

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 717 Hospitality Education Program

SPONSOR(S): Abruzzo and others

TIED BILLS: IDEN./SIM. BILLS: SB 1418

| | REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|----|---|-----------|------------|----------------|
| 1) | Insurance, Business & Financial Affairs Policy Committee | 19 Y, 0 N | Livingston | Cooper |
| 2) | General Government Policy Council | | | |
| 3) | Government Operations Appropriations Committee | | | |
| 4) | Full Appropriations Council on General Government & Health Care | | | |
| 5) | | | | |

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). The Hospitality Education Program (HEP) is an industry financed training and education program that is administered by the division for the benefit of the restaurant and lodging industries in the state.

The primary goal of the HEP is "to instruct and train 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) management training, b) continuing education programs, c) awareness of food recovery programs, d) school-to-career training and transition programs for students, and e) such other programs as may be deemed appropriate by the director of the division and the advisory council.

Funding of the HEP is from an annual \$ 10 fee imposed on licensees.

The bill is designed to focus the services of the HEP on school-to-career training and transition programs for students in the public school system and who are interested in pursuing careers in the hospitality industry. The bill defines "hospitality industry" to mean "the restaurant or the lodging industry." The division would continue to be authorized to administer the application process for the issuance of grant funding to nonprofit statewide organizations that represent the hospitality industry.

The bill continues to use the current \$ 10 annual license fee to fund the HEP. The bill establishes a new funding formula to specify that the division use at least 75 percent of the revenues collected from the license fee to use as grants to fund programs directed to careers in the restaurant industry and at least 20 percent of the revenues as grant funds for programs directed to careers in the lodging industry. The division is also authorized by the bill to transfer funds between the two industries based on the number of grant applications that are directed to careers in one of the industries.

According to the DBPR, this legislation will not have a fiscal impact to the state. The DBPR does, however, anticipate a significant effect upon the operations of the HEP because the proposed legislation will divert more of the fees away from operations and into funding grants. The DBPR projects that "HB 717 will not impact the overall revenues collected, though the utilization of those revenues would be substantially altered."

Effective date - July 1, 2009.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. 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 509.291, F.S., creates a 10 member advisory council to assist the division by advising it on matters affecting the private-sector entities regulated by the division.

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, F.S. For the purpose of licensure, the term does not include condominium common elements as defined in s. 718.103, F.S.

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.

Section 509.302, F.S., creates the Hospitality Education Program (HEP) as an industry financed training and education program that is administered by the division for the benefit of the restaurant and lodging industries in the state. The primary goal of the HEP is "to instruct and train 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) management training, b) continuing education programs, c) awareness of food recovery programs, d) school-to-career training and transition programs for students, and e) such other programs as may be deemed appropriate by the director of the division and the advisory council.

The school-to-career training and transition part of the program is targeted for students interested in pursuing careers in the food service or lodging industry. The training and transition programs are provided through the public school system and are based on a nationally recognized curriculum approved by the division. The school-to-career activities are partially funded by grants from nonprofit statewide organizations in the hospitality services field. The application process for the grants is administered by the division.

The division is authorized to adopt rules to provide the criteria for grant approval and the procedures for processing grant applications. The criteria must include consideration of 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. Grants are awarded for a term of 4 years, with funding provided on an annual basis.

The training and transition program grant funding may be used for expenses incident to providing program 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.

Section 509.302(2), F.S., provides

- 2) 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 used for the sole purpose of funding the Hospitality Education Program.

Current provisions authorize the director of HEP to develop an annual budget for HEP and a corresponding annual legislative budget request with the advice of the division's advisory council. The director and the Secretary of the DBPR is 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. 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 is designed to focus the services of the HEP on school-to-career training and transition programs for students in the public school system and who are interested in pursuing careers in the hospitality industry. The bill defines "hospitality industry" to mean "the restaurant or the lodging industry." The division would continue to be authorized to administer the application process for the issuance of funding to nonprofit statewide organizations that represent the hospitality industry.

The bill continues to use the current \$ 10 annual license fee to fund the HEP. The bill establishes a new funding formula to specify that the division use at least 75 percent of the revenues collected from the license fee to use as grants to fund programs directed to careers in the restaurant industry and at least 20 percent of the revenues as grant funds for programs directed to careers in the lodging industry. The division is also authorized by the bill to transfer funds between the two industries based on the number of grant applications that are directed to careers in each of the industries.

B. SECTION DIRECTORY:

Section 1. Amends s. 509.302, F.S., to revise provisions relating to the Hospitality Education Program and direct primary funding to support school-to-career training and transition programs.

Section 2. Effective date - July 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The DBPR projects: "HB 717 will not impact the overall revenues collected, though the utilization of those revenues would be substantially altered."¹

2. Expenditures:

The DBPR further notes: "HB 717 significantly alters the authorized allocation of the hospitality education fee and diverts funding from a program currently provided by the department to grants. In Fiscal Year 2007-2008, \$664,020 of the \$914,020 collected was available for the operation and administration of the Hospitality Education Program (\$914,020 collected - \$250,000 grant). However, based on Fiscal Year 2008-2009 revenue estimates, only \$44,100 (5% of revenue) would

¹ The following several references to the DBPR fiscal projections are cited from the DBPR Office of Legislative Affairs, 2009 Legislative Analysis Form, HB 717, on file with the Insurance, Business, & Financial Affairs Committee.

be available for the operation and administration of the Hospitality Education Program, which would inadequately fund the remaining required administrative functions. Ninety-five percent, or \$838,000 would be available for distribution as grants.”

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The DBPR projects that the bill: “would increase funding for food service and lodging training programs and, therefore, potentially increase the number of qualified employees available for hire. Training available to food and lodging employees and licensees would be reduced.”

D. FISCAL COMMENTS:

The DBPR comments:

HB 717 strikes grants of \$50,000 each for food safety and nontransient lodging training programs. This bill also removes the \$250,000 maximum for the school-to-career grant. The bill requires school to career grant funding to consist of approximately 95% of the Hospitality Education Program funds collected, increasing annual school to career grant funding from \$250,000 to approximately \$868,000 based upon Fiscal Year 2007-2008 or \$838,000 based upon Fiscal year 2008-2009 estimates. The bill also limits program administration and training funds to 5% or less of the Hospitality Education Program funds collected, reducing available operating funds from \$664,020 to \$45,700, based upon Fiscal Year 2007-2008 revenue.

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.

B. RULE-MAKING AUTHORITY:

NA

C. DRAFTING ISSUES OR OTHER COMMENTS:

None noted.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES