events or competitive events.

It also provides for a reasonable stipend for travel, lodging and meals for instructors and students participating in training and special events. All expenses must be included in a budget submitted by the grant applicant and approved by the division and may be audited by the division.

The bill amends s. 509.302(5), F.S., to increase from \$150,000 to \$250,000 the maximum amount of funds that the advisory council may designate annually to support school-to-career transition programs.

The bill authorizes the division to adopt rules to provide criteria for grant program approval and the procedures for processing grant program applications. The bill requires that the criteria and procedures must be approved by the advisory council.

The bill specifies the criteria for evaluating grant program applications. The criteria shall give primary consideration to:

- The experience and history of the applicant in representing the food service or lodging industry,
- The applicant's prior commitment to school-to-career transition programs in the food service or lodging industry, and
- The applicant's demonstrated ability to provide services statewide with industry support and participation.

The bill limits grants to 4-year terms, with funding provided on an annual basis.

Hotel and Restaurant Trust Fund

The bill amends s. 509.072, F.S., relating to the Hotel and Restaurant Trust Fund, to correct a cross reference to s. 509.072, F.S.

Use of Administrative Fines

The bill amends s. 509.261(4), F.S., to provide that administrative fines assessed by the Division of Hotels and Restaurants may be used to support division programs pursuant to s. 509.302(1)(a), F.S., i.e., fines may be used to fund the training of licensees through the HEP.

Effective Date

The bill provides an effective date of July 1, 2007.

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:

None.

C. Government Sector Impact:

The bill amends s. 509.261(4), F.S., to provide that administrative fines assessed by the Division of Hotels and Restaurants may be used to support division programs pursuant to s. 509.302(1)(a), F.S.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
