The Florida Senate BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

	Prepared By: Th	e Professional Staf	f of the Regulated I	ndustries Com	mittee	
BILL:	CS/SB 1418					
INTRODUCER:	Regulated Industries Committee and Senator Jones					
SUBJECT:	Hospitality Educa	tion Program				
DATE:	April 14, 2009	REVISED:				
ANAL Oxamendi 6.	YST ST Rhe	AFF DIRECTOR a	REFERENCE RI HE GA	Fav/CS	ACTION	
	Please see A. COMMITTEE SUBS B. AMENDMENTS		for Addition Statement of Subs Technical amenda Amendments were Significant amend	stantial Change nents were rec e recommende	es commended ed	

I. Summary:

The bill revises the responsibilities of the Hospitality Education Program (HEP or program) within the Division of Hotels and Restaurants (division) of the Department of Business and Professional Regulation. The program provides training courses to transition hospitality students from school to careers in the hospitality industry, management training, and training for food service and lodging establishments after food safety and sanitation violations. The bill deletes licensee training as the HEP's primary goal, and provides that the program's goal is to provide support, and enhance school-to-career training and transition programs for students pursuing careers in restaurant or lodging industries.

The bill revises the authority of the division director to designate the use of the funds collected for career training. The bill requires the division to use at least 68 percent of the funds collected for careers in the restaurant industry. At least 14 percent of the funds collected must be used for careers in the lodging industry. Current law limits the grant funding to \$250,000. Under the bill, at least 82 percent of the approximately \$838,000 collected in fiscal year 2008-2009 would have been directed to career training. This bill permits the division to use up to 10 percent of the HEP funds collected for its costs to administer the program.

This bill substantially amends section 509.302, Florida Statutes.

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

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."

Public Food Service Establishment

Section 509.013(5), F.S., 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.
- 3. Any eating place located on an airplane, train, bus, or watercraft which is a common carrier.

¹ For FY 2007-2008, there were 44,639 licensed public food service establishments. *Annual Report, Fiscal Year* 2007-2008, Division of Hotels and Restaurants, Department of Business and Professional Regulation. A copy is available at: http://www.myflorida.com/dbpr/hr/reports/annualreports/documents/ar2007_08.pdf (Last visited April 3, 2009).

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;
- 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,

² *Id.* For FY 2007-2008 there were 36,589 licensed public lodging establishments.

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.

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:

- 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 fiscal year 2007-2008, the HEP trained more than 27,000 food service and lodging employees in 4,306 workshops throughout the state. ³

Section 509.261(1)(b), F.S., requires a HEP-sponsored training course for food safety violations to ensure the licensee and its employees understand and comply with food safety and sanitation laws. According to the division, these training courses also help protect the public from unsafe and unsanitary conditions in food service and lodging establishments. The division represents that it is recording a less than 1 percent recidivism rate by establishments that have completed a HEP training course.

Section 509.302(1), F.S., provides that the primary goal of the program is to instruct and train all individuals and businesses licensed under ch. 509, F.S. The Hospitality Education Program's licensee training includes management training, inservice continuing education programs, and awareness of food recovery programs.

The Hospitality Education Program is funded through the collection of a \$10 fee paid from each public food service establishment license. The fee is part of the annual license fee. The revenue from the fee totaled \$914,020 for fiscal year 2007-2008. The department estimates HEP revenue of \$882,060 for fiscal year 2008-2009 and \$892,400 for fiscal year 2009-2010. The fees fund

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³ Supra, at n. 1.

grants and program operations, including licensee training and resource materials. The total program expenditures for fiscal year 2007-2008 equaled \$835,142. The program currently employs four trainers, two support staff, the program administrator, and two part-time students. Personnel expenditures for the program exceeded \$454,000 for fiscal year 2007-2008.

The director of the division is authorized to develop an annual budget and a corresponding annual legislative budget request with the advice of the division's advisory council. The director and the Secretary of the DBPR are required to report on why HEP fees should not be reduced if the estimated annual cost of administering the program is less than the annual fees collected. The annual appropriation authorized by statute for the school-to-career grant program is \$250,000. The director, with the consent of the advisory council, may designate no more than \$50,000 to support the development of food safety training programs and no more than \$50,000 to support the development of training for nontransient public lodgings.

The Hospitality Education Program administers a four-year grant of up to \$250,000 annually for school-to-career transition programs. According to the division, the Florida Restaurant and Lodging Association is the current recipient of the school-to-career grant in the amount of \$250,000. This is a four-year grant.

According to the division, the HEP is an essential component to its achievement of five of the nine program standards under the U.S. Food and Drug Administration's voluntary National Retail Food Regulatory Program Standards. The division is the largest restaurant inspection program in the nation to meet five program standards. The standards enumerate the best practices for retail food safety inspection programs. The division utilizes the standards for continuous improvement in food safety operations.⁴

III. Effect of Proposed Changes:

The bill amends s. 509.302, F.S., to revise the responsibilities of the HEP. The bill amends s. 509.302(1), F.S., to delete licensee training as the HEP's primary goal. The bill provides the goal of the HEP is to provide, support, and enhance school-to-career training and transition programs for students pursuing careers in restaurant or lodging industries. This bill would eliminate all licensee and licensee's employee compliance training programs currently provided by the program.

The bill also deletes the authority of the division director and the advisory council to designate such other programs that they deem appropriate for inclusion within HEP.

The bill also replaces the term "food service" with the term "restaurant."

The bill amends s. 509.302(5), F.S., to revise the authority of the division director to designate the use of the funds collected for career training. The bill requires the division to use at least 68 percent of the funds collected for careers in the restaurant industry. At least 14 percent of the funds collected must be used for careers in the lodging industry.

⁴ *Supra*, at n. 1.

This bill permits the division to use up to 10 percent of the HEP funds collected for its costs to administer the program.

The bill deletes the authority of the division director to make grants of \$50,000 each for food safety and nontransient lodging training programs. This bill also removes the \$250,000 maximum amount that may be designated for the school-to-career grants.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill would increase the amount of funds currently available for school-to-career grants because the bill permits the division to use least 72 percent of the funds collected must be used for training in the restaurant and lodging industries. Current grant funding is capped at \$250,000. For example, under the bill, 72 percent of the approximately \$838,000 collected in fiscal year 2008-2009 would have been directed to career training.

The bill permits the division to use up to 10 percent of the HEP funds collected for training in the restaurant and lodging industries. This is a reduction from the programs current administrative budget. For example, based upon fiscal year 2007-2008 revenue, \$664,020 of the \$914,020 collected was available for administration of the program. Based upon fiscal year 2007-2008 revenue, the bill would reduce the program's operating budget from \$664,020 to a maximum of \$88,200 (10% of revenue). According to the division, the bill would permit the division to retain one full time employee at the current cost of \$83,464 in salaries and benefits. The bill would require the reduction of six full time employees and two part-time OPS employees from the program. The division also represents that the reduction of operating funds would impact the library at the Florida

State University campus. The division has assigned three FTE and two OPS to staff and maintain the HEP library services. The division represents that it would not have sufficient staffing under the bill to continue library-related activities.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Regulated Industries on April 14, 2009:

The committee substitute (CS) amends s. 509.302(5), F.S., to decrease from 75 percent to 68 percent the minimum amount of collected HEP funds that the division must use for training for careers in the restaurant industry. It also decreases from 20 percent to 14 percent the minimum amount of HEP funds collected that must be used for careers in the lodging industry. The CS permits the division to use up to 10 percent of the HEP funds collected for its costs to administer the program.

B. Amendments:

None.

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