

Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

SENATE, No. 904

STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED FEBRUARY 7, 2000

Sponsored by:

Senator DIANE ALLEN

District 7 (Burlington and Camden)

Senator JOSEPH A. PALAIA

District 11 (Monmouth)

Co-Sponsored by:

Assemblymen Holzapfel, Weingarten, O'Toole and Arnone

SYNOPSIS

Clarifies procedures with regard to the payment of filing fees by inmates in connections with appeals from administrative determinations.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/26/2000)

S904 ALLEN, PALAIA

2

1 AN ACT concerning filing fees in civil actions brought by inmates and
2 amending P.L.1996, c.11.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 2 of P.L.1996, c.11 (C.30:4-16.3) is amended to read as
8 follows:

9 2. a. If an inmate files an action or proceeding in any court of this
10 State and requests a waiver of filing fees on the grounds of indigency
11 the inmate shall attach to the filing a certified copy of the prisoner's
12 fund account statement from the appropriate correctional institution
13 for the six months immediately preceding the filing of the complaint
14 or petition. If any filing fee is waived, the inmate shall pay a partial
15 filing fee that is 20% of the greater of:

16 (1) the average monthly balance in the inmate's account;

17 (2) the average deposits to the inmate's account;

18 for the six months immediately preceding the filing of the complaint
19 or petition. However, the partial fee may not exceed the full filing fee
20 for the commencement of the action or proceeding.

21 b. If an inmate claims exceptional circumstances that render the
22 offender unable to pay the partial filing fee required by this section, in
23 addition to the statement of account required by subsection a. the
24 inmate shall submit an affidavit of special circumstances setting forth
25 the reasons and circumstances that justify relief from the partial filing
26 fee requirement.

27 c. If the court approves the application to waive all fees, the court
28 shall give written notice to the inmate that all fees and costs relating
29 to the filing and service will be waived. If the court denies the
30 application to waive all fees, the court shall give written notice to the
31 inmate that the offender's case will be dismissed if the partial filing fee
32 is not paid within 45 days after the date of the order, or within an
33 additional period that the court may, upon request, allow. Process in
34 an action filed by an inmate shall not be served until the fee is paid.

35 d. As used in this section "action or proceeding" includes any
36 appeal by inmates from administrative decisions rendered by the State
37 Parole Board and the Department of Corrections, including, but not
38 limited to, parole and disciplinary matters.

39 (cf: P.L.1996, c.11, s.2.)

40

41 2. This act shall take effect immediately.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

STATEMENT

Under current court rules, the fee normally charged for filing a civil action is waived if it is determined that the plaintiff is indigent. Until recently, filing fees were often waived on grounds of indigency in civil cases filed by inmates. However, in 1996, P.L.1996, c.11 was enacted with the aim of discouraging the filing of frivolous civil action by inmates by requiring inmates to pay at least a partial filing fee in civil cases. In Fisher v. Parole Board, 154 N.J.85 (1997), the Supreme Court ruled that the provisions of N.J.S.A.30:4-16.3 are not applicable to appeals by inmates from adverse determinations by the Parole Board and the Department of Corrections. The bill would reverse this decision and provide that the partial filing fee procedure set forth in the statute is applicable to any appeals by inmates from administrative determinations by the Parole Board and the Department of Corrections including but not limited to parole and disciplinary matters.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 904

STATE OF NEW JERSEY

DATED: FEBRUARY 17, 2000

The Senate Judiciary Committee reports favorably Senate Bill No. 904.

Under current court rules, the fee normally charged for filing a civil action is waived if it is determined that the plaintiff is indigent. Until recently, filing fees were often waived on grounds of indigency in civil cases filed by inmates. However, in 1996, P.L.1996, c.11 was enacted with the aim of discouraging the filing of frivolous civil actions by inmates by requiring inmates to pay at least a partial filing fee in civil cases. In Fisher v. Parole Board, 154 N.J.85 (1997), the Supreme Court ruled that the provisions of N.J.S.A.30:4-16.3 are not applicable to appeals by inmates from adverse determinations by the Parole Board and the Department of Corrections. This bill would reverse this decision and provide that the partial filing fee procedure set forth in the statute is applicable to any appeals by inmates from administrative determinations by the Parole Board and the Department of Corrections including but not limited to parole and disciplinary matters.

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 904
STATE OF NEW JERSEY
209th LEGISLATURE

DATED: MARCH 14, 2000

SUMMARY

Synopsis: Clarifies procedures with regard to the payment of filing fees by inmates in connectin with appeals from administrative determinations.

Type of Impact: Nominal increase in General Fund revenue.

Agencies Affected: The Judiciary

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Revenue	nominal	nominal	nominal

- ! The bill would provide that partial filing fee procedures set forth in N.J.S.A. 30:4-16.3 shall include appeals by inmates from administrative decisions rendered by the New Jersey Parole Board and the Department of Corrections.
- ! The Office of Legislative Services concurs with the Executive estimate made during the preceding Legislative session that enactment of the bill would cause a slight increase in revenue to the State from filing fees by inmates in parole and disciplinary matters.

BILL DESCRIPTION

Senate Bill No. 904 of 2000 would reverse the New Jersey Supreme Court's ruling in Fisher v. Parole Board, 154 N.J. 85 (1977), by providing that partial filing fee procedures set forth in N.J.S.A. 30:4-16.3 shall include appeals by inmates from administrative decisions rendered by the New Jersey Parole Board and the Department of Corrections.

FISCAL ANALYSIS

EXECUTIVE BRANCH

Information provided by the Administrative Office of the Courts for the prior session version of this bill (Senate Bill No. 1447 of 1999) states that it is impossible to accurately compute the number of cases which may be involved. However, the bill would cause a slight increase in revenue to the State from filing fees by inmates in parole and disciplinary matters.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services concurs.

Section: *Judiciary*

Analyst: *Anne C. Raughley*
Lead Fiscal Analyst

Approved: *Alan R. Kooney*
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

SENATE, No. 904

STATE OF NEW JERSEY

DATED: MARCH 20, 2000

The Assembly Law and Public Safety Committee reports favorably Senate Bill No. 904.

Senate Bill No. 904 clarifies that inmates who appeal Parole Board and Department of Corrections administrative decisions are subject to partial filing fee procedures.

Under current court rules, the fee normally charged for filing a civil action is waived if it is determined that the plaintiff is indigent. Until recently, filing fees were often waived on grounds of indigency in civil cases filed by inmates. However, in 1996, P.L.1996, c.11 was enacted with the aim of discouraging the filing of frivolous civil action by inmates by requiring inmates to pay at least a partial filing fee in civil cases. In Fisher v. Parole Board, 154 N.J. 85 (1998), the Supreme Court ruled that the provisions of N.J.S.A.30:4-16.3 are not applicable to appeals by inmates from adverse determinations by the Parole Board and the Department of Corrections. The bill would reverse this decision and provide that the partial filing fee procedure set forth in the statute is applicable to any appeals by inmates from administrative determinations by the Parole Board and the Department of Corrections including but not limited to parole and disciplinary matters.

As reported, this bill is identical to Assembly Bill No. 2166, also reported on this date.

P.L. 2000, CHAPTER 90, *approved August 29, 2000*
Senate, No. 904

1 **AN ACT** concerning filing fees in civil actions brought by inmates and
2 amending P.L.1996, c.11.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 2 of P.L.1996, c.11 (C.30:4-16.3) is amended to read as
8 follows:

9 2. a. If an inmate files an action or proceeding in any court of this
10 State and requests a waiver of filing fees on the grounds of indigency
11 the inmate shall attach to the filing a certified copy of the prisoner's
12 fund account statement from the appropriate correctional institution
13 for the six months immediately preceding the filing of the complaint
14 or petition. If any filing fee is waived, the inmate shall pay a partial
15 filing fee that is 20% of the greater of:

16 (1) the average monthly balance in the inmate's account;

17 (2) the average deposits to the inmate's account;

18 for the six months immediately preceding the filing of the complaint
19 or petition. However, the partial fee may not exceed the full filing fee
20 for the commencement of the action or proceeding.

21 b. If an inmate claims exceptional circumstances that render the
22 offender unable to pay the partial filing fee required by this section, in
23 addition to the statement of account required by subsection a. the
24 inmate shall submit an affidavit of special circumstances setting forth
25 the reasons and circumstances that justify relief from the partial filing
26 fee requirement.

27 c. If the court approves the application to waive all fees, the court
28 shall give written notice to the inmate that all fees and costs relating
29 to the filing and service will be waived. If the court denies the
30 application to waive all fees, the court shall give written notice to the
31 inmate that the offender's case will be dismissed if the partial filing fee
32 is not paid within 45 days after the date of the order, or within an
33 additional period that the court may, upon request, allow. Process in
34 an action filed by an inmate shall not be served until the fee is paid.

35 d. As used in this section "action or proceeding" includes any
36 appeal by inmates from administrative decisions rendered by the State
37 Parole Board and the Department of Corrections, including, but not
38 limited to, parole and disciplinary matters.

39 (cf: P.L.1996, c.11, s.2.)

40

41 2. This act shall take effect immediately.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

STATEMENT

1
2
3 Under current court rules, the fee normally charged for filing a civil
4 action is waived if it is determined that the plaintiff is indigent. Until
5 recently, filing fees were often waived on grounds of indigency in civil
6 cases filed by inmates. However, in 1996, P.L.1996, c.11 was
7 enacted with the aim of discouraging the filing of frivolous civil action
8 by inmates by requiring inmates to pay at least a partial filing fee in
9 civil cases. In Fisher v. Parole Board, 154 N.J.85 (1997), the Supreme
10 Court ruled that the provisions of N.J.S.A.30:4-16.3 are not
11 applicable to appeals by inmates from adverse determinations by the
12 Parole Board and the Department of Corrections. The bill would
13 reverse this decision and provide that the partial filing fee procedure
14 set forth in the statute is applicable to any appeals by inmates from
15 administrative determinations by the Parole Board and the Department
16 of Corrections including but not limited to parole and disciplinary
17 matters.

18

19

20

21

22 Clarifies procedures with regard to the payment of filing fees by
23 inmates in connections with appeals from administrative
24 determinations.

CHAPTER 90

AN ACT concerning filing fees in civil actions brought by inmates and amending P.L.1996, c.11.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 2 of P.L.1996, c.11 (C.30:4-16.3) is amended to read as follows:

C.30:4-16.3 Waiver of filing fee; part payment.

2. a. If an inmate files an action or proceeding in any court of this State and requests a waiver of filing fees on the grounds of indigency the inmate shall attach to the filing a certified copy of the prisoner's fund account statement from the appropriate correctional institution for the six months immediately preceding the filing of the complaint or petition. If any filing fee is waived, the inmate shall pay a partial filing fee that is 20% of the greater of:

- (1) the average monthly balance in the inmate's account;
- (2) the average deposits to the inmate's account;

for the six months immediately preceding the filing of the complaint or petition. However, the partial fee may not exceed the full filing fee for the commencement of the action or proceeding.

b. If an inmate claims exceptional circumstances that render the offender unable to pay the partial filing fee required by this section, in addition to the statement of account required by subsection a. the inmate shall submit an affidavit of special circumstances setting forth the reasons and circumstances that justify relief from the partial filing fee requirement.

c. If the court approves the application to waive all fees, the court shall give written notice to the inmate that all fees and costs relating to the filing and service will be waived. If the court denies the application to waive all fees, the court shall give written notice to the inmate that the offender's case will be dismissed if the partial filing fee is not paid within 45 days after the date of the order, or within an additional period that the court may, upon request, allow. Process in an action filed by an inmate shall not be served until the fee is paid.

d. As used in this section "action or proceeding" includes any appeal by inmates from administrative decisions rendered by the State Parole Board and the Department of Corrections, including, but not limited to, parole and disciplinary matters.

2. This act shall take effect immediately.

Approved August 29, 2000.

PO BOX 004
TRENTON, NJ 08625

Office of the Governor
NEWS RELEASE

CONTACT: Jayne O'Connor
Laura Otterbourg
609-777-2600

RELEASE: August 29, 2000

Governor Christie Whitman today signed the following pieces of legislation:

A-1292, sponsored by Assemblyman Guy F. Talarico (R-Bergen) and Senator Anthony R. Bucco (R-Morris), confers specific authority upon the State courts to establish special needs trusts to assist disabled individuals and ensures that Medicaid eligibility is not affected by assets in the trust. The bill does not prevent the establishment of such trusts outside the courts. The bill also insures that upon the disabled person's death, funds remaining in the trust are repaid to the State in an amount equal to the medical assistance that was paid on behalf of the disabled person.

This bill was drafted in response to changes in federal law regarding special needs trusts, which are established to assist disabled individuals by paying for health-related items or services after Medicaid benefits have been exhausted.

A-2550, sponsored by Assembly Members Anthony Impreveduto (D-Bergen/Hudson) and Nicholas R. Felice (R-Bergen/ Passaic), amends the law governing criminal history record background checks for individuals working with the developmentally disabled in community agencies by adding a rehabilitation provision. The Governor had signed the law on January 14, 2000.

The bill provides that an individual, otherwise disqualified from employment because of a conviction disclosed by a background check, can qualify for employment if the individual affirmatively demonstrates to the agency director that he or she was rehabilitated. If the individual with the conviction were the agency director, then the agency's board would make the determination.

Also, the bill requires a criminal history record background check to be conducted at least once every two years for agency directors and their employees (as is required for State institutions and facilities for the mentally ill and developmentally disabled).

A-2578, sponsored by Assembly Members Charlotte Vandervalk (R-Bergen) and Francis J. Blee (R-Atlantic) and Senators Jack Sinagra (R-Middlesex) and Robert W. Singer (R-Burlington/Monmouth/Ocean), enables the New Jersey Health Care Facilities Financing Authority (HCFFA) to refinance outstanding bond indebtedness of hospitals that cease acute care operations or transition to alternative services. The Appropriations Act for the current 2001 Budget set aside up to \$8 million for this purpose.

This bill was drafted in response to recommendations made by the New Jersey Hospital Advisory Commission at the end of 1999 which found that the State's hospital industry faced a serious financial crisis because of an excessive number of underutilized beds.

S-904, sponsored by Senators Diane B. Allen (R-Burlington/Camden) and Joseph A. Palaia (R-Monmouth) and Assembly Members James W. Holzapfel (R-Monmouth/Ocean) and Joel M. Weingarten (R-Essex/Union) clarifies procedures with regard to the payment of filing fees by inmates in connection with appeals from administrative determinations. This bill clarifies legislative intent regarding the payment of partial filing fees by indigent inmates by requiring inmates to pay a partial filing fee to appeal administrative rulings.

S-1116, sponsored by Senators Henry P. McNamara (R-Bergen/Passaic) and John H. Adler (D-Camden) and Assembly Members John C. Gibson (R-Cape May/Atlantic/Cumberland) and Larry Chatzidakis (R-Atlantic/Burlington/Camden), excludes federal and other public or private financial aid received by New Jersey for open space or farmland preservation purposes from the \$200 million annual appropriations cap for projects approved by the Garden State Preservation Trust. This bill amends the Garden State Preservation Trust Act.

S-1320, sponsored by Senators Joseph A. Palaia (R-Monmouth) and Robert W. Sinagra (R-Middlesex) Assembly Members Clare M. Farragher (R-Monmouth) and Joseph R. Malone, III (R-Burlington/Monmouth/Ocean), appropriates funds to the Department of Environmental Protection for environmental infrastructure projects. Specifically, the bill appropriates federal Clean Water Funds to the DEP for zero-interest loans to local governments and privately owned water companies for up to 50 percent of the eligible project costs for the approved projects. The bill also authorizes DEP to issue a federal hardship grant to Swedesboro Borough in the amount of \$415,000 for a clean water project. The bill, along with S-1321, comprises the annual New Jersey Environmental Infrastructure Financing Program for Fiscal Year 2001.

S-1321, sponsored by Senators Henry P. McNamara (R-Bergen/Passaic) and Norman M. Robertson (R-Essex/Passaic) and Assembly Members Tom Smith (R-Monmouth) and Joseph V. Doria, Jr. (D-Hudson), authorizes the New Jersey Environmental Infrastructure Trust to make up to \$100 million in loans for environmental infrastructure projects. In addition, the bill authorizes the Trust to use unspent balances (in excess of \$44 million) from previously approved projects to finance loans for projects on the FY2001 Priority Project List. The bill, along with S-1320, comprises the annual New Jersey Environmental Infrastructure Financing Program for Fiscal Year 2001.