

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.)

Prepared By: Education Committee

BILL: SB 2434

INTRODUCER: Senator Haridopolos

SUBJECT: Travel to Terrorist States

DATE: March 25, 2006

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------------|-----------------|-----------|------------------|
| 1. | <u>Harkey</u> | <u>Matthews</u> | <u>ED</u> | Favorable |
| 2. | _____ | _____ | <u>DS</u> | _____ |
| 3. | _____ | _____ | _____ | _____ |
| 4. | _____ | _____ | _____ | _____ |
| 5. | _____ | _____ | _____ | _____ |
| 6. | _____ | _____ | _____ | _____ |

I. Summary:

This bill prohibits certain postsecondary institutions from using specified funds to implement, organize, direct, coordinate, administer, or to support the implementation, organization, direction, coordination, or administration of activities related to or involving travel to a country designated as a terrorist state by the U.S. Department of State. The bill also prohibits the authorization of state-funded travel expenses for public officers or employees for implementing, organizing, directing, coordinating, or administering activities related to or involving travel to a terrorist state.

The bill defines “terrorist state” as any state, country, or nation designated by the United States Department of State as a state sponsor of terrorism. Currently, the State Department assigns that designation to six countries: Cuba, Iran, Libya, North Korea, Sudan and Syria.

This bill amends ss. 112.061, 1011.81, and 1011.90, Florida Statutes.

II. Present Situation:

Funding for Community Colleges and State Universities

Section 1011.81, F.S., establishes a Community College Program Fund (CCPF), which comprises all appropriations made by the Legislature for the support of the current operating program. The fund is apportioned and distributed to community college districts according to law and rules of the State Board of Education. The 2005-2006 Legislature appropriated \$885,356,016 to the Community College Program Fund.

Section 1011.90, F.S., establishes the method for determining the funding for the 10 state universities and New College. Planned enrollments for each university as accepted or modified by the Legislature and program cost categories are the basis for the allocation of funds to the universities. Categorical programs—such as research and public service programs—which are not directly related to planned student enrollment are also funded.

Per Diem and Travel Expenses

Section 112.061, F.S., governs the per diem and travel expenses of agencies' public officers, employees, and authorized persons, which are defined as follows:

- *Agency or public agency*—any office, department, agency, division, subdivision, political subdivision, board, bureau, commission, authority, district, public body, body politic, county, city, town, village, municipality, or other separate unit of government created by law.
- *Officer or public officer*—an individual who in the performance of his or her official duties is vested by law with sovereign powers of government and who is either elected by the people, or commissioned by the Governor and has jurisdiction extending throughout the state, or any person lawfully serving instead of either of the forgoing two classes of individuals as initial designee or successor.
- *Employee or public employee*—an individual, whether commissioned or not, other than an officer or authorized person, who is filling a regular or full-time authorized position and is responsible to an agency head.
- *Authorized person*—
 - A person other than a public officer or employee, whether elected or commissioned or not, who is authorized by an agency head to incur travel expenses in the performance of official duties.
 - A person who is called upon by an agency to contribute time and services as a consultant or adviser.
 - A person who is a candidate for an executive or professional position.

Status of a Country as a Terrorist State

The United States Department of State maintains a list of countries determined to have repeatedly provided support for acts of international terrorism.¹ The countries are designated "terrorist nations" under requirements in three federal laws: the Export Administration Act²; the Arms Export Control Act³; and the Foreign Assistance Act⁴. Taken together, the four main categories of sanctions resulting from designation under these authorities include restrictions on U.S. foreign assistance; a ban on defense exports and sales; certain controls over exports of dual use items; and miscellaneous financial and other restrictions.⁵

¹ <http://www.state.gov/s/ct/c14151.htm>

² 50 U.S.C. App 2405(j)

³ 22 U.S.C. s. 2780

⁴ 22 U.S.C. s. 2371

⁵ <http://www.state.gov/s/ct/c14151.htm>

Currently, the State Department designates six countries under these authorities: Cuba, Iran, Libya, North Korea, Sudan and Syria. The chart below shows the date each of the countries was designated a terrorist nation.

| Country | Designation Date |
|-------------|-------------------|
| Cuba | March 1, 1982 |
| Iran | January 19, 1984 |
| Libya | December 29, 1979 |
| North Korea | January 20, 1988 |
| Sudan | August 12, 1993 |
| Syria | December 29, 1979 |

Travel to Terrorist Nations

Title 31 of the Code of Federal Regulations, Chapter V, prescribes the ability and legal method to travel to and do business with countries such as Cuba, Iran, Libya, North Korea, Sudan and Syria. The ability to be authorized or licensed by the Office of Foreign Assets Control (OFAC) within the United States Department of the Treasury for such travel varies.

Because of its proximity to Florida, Cuba is likely the only listed terrorist nation receiving regular charter air and vessel travelers from Florida. Under the Cuban Assets Control Regulations⁶, OFAC may issue general licenses and specific licenses for travel to Cuba. General licenses may be issued for:

- Official government travel;
- Journalism; or
- Full-time professional research.

Specific licenses may be issued on a case-by-case basis for:

- Journalism;
- Professional research;
- Visits to members of a person's immediate family;
- Educational activities;
- Religious activities;
- Public performances, athletic and other competitions, and exhibitions;
- Support for the Cuban people;
- Humanitarian projects;
- Activities of private foundations or research or educational institutes; or
- Exportation, importation, or transmission of information or informational materials.

A survey conducted by the Division of Community Colleges and Workforce Education indicated that, in the last five years, one community college has sponsored a trip to a country classified by

⁶ 31 CFR 515

the Department of State as a terrorist state – i.e., an educational trip to Cuba that was paid for with private funds rather than CCPF or other state funds.

III. Effect of Proposed Changes:

The bill prohibits a community college or state university from using certain funds to implement, organize, direct, coordinate, or administer, or to support the implementation, organization, direction, coordination, or administration of, activities related to or involving travel to a terrorist state. The bill defines "terrorist state" as any state, country, or nation designated by the United States Department of State as a state sponsor of terrorism.

The prohibition against the use of funds for activities and travel related to a terrorist state applies to the following types of postsecondary education funds:

- Funds in the Community College Program Fund;
- Funds made available to a community college outside the Community College Program Fund;
- State funds made available to a state university; or
- Non-state funds made available to a state university.

The prohibition against using funds for “activities related to or involving travel to a terrorist state” may be ambiguous. If the prohibition is against activities related to, or involving travel to, a terrorist state, all community college and university activities—courses, theses and dissertations, guest lecturers, etc.—related to a terrorist state would be included in the prohibition. If the prohibition is against using funds for activities related to, or involving, travel to a terrorist state, the prohibition would only apply to the use of funds for travel to a terrorist state or activities related to the travel.

In analyzing this bill, the Florida Board of Governors noted the following effects on academic activities:

- *Federal restrictions on travel to terrorist states are extensive and already provide guidance to individuals doing research and other activities. The proposed legislation offers further restrictions on individuals.*
- *Further restrictions on travel limits the exposure of persons living in designated terrorist states to the ideals and values of persons from the United States and Florida.*
- *Further restrictions on travel that relates to academic research means that the United States will learn less about the culture and politics, etc., of such states and people. This may result in the United States being less effective with those states both in contemporary and future times.*
- *Academic and individual freedom are restricted by public university and community college employees being prohibited from using state funds to travel to specified states on employment related activities.*

The bill also prohibits the authorization of travel expenses, under s. 112.061(3)(e), F.S., for public officers or employees for implementing, organizing, directing, coordinating, or administering activities related to or involving travel to a terrorist state.

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 28 community colleges, 10 state universities, and New College are prohibited from using funds to funds to implement, organize, direct, coordinate, administer, or to support the implementation, organization, direction, coordination, or administration of activities related to or involving travel to a country designated as a terrorist state by the U.S.

Department of State. It is not clear in the bill whether the prohibition is against using the funds for travel and travel-related activities involving a terrorist nation or if the prohibition includes all activities related to those nations.

The DOE analysis of the bill states: "It is unclear if this bill would prohibit only use of state funds for travel to such nations or if it would prohibit all expenditures (private or state funds) for travel to terrorist nations." Non-state funds available to a community college would include income from auxiliaries, such as a bookstore or food service; and income from donations and fees.

Public officers and employees of state and local governmental agencies and persons authorized to travel for those agencies would not be authorized to receive reimbursement for travel expenses to terrorist nations.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

VIII. Summary of Amendments:

None.

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