

LEGISLATIVE FISCAL NOTE:

No

VETO MESSAGE:

No

GOVERNOR'S PRESS RELEASE ON SIGNING:

No

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

No

LAW/RWH

[Second Reprint]

SENATE, No. 2493

STATE OF NEW JERSEY
213th LEGISLATURE

INTRODUCED JANUARY 13, 2009

Sponsored by:

Senator RICHARD J. CODEY

District 27 (Essex)

Senator DIANE B. ALLEN

District 7 (Burlington and Camden)

Assemblyman LOUIS D. GREENWALD

District 6 (Camden)

Assemblywoman SHEILA Y. OLIVER

District 34 (Essex and Passaic)

Assemblywoman PAMELA R. LAMPITT

District 6 (Camden)

Assemblywoman SANDRA LOVE

District 4 (Camden and Gloucester)

Assemblywoman NILSA CRUZ-PEREZ

District 5 (Camden and Gloucester)

Co-Sponsored by:

Assemblywomen Evans, Angelini, Rodriguez and Assemblyman Ramos

SYNOPSIS

Provides for random drug testing and testing for cause of employees of State psychiatric hospitals, developmental centers, and veterans homes and requires applicants for employment to undergo drug testing.

CURRENT VERSION OF TEXT

As reported by the Senate Health, Human Services and Senior Citizens Committee on December 7, 2009, with amendments.

(Sponsorship Updated As Of: 1/12/2010)

1 AN ACT concerning drug testing of certain State employees and
 2 supplementing Title 30 of the Revised Statutes and Title 38A of
 3 the New Jersey Statutes.

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

7
 8 1. a. As a condition of employment ²as a direct care staff
 9 member² at a State psychiatric hospital or developmental center
 10 listed in R.S.30:1-7, an applicant for employment shall consent to
 11 and undergo drug testing for controlled dangerous substances as
 12 provided in subsection ²**[g.] f.**² of this section. The drug testing
 13 shall be at the expense of the applicant.

14 If a person applying for employment at a State psychiatric
 15 hospital or developmental center on or after the effective date of
 16 this act tests positive for the unlawful use of any controlled
 17 dangerous substance, or refuses to submit to drug testing, the person
 18 shall be removed from consideration for employment.

19 b. ²**[A person who is employed at a State psychiatric hospital or**
 20 **developmental center on the effective date of this act shall consent**
 21 **to and undergo drug testing for controlled dangerous substances**
 22 **within 180 days of the effective date of this act, as a condition of**
 23 **retaining employment.**

24 c.]² A person who is employed at a State psychiatric hospital or
 25 developmental center ²as a direct care staff member² shall be
 26 subject to random drug testing for controlled dangerous substances
 27 performed at such intervals as the ²**[commissioner] Commissioner**
 28 **of Human Services**² deems appropriate. ²The commissioner shall
 29 annually perform random drug tests on 500 direct care staff
 30 members.²

31 ²**[d.] c.**² A person who is employed at a State psychiatric
 32 hospital or developmental center ²as a direct care staff member²
 33 may be required to undergo drug testing for controlled dangerous
 34 substances if the employee's immediate supervisor has reasonable
 35 suspicion to believe that the employee is illegally using a controlled
 36 dangerous substance, based on the employee's visible impairment
 37 or professional misconduct which relates adversely to patient care
 38 or safety. The supervisor shall report this information to his
 39 immediate supervisor in a form and manner specified by the
 40 commissioner, and if the supervisor concurs that there is reasonable
 41 suspicion to believe that an employee is illegally using a controlled
 42 dangerous substance, that supervisor shall notify the chief executive
 43 officer of the State psychiatric hospital or developmental center, as

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹**Senate SHH committee amendments adopted May 18, 2009.**

²**Senate SHH committee amendments adopted December 7, 2009.**

1 applicable, or other executive level officer of the hospital or
2 developmental center designated by the commissioner, and request
3 approval in writing for ordering the employee to undergo drug
4 testing. Drug testing of an employee shall not be ordered without
5 the written approval of the chief executive officer or other executive
6 level officer designated by the commissioner.

