

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 419

Lodging and Food Service Establishments

**SPONSOR(S):** Patronis

**TIED BILLS:**

**IDEN./SIM. BILLS:** SB 2484

---

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Business Regulation</u>	<u>9 Y, 0 N</u>	<u>Livingston</u>	<u>Liepshutz</u>
2) <u>Jobs &amp; Entrepreneurship Council</u>	<u></u>	<u></u>	<u></u>
3) <u>Policy &amp; Budget Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

---

### SUMMARY ANALYSIS

Chapter 509, part I, F.S., provides for regulation of public lodging establishments and public food service establishments by the Division of Hotels and Restaurants (division) within the Department of Business and Professional Regulation (DBPR). An advisory council assists the division on matters affecting the private-sector entities regulated by the division. The Secretary of the DBPR 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 authorized to name one representative to sit on the council.

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 Hospitality Education Program (HEP). Funding of the HEP is from an annual \$ 10 fee imposed on licensees.

The bill increases the appointment authority of the Secretary of the DBPR from five members to six members. 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 HEP. The bill removes reference to the HEP being affiliated with higher education institutions which offer hospitality administration and management programs.

The bill specifies that funding of enhancement of school-to-career training and transition programs for students interested in pursuing careers in the food service or lodging industry be provided by nonprofit statewide organizations in the hospitality services field. The bill specifies that funding of the current school-to-career program be enhanced by grants and the application process for the grants be administered by the division. The bill requires the training and transition programs be conducted through the public school system utilizing a curriculum approved by the division.

The bill requires school-to-career grant funding to consist of approximately 65% of the HEP funds. The bill limits program administration and training funds to no more than 35% of the HEP funds.

#### Fiscal

According to the Department of Business and Professional Regulation, this legislation will not have a fiscal impact to the state. The department does, however, anticipate a significant effect upon the operations of the Hospitality Education Program (HEP) because the proposed legislation will divert more of the fees away from HEP operations and into funding grants.

See III. D. of this analysis: STATEMENT OF SPONSOR

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h0419b.BR.doc

**DATE:** 3/8/2007

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

The provisions of the bill do not appear to implicate the House principles.

#### B. EFFECT OF PROPOSED CHANGES:

##### Present situation

##### **Lodging/food services establishments**

Chapter 509, part I, F.S., provides for regulation of public lodging establishments and public food service establishments.

Section 509.013(4)(a), F.S., defines a “**public lodging establishment**” as: 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 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.

Also, the following are excluded from the definition:

- 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;
- Any hospital, nursing home, sanitarium, assisted living facility, or other similar place;
- 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;
- 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;
- Any migrant labor camp or residential migrant housing permitted by the Department of Health; under ss. 381.008-381.00895, F.S.; and
- Any establishment inspected by the Department of Health and regulated by chapter 513, F.S.

Section 509.013(5)(a), F.S., defines a “**public food service establishment**” as: 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.

The following are excluded from the definition:

- Any place maintained and operated by a public or private school, college, or university for the use of students and faculty, or temporarily to serve such events as fairs, carnivals, and athletic contests.

- Any eating place maintained and operated by a church or a religious, nonprofit fraternal, or nonprofit civic organization for the use of members and associates, or temporarily to serve such events as fairs, carnivals, or athletic contests.
- Any eating place located on an airplane, train, bus, or watercraft which is a common carrier.
- 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, F.S.
- Any place of business issued a permit or inspected by the Department of Agriculture and Consumer Services under s. 500.12, F.S.
- 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.
- 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.
- Any vending machine that dispenses any food or beverages other than potentially hazardous foods, as defined by division rule.
- Any vending machine that dispenses potentially hazardous food and which is located in a facility regulated under s. 381.0072, F.S.
- Any research and development test kitchen limited to the use of employees and which is not open to the general public.

## **Advisory Council**

### Present situation

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 DBPR 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 HEP. Members appointed by the secretary serve staggered terms of four years each while the educator serves a term of two years.

### Effect of proposed changes

The bill increases the appointment authority of the Secretary of the DBPR from five members to six members. The bill changes the title of the person appointed 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**

### Present situation

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 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: "a) career training, b) management training, c) continuing education programs, d) awareness of food recovery programs, and e) such other programs as may be deemed appropriate by the director of the division, the advisory council, and the director of education."

Currently, there is an interagency agreement with Florida State University's 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.

### Effect of proposed changes

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 HEP. The bill removes the reference to the ~~entire industry~~ and specifies the HEP be offered for the benefit of the food service and lodging industries of this state. The bill removes reference to the HEP being affiliated with ~~any member of the State University System or Florida Community College System, or with any privately funded college or university, which offers a program of hospitality administration and management.~~

The bill specifies that training and training-related activities be funded through "grants" administered by the division. It also specifies that training be provided by the division to licensees and their managers and employees in the application of state and federal laws and rules. Additionally, the bill specifies that funding of enhancement of school-to-career training and transition programs for students interested in pursuing careers in the food service or lodging industry... [shall be] ...provided by nonprofit statewide organizations in the hospitality services field. The bill specifies that enhancement activities be funded by grants and the application process for the grants be administered by the division.

The training and transition programs are required by the bill to be provided through the public school system utilizing a nationally recognized curriculum approved by the division. Additionally, the bill specifies that activities may include providing job experience opportunities for students; day-to-day support for program instructors; student scholarships; special events recognizing outstanding students, instructors, industry mentors, or program sponsors; program-related competitive events for students; and continuous in-service training for instructors.

### Present situation

Section 509.302(3), F.S., provides

- 3) All public lodging establishments and all public food service establishments licensed under this chapter shall pay an annual fee of no more than \$10 which shall be included in the annual license fee and which shall be used for the sole purpose of funding the Hospitality Education Program.

Current provisions prescribe several duties for the education director of HEP and HEP related activities of the division director. The director of HEP is charged with the responsibility of developing an annual budget for HEP and a corresponding annual legislative budget request with the advice of the division's advisory council. A provision is made requiring the division director and the Secretary of the DBPR 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 administered by the Director of Education for HEP is \$150,000.

Additionally, provision is made for one annual appropriation of not more than \$50,000 to be used to support the development of food safety training programs and one annual appropriation of not more than \$50,000 to be used to support the development of training for nontransient public lodging training programs.

Effect of proposed changes

The bill removes reference to grants of \$50,000 each for food safety and nontransient lodging training programs. This bill also removes the statutory reference to the \$150,000 maximum for the school-to-career grant. The bill requires school-to-career grant funding to consist of approximately 65% of the HEP funds. The bill also limits program administration and training funds to no more than 35% of the HEP funds collected. The bill requires funds not utilized for program administration and training to be applied to the school-to-career grant.

C. SECTION DIRECTORY:

Section 1. Amends s. 509.291, F.S., to revise provisions relating to the organization and activities of the advisory council.

Section 2. Amends s. 509.302, F.S., to revise provisions relating to the Hospitality Education Program.

Section 3. Amends s. 509.072, F.S., to conform a cross reference.

Section 4. Effective date - July 1, 2007.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The department does not anticipate any fiscal impact to the state. According to the department, the bill will allot more money for funding grants and less for program operations, which may result in a reduction in HEP operations, such as the training program for food and lodging employees.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, does not appear to reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not appear to reduce the percentage of state tax shared with counties or municipalities.

##### 2. Other:

None noted.

#### B. RULE-MAKING AUTHORITY:

The bill authorizes the division to adopt rules providing the criteria for grant program approval and the procedures for processing grant program applications

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

NA

#### D. STATEMENT OF THE SPONSOR

I would like to make a clarifying point to your analysis. The Hospitality Education Program's (HEP) mission has changed over the years. It used to be the sole provider for education and training for food service managers and handlers. Today, that service is provided by department approved, private vendors. Therefore, this bill should not affect that program.

HEP training programs now focus solely on training programs for those operators who have been cited by the division and must take a remediation class as part of a stipulated settlement. Those classes are offered by HEP staff.

I would also like to point out that the staff analysis does not reflect the growth of HEP funds that are available to take care of both programs. In addition, the committee may look at the amount of funds that have been left over within the HEP program for the last two years. Their annual reports will show both figures.

### IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 8, 2007, the Committee on Business Regulation adopted four amendments and passed the bill out of committee by unanimous vote.

Amendment #1 - Allows the DBPR to fund the programs through grants, contracts or whatever means the DBPR deems best.

Amendment #2 - Prioritizes the food and lodging industries when the DBPR adopts rules to establish the criteria for the grant program.

Amendment #3 - Clarifies that the applicant's service experience is tangible.

Amendment # 4 – Reinstates current language referencing participation in the HEP by colleges and universities.