7 ²[e.] d.² An employee who tests positive for the unlawful use of
8 any controlled dangerous substance may be referred to employee
9 advisory services, or terminated from employment, as applicable,
10 based on the employee's job title. An employee who refuses to
11 submit to drug testing shall be terminated from employment. In all
12 cases, however, the employee shall retain any available right of
13 review by the ¹[Merit System Board in the Department of
14 Personnel] Civil Service Commission¹.

15 ²[f.] e.² The drug testing required pursuant to subsections
16 ²[b.,] b. and² c.²[, and d.]² of this section shall be at the expense
17 of the Department of Human Services.

18 ²[g.] f.² Drug testing shall be performed by an outside drug
19 testing facility in a manner prescribed by the commissioner.

20 ²[h.] g.² The commissioner shall notify all ²affected²
21 employees of State psychiatric hospitals and developmental centers
22 of the provisions of this section.

23 ²h. As used in this section, "direct care staff member" means a:
24 Human Services Technician; Human Services Assistant; physician;
25 psychiatrist; dentist; psychologist; nurse; nurse assistant; physical,
26 occupational, or speech therapist; social worker; and any other staff
27 member employed by a State psychiatric hospital or developmental
28 center who provides direct care to a patient or resident at the
29 facility, as determined by the commissioner.²

30 i. Pursuant to the "Administrative Procedure Act," P.L.1968,
31 c.410 (C.52:14B-1 et seq.), the commissioner shall adopt rules and
32 regulations necessary to effectuate the purposes of this act,
33 including, but not limited to, those rules and regulations necessary
34 to ensure the confidentiality of the person undergoing drug testing,
35 and that drug test results are not reported to law enforcement
36 authorities.

37
38 2. a. As a condition of employment ²as a direct care staff
39 member² at a New Jersey ²[memorial veterans'] veterans
40 memorial² home, an applicant for employment shall consent to and
41 undergo drug testing for controlled dangerous substances as
42 provided in subsection ²[g.] f.² of this section. The drug testing
43 shall be at the expense of the applicant.

44 If a person applying for employment at a New Jersey ²[memorial
45 veterans'] veterans memorial² home on or after the effective date of
46 this act tests positive for the unlawful use of any controlled

1 dangerous substance, or refuses to submit to drug testing, the person
2 shall be removed from consideration for employment.

3 b. ²[A person who is employed at a New Jersey memorial
4 veterans' home on the effective date of this act shall consent to and
5 undergo drug testing for controlled dangerous substances within
6 180 days of the effective date of this act, as a condition of retaining
7 employment.

8 c.]² A person who is employed at a New Jersey ²veterans²
9 memorial ²[veterans']² home ²as a direct care staff member² shall
10 be subject to random drug testing for controlled dangerous
11 substances performed at such intervals as the Adjutant General
12 deems appropriate. ²The Adjutant General shall annually perform
13 random drug tests on 100 direct care staff members.²

14 ²[d.] c.² A person who is employed at a New Jersey ²veterans²
15 memorial ²[veterans']² home ²as a direct care staff member² may
16 be required to undergo drug testing for controlled dangerous
17 substances if the employee's immediate supervisor has reasonable
18 suspicion to believe that the employee is illegally using a controlled
19 dangerous substance, based on the employee's visible impairment
20 or professional misconduct which relates adversely to patient care
21 or safety. The supervisor shall report this information to his
22 immediate supervisor in a form and manner specified by the
23 Adjutant General, and if the supervisor concurs that there is
24 reasonable suspicion to believe that an employee is illegally using a
25 controlled dangerous substance, that supervisor shall notify the
26 chief executive officer of the New Jersey ²veterans² memorial
27 ²[veterans']² home, or other executive level officer of the
28 ²[veterans'] veterans² memorial home designated by the Adjutant
29 General, and request approval in writing for ordering the employee
30 to undergo drug testing. Drug testing of an employee shall not be
31 ordered without the written approval of the chief executive officer
32 or other executive level officer designated by the Adjutant General.

33 ²[e.] d.² An employee who tests positive for the unlawful use
34 of any controlled dangerous substance may be referred to employee
35 advisory services, or terminated from employment, as applicable,
36 based on the employee's job title. An employee who refuses to
37 submit to drug testing shall be terminated from employment. In all
38 cases, however, the employee shall retain any available right of
39 review by the ¹[Merit System Board in the Department of
40 Personnel] Civil Service Commission¹.

41 ²[f.] e.² The drug testing required pursuant to subsections
42 ²[b.,] b. and² c.²[, and d.]² of this section shall be at the expense
43 of the Department of Military and Veterans' Affairs.

44 ²[g.] f.² Drug testing shall be performed by an outside drug
45 testing facility in a manner prescribed by the Adjutant General.

1 ²[h.] g.² The Adjutant General shall notify all ²affected²
2 employees of New Jersey ²veterans² memorial ²[veterans' home]
3 homes² of the provisions of this section.

4 ²h. As used in this section, "direct care staff member" means a:
5 Human Services Technician; Human Services Assistant; physician;
6 psychiatrist; dentist; psychologist; nurse; nurse assistant; physical,
7 occupational, or speech therapist; social worker; and any other staff
8 member employed by a veterans memorial home who provides
9 direct care to a resident at the facility, as determined by the
10 Adjutant General.²

11 i. Pursuant to the "Administrative Procedure Act," P.L.1968,
12 c.410 (C.52:14B-1 et seq.), the Adjutant General shall adopt rules
13 and regulations necessary to effectuate the purposes of this act,
14 including, but not limited to, those rules and regulations necessary
15 to ensure the confidentiality of the person undergoing drug testing,
16 and that drug test results are not reported to law enforcement
17 authorities.

18

19 3. This act shall take effect on the 90th day after the date of
20 enactment, but the Commissioner of Human Services and the
21 Adjutant General may take such anticipatory administrative action
22 in advance thereof as shall be necessary for the implementation of
23 this act.

SENATE, No. 2493

STATE OF NEW JERSEY
213th LEGISLATURE

INTRODUCED JANUARY 13, 2009

Sponsored by:

Senator RICHARD J. CODEY

District 27 (Essex)

Senator DIANE B. ALLEN

District 7 (Burlington and Camden)

SYNOPSIS

Requires applicants and employees of State psychiatric hospitals, developmental centers, and veterans homes to undergo drug testing.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/15/2009)

1 AN ACT concerning drug testing of certain State employees and
2 supplementing Title 30 of the Revised Statutes and Title 38A of
3 the New Jersey Statutes.

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

7
8 1. a. As a condition of employment at a State psychiatric
9 hospital or developmental center listed in R.S.30:1-7, an applicant
10 for employment shall consent to and undergo drug testing for
11 controlled dangerous substances as provided in subsection g. of this
12 section. The drug testing shall be at the expense of the applicant.

13 If a person applying for employment at a State psychiatric
14 hospital or developmental center on or after the effective date of
15 this act tests positive for the unlawful use of any controlled
16 dangerous substance, or refuses to submit to drug testing, the person
17 shall be removed from consideration for employment.

18 b. A person who is employed at a State psychiatric hospital or
19 developmental center on the effective date of this act shall consent
20 to and undergo drug testing for controlled dangerous substances
21 within 180 days of the effective date of this act, as a condition of
22 retaining employment.

23 c. A person who is employed at a State psychiatric hospital or
24 developmental center shall be subject to random drug testing for
25 controlled dangerous substances performed at such intervals as the
26 commissioner deems appropriate.

27 d. A person who is employed at a State psychiatric hospital or
28 developmental center may be required to undergo drug testing for
29 controlled dangerous substances if the employee's immediate
30 supervisor has reasonable suspicion to believe that the employee is
31 illegally using a controlled dangerous substance, based on the
32 employee's visible impairment or professional misconduct which
33 relates adversely to patient care or safety. The supervisor shall
34 report this information to his immediate supervisor in a form and
35 manner specified by the commissioner, and if the supervisor
36 concurs that there is reasonable suspicion to believe that an
37 employee is illegally using a controlled dangerous substance, that
38 supervisor shall notify the chief executive officer of the State
39 psychiatric hospital or developmental center, as applicable, or other
40 executive level officer of the hospital or developmental center
41 designated by the commissioner, and request approval in writing for
42 ordering the employee to undergo drug testing. Drug testing of an
43 employee shall not be ordered without the written approval of the
44 chief executive officer or other executive level officer designated
45 by the commissioner.

46 e. An employee who tests positive for the unlawful use of any
47 controlled dangerous substance may be referred to employee
48 advisory services, or terminated from employment, as applicable,

1 based on the employee's job title. An employee who refuses to
2 submit to drug testing shall be terminated from employment. In all
3 cases, however, the employee shall retain any available right of
4 review by the Merit System Board in the Department of Personnel.

5 f. The drug testing required pursuant to subsections b., c., and
6 d. of this section shall be at the expense of the Department of
7 Human Services.

8 g. Drug testing shall be performed by an outside drug testing
9 facility in a manner prescribed by the commissioner.

10 h. The commissioner shall notify all employees of State
11 psychiatric hospitals and developmental centers of the provisions of
12 this section.

13 i. Pursuant to the "Administrative Procedure Act," P.L.1968,
14 c.410 (C.52:14B-1 et seq.), the commissioner shall adopt rules and
15 regulations necessary to effectuate the purposes of this act,
16 including, but not limited to, those rules and regulations necessary
17 to ensure the confidentiality of the person undergoing drug testing,
18 and that drug test results are not reported to law enforcement
19 authorities.

20

21 2. a. As a condition of employment at a New Jersey memorial
22 veterans' home, an applicant for employment shall consent to and
23 undergo drug testing for controlled dangerous substances as
24 provided in subsection g. of this section. The drug testing shall be
25 at the expense of the applicant.

26 If a person applying for employment at a New Jersey memorial
27 veterans' home on or after the effective date of this act tests
28 positive for the unlawful use of any controlled dangerous substance,
29 or refuses to submit to drug testing, the person shall be removed
30 from consideration for employment.

31 b. A person who is employed at a New Jersey memorial
32 veterans' home on the effective date of this act shall consent to and
33 undergo drug testing for controlled dangerous substances within
34 180 days of the effective date of this act, as a condition of retaining
35 employment.

36 c. A person who is employed at a New Jersey memorial
37 veterans' home shall be subject to random drug testing for
38 controlled dangerous substances performed at such intervals as the
39 Adjutant General deems appropriate.

40 d. A person who is employed at a New Jersey memorial
41 veterans' home may be required to undergo drug testing for
42 controlled dangerous substances if the employee's immediate
43 supervisor has reasonable suspicion to believe that the employee is
44 illegally using a controlled dangerous substance, based on the
45 employee's visible impairment or professional misconduct which
46 relates adversely to patient care or safety. The supervisor shall
47 report this information to his immediate supervisor in a form and
48 manner specified by the Adjutant General, and if the supervisor

1 concurs that there is reasonable suspicion to believe that an
2 employee is illegally using a controlled dangerous substance, that
3 supervisor shall notify the chief executive officer of the New Jersey
4 memorial veterans' home, or other executive level officer of the
5 veterans' memorial home designated by the Adjutant General, and
6 request approval in writing for ordering the employee to undergo
7 drug testing. Drug testing of an employee shall not be ordered
8 without the written approval of the chief executive officer or other
9 executive level officer designated by the Adjutant General.

10 e. An employee who tests positive for the unlawful use of any
11 controlled dangerous substance may be referred to employee
12 advisory services, or terminated from employment, as applicable,
13 based on the employee's job title. An employee who refuses to
14 submit to drug testing shall be terminated from employment. In all
15 cases, however, the employee shall retain any available right of
16 review by the Merit System Board in the Department of Personnel.

17 f. The drug testing required pursuant to subsections b., c., and
18 d. of this section shall be at the expense of the Department of
19 Military and Veterans' Affairs.

20 g. Drug testing shall be performed by an outside drug testing
21 facility in a manner prescribed by the Adjutant General.

22 h. The Adjutant General shall notify all employees of New
23 Jersey memorial veterans' home of the provisions of this section.

24 i. Pursuant to the "Administrative Procedure Act," P.L.1968,
25 c.410 (C.52:14B-1 et seq.), the Adjutant General shall adopt rules
26 and regulations necessary to effectuate the purposes of this act,
27 including, but not limited to, those rules and regulations necessary
28 to ensure the confidentiality of the person undergoing drug testing,
29 and that drug test results are not reported to law enforcement
30 authorities.

31

32 3. This act shall take effect on the 90th day after the date of
33 enactment, but the Commissioner of Human Services and the
34 Adjutant General may take such anticipatory administrative action
35 in advance thereof as shall be necessary for the implementation of
36 this act.

37

38

39

STATEMENT

40

41 This bill requires employees of State psychiatric hospitals,
42 developmental centers, and veterans' memorial homes to undergo
43 drug testing for controlled dangerous substances.

44 Specifically, the bill provides that:

- 45 • As a condition of employment at a State psychiatric hospital or
46 developmental center listed in R.S.30:1-7 or a New Jersey
47 veterans' memorial home, an applicant for employment shall
48 consent to and undergo drug testing for controlled dangerous

- 1 substances. The drug testing shall be at the expense of the
2 applicant. If an applicant tests positive for the unlawful use of
3 any controlled dangerous substance, or refuses to submit to drug
4 testing, the person shall be removed from consideration for
5 employment.
- 6 • An employee at a State psychiatric hospital, developmental
7 center, or veterans' memorial home on the effective date of this
8 bill shall consent to and undergo drug testing for controlled
9 dangerous substances within 180 days of the effective date of this
10 bill as a condition of retaining employment.
 - 11 • An employee at these State facilities shall be subject to random
12 drug testing for controlled dangerous substances performed at
13 such intervals as the Commissioner of Human Services or
14 Adjutant General of the Department of Military and Veterans'
15 Affairs, as applicable, deems appropriate.
 - 16 • An employee at these State facilities may be required to undergo
17 drug testing for controlled dangerous substances if the
18 employee's immediate supervisor has reasonable suspicion to
19 believe that the employee is illegally using a controlled dangerous
20 substance, based on the employee's visible impairment or
21 professional misconduct which relates adversely to patient care or
22 safety. The supervisor shall report this information to his
23 immediate supervisor in a form and manner specified by the
24 commissioner or Adjutant General, and if the supervisor concurs
25 that there is reasonable suspicion to believe that an employee is
26 illegally using a controlled dangerous substance, that supervisor
27 shall notify the chief executive officer of the State facility, as
28 applicable, or other executive level officer of the State facility
29 designated by the commissioner or Adjutant General, and request
30 approval in writing for ordering the employee to undergo drug
31 testing. Drug testing of an employee shall not be ordered without
32 the written approval of the chief executive officer or other
33 designated executive level officer.
 - 34 • An employee who tests positive for the unlawful use of any
35 controlled dangerous substance may be referred to employee
36 advisory services, or terminated from employment, as applicable,
37 based on the employee's job title. An employee who refuses to
38 submit to drug testing shall be terminated from employment. In
39 all cases, however, the employee shall retain any available right
40 of review by the Merit System Board in the Department of
41 Personnel.
 - 42 • The drug testing shall be at the expense of the Department of
43 Human Services or Department of Military and Veterans' Affairs,
44 as applicable and shall be performed by an outside drug testing
45 facility in a manner prescribed by the commissioner or Adjutant
46 General, as applicable.
 - 47 • The commissioner and Adjutant General are directed to notify all
48 affected employees of the provisions of this bill.

SENATE HEALTH, HUMAN SERVICES AND SENIOR
CITIZENS COMMITTEE

STATEMENT TO
SENATE, No. 2493

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 18, 2009

The Senate Health, Human Services and Senior Citizens Committee reports favorably and with amendments Senate Bill No. 2493.

As amended by committee, this bill requires employees of State psychiatric hospitals, developmental centers, and veterans' memorial homes to undergo drug testing for controlled dangerous substances.

Specifically, the bill provides that:

- As a condition of employment at a State psychiatric hospital or developmental center listed in R.S.30:1-7 or a New Jersey veterans' memorial home, an applicant for employment shall consent to and undergo drug testing for controlled dangerous substances. The drug testing shall be at the expense of the applicant. If an applicant tests positive for the unlawful use of any controlled dangerous substance, or refuses to submit to drug testing, the person shall be removed from consideration for employment.
- An employee at these State facilities on the effective date of this bill shall consent to and undergo drug testing for controlled dangerous substances within 180 days of the effective date of this bill as a condition of retaining employment.
- An employee at these State facilities shall be subject to random drug testing for controlled dangerous substances performed at such intervals as the Commissioner of Human Services or Adjutant General of the Department of Military and Veterans' Affairs, as applicable, deems appropriate.
- An employee at these State facilities may be required to undergo drug testing for controlled dangerous substances if the employee's immediate supervisor has reasonable suspicion to believe that the employee is illegally using a controlled dangerous substance, based on the employee's visible impairment or professional misconduct which relates adversely to patient care or safety. The supervisor shall report this information to his immediate supervisor in a form and manner specified by the commissioner or Adjutant General, and if the supervisor concurs that there is reasonable suspicion to believe

that an employee is illegally using a controlled dangerous substance, that supervisor shall notify the chief executive officer of the State facility, as applicable, or other executive level officer of the State facility designated by the commissioner or Adjutant General, and request approval in writing for ordering the employee to undergo drug testing. Drug testing of an employee shall not be ordered without the written approval of the chief executive officer or other designated executive level officer.

- An employee at these State facilities who tests positive for the unlawful use of any controlled dangerous substance may be referred to employee advisory services, or terminated from employment, as applicable, based on the employee's job title. An employee who refuses to submit to drug testing shall be terminated from employment. In all cases, however, the employee shall retain any available right of review by the Civil Service Commission.
- The drug testing shall be at the expense of the Department of Human Services or Department of Military and Veterans' Affairs, as applicable, and shall be performed by an outside drug testing facility in a manner prescribed by the commissioner or Adjutant General, as applicable.
- The commissioner and Adjutant General are directed to notify all affected employees of the provisions of this bill.

The committee adopted a technical amendment to the bill to update references to the Civil Service Commission pursuant to P.L.2008, c.29 (C.11A:2-1 et al.).

SENATE HEALTH, HUMAN SERVICES AND SENIOR
CITIZENS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 2493

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 7, 2009

The Senate Health, Human Services and Senior Citizens Committee reports favorably and with committee amendments Senate Bill No. 2493 (1R).

As amended by committee, this bill provides for random and for cause drug testing of direct care staff members of State psychiatric hospitals and developmental centers and the State's three veterans memorial homes. The bill also requires applicants for employment at these facilities to undergo drug testing as a condition of employment at the facilities. Specifically the bill provides as follows:

- As a condition of employment at a State psychiatric hospital or developmental center listed in R.S.30:1-7 or a New Jersey veterans memorial home, an applicant for employment as a direct care staff member shall consent to and undergo drug testing for controlled dangerous substances. The drug testing shall be at the expense of the applicant and shall be performed by an outside drug testing facility in a manner prescribed by the Commissioner of Human Services or Adjutant General of the Department of Military and Veterans' Affairs, as applicable. If the applicant tests positive for the unlawful use of any controlled dangerous substance, or refuses to submit to drug testing, the applicant shall be removed from consideration for employment.
- A direct care staff member at these State facilities shall be subject to random drug testing for controlled dangerous substances performed at such intervals as the commissioner or Adjutant General, as applicable, deems appropriate.
- The Commissioner of Human Services shall annually perform random drug tests on 500 direct care staff members, and the Adjutant General shall perform random drug tests on 100 direct care staff members.
- A direct care staff member at these State facilities may be required to undergo drug testing for controlled dangerous

substances if the employee's immediate supervisor has reasonable suspicion to believe that the employee is illegally using a controlled dangerous substance, based on the employee's visible impairment or professional misconduct which relates adversely to patient care or safety. The supervisor shall report this information to his immediate supervisor in a form and manner specified by the commissioner or Adjutant General, and if the supervisor concurs that there is reasonable suspicion to believe that an employee is illegally using a controlled dangerous substance, that supervisor shall notify the chief executive officer of the State facility, as applicable, or other executive level officer of the State facility designated by the commissioner or Adjutant General, and request approval in writing for ordering the employee to undergo drug testing. Drug testing of an employee shall not be ordered without the written approval of the chief executive officer or other designated executive level officer.

- A direct care staff member at these State facilities who tests positive for the unlawful use of any controlled dangerous substance may be referred to employee advisory services, or terminated from employment, as applicable, based on the employee's job title. An employee who refuses to submit to drug testing shall be terminated from employment. In all cases, however, the employee shall retain any available right of review by the Civil Service Commission.
- The bill defines "direct care staff member" to mean a: Human Services Technician and Human Services Assistant; physician; psychiatrist; dentist; psychologist; nurse; nurse assistant; physical, occupational, or speech therapist; social worker; and any other staff member employed by a State psychiatric hospital, developmental center, or veterans memorial home who provides direct care to a patient or resident at the facility, as determined by the commissioner or Adjutant General, as applicable.
- The random and for cause drug testing shall be at the expense of the Department of Human Services or Department of Military and Veterans' Affairs, as applicable, and shall be performed by an outside drug testing facility in a manner prescribed by the commissioner or Adjutant General, as applicable.
- The commissioner and Adjutant General are directed to notify all affected employees of the provisions of this bill.

The committee amended the bill to:

- delete the requirements that all current employees of the State facilities undergo testing for controlled dangerous substances as a condition of employment;

-- limit the provisions of the bill to direct care staff members, rather than to all employees of the facilities, and provide definitions for that term;

-- provide that the Commissioner of Human Services shall conduct random drug tests on 500 employees each year, and the Adjutant General shall conduct random drug tests on 100 employees each year; and

-- correct references to the veterans memorial homes.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 2493

STATE OF NEW JERSEY 213th LEGISLATURE

DATED: NOVEMBER 25, 2009

SUMMARY

- Synopsis:** Requires applicants and employees of State psychiatric hospitals, developmental centers, and veterans nursing homes to undergo drug testing for controlled dangerous substances.
- Type of Impact:** An expenditure increase.
- Agencies Affected:** Departments of Human Services (DHS) and Military and Veterans Affairs (DMVA); Civil Service Commission.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	A minimum of \$0.8 million (gross)	A minimum of \$56,000 for every 1,000 random drug tests conducted (gross)	A minimum of \$56,000 for every 1,000 random drug tests conducted (gross)

- The estimate is based on a cost of \$56 for each drug test, which is the cost for drug testing performed on certain employees in the Department of Law and Public Safety.
- There are approximately 14,000 employees at the seven State developmental centers, five psychiatric hospitals, and three veterans homes who would be subject to the drug testing requirement in this bill.
- Between \$200,000 and \$300,000 in Federal reimbursement may be recouped for the initial drug testing conducted at State developmental centers, as the cost of such drug testing would result in an increase in the ICF-MR reimbursement rate at the various developmental centers. However, the State will first have to incur the expense and then recoup the funds once reimbursement rates at the various developmental centers are calculated. In subsequent years, the amount of federal reimbursement recouped would depend on the number of random drug tests conducted on employees of developmental centers.

- Costs the Civil Service Commission may incur in hearing employee appeals cannot be determined.

BILL DESCRIPTION

Senate Bill No. 2493 (1R) of 2009 requires employees of State psychiatric hospitals, developmental centers, and veterans' nursing homes to undergo drug testing for controlled dangerous substances:

- Applicants for employment shall consent to and undergo drug testing, at their own expense, as a condition of employment.
- Existing employees shall undergo drug testing within 180 days, at State expense, as a condition of retaining employment.
- At State expense, employees shall be subject to random drug testing, or drug testing for cause if there is suspicion that an employee is illegally using drugs.
- An employee who tests positive for drugs may be referred to employee advisory services, or terminated from employment. Employees may have the decision reviewed by the Civil Service Commission.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES (OLS)

Although the actual cost to conduct a drug test for controlled dangerous substances pursuant to this bill is not known, as DHS and DMAVA may have to issue a Request for Proposal for drug testing services, available information is that it costs the Department of Law and Public Safety \$56 to conduct an employee drug test. The Office of Legislative Services used the \$56 figure for this fiscal estimate. The actual cost to DHS and DMAVA to conduct drug tests may be greater than or less than \$56.

Based on the \$56 figure, it would cost about \$0.8 million (gross) to conduct drug tests on approximately 14,000 current employees: seven developmental centers – 8,000 employees; five psychiatric hospitals – 4,700 employees; and three veterans' nursing homes – 1,600 employees.

After all current employees are tested, costs should decline in subsequent years as only random drug tests and drug tests for cause would be conducted. While it is not known how many such drug tests may be conducted, based on the \$56 figure, for every 1,000 drug tests that are conducted, the cost would be \$56,000 (gross).

The State will be able to recoup between \$0.2 million and \$0.3 million in federal Medicaid reimbursement for the cost of testing employees at the seven developmental centers. The monies would be recouped in the form of higher reimbursement rates at the developmental centers, as drug testing conducted on State developmental center employees is an allowable cost in determining the reimbursement rate for each developmental center. However, the State would first have to incur the drug testing expense and then report the expense in the annual cost report that each developmental center completes, which is then used to determine a per diem

reimbursement rate. Thus, federal reimbursement for drug testing expenses developmental centers incur in 2010 may not be recouped by the State until 2011 or 2012, when costs for 2010 are finalized. In subsequent years, the amount of federal reimbursement the State may recoup would be reduced and would depend on the number of random and for cause drug tests that are conducted on employees of the developmental centers.

Costs the Civil Service Commission may incur in hearing employee appeals cannot be determined. The Office of Legislative Services has no information as to how much it costs the commission to process and handle an individual appeal or the number of appeals employees may file with the commission.

Section: Human Services

*Analyst: Jay A. Hershberg
Principal Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

SENATE, No. 2493

STATE OF NEW JERSEY 213th LEGISLATURE

DATED: JANUARY 15, 2010

SUMMARY

- Synopsis:** Provides for random drug testing and testing for cause of employees of State psychiatric hospitals, developmental centers, and veterans memorial homes and requires applicants for employment to undergo drug testing.
- Type of Impact:** General Fund expenditure increase.
- Agencies Affected:** Departments of Human Services (DHS) and Military and Veterans Affairs (DMVA); Civil Service Commission.

Office of Legislative Services Estimate

Fiscal Impact	<u>Years 1 – 3</u>
State Costs	It will cost the State approximately \$34,000 each year to conduct a minimum of 600 random drug tests of direct care employees at the affected facilities.

- The State may be able to recoup drug testing costs incurred for direct care employees of the seven State developmental centers as such costs would be an allowable cost with respect to eligibility for federal reimbursement. However, the amount of federal funds that may be recouped cannot be determined as it is not known how many direct care employees of State developmental centers will be randomly tested. Further, any federal reimbursement the State may recoup will not be realized until one or two years after the State incur those costs.
- Costs the Civil Service Commission may incur in hearing employee appeals cannot be determined.

BILL DESCRIPTION

Senate Bill No. 2493 (2R) of 2009 requires persons who seek to be employed as a direct care employees of State psychiatric hospitals, developmental centers, and veterans' nursing homes to undergo drug testing for controlled dangerous substances, at their own expense. Further, the Commissioner of DHS shall be required to conduct at least 500 random drug tests on direct care

staff at the State developmental centers and psychiatric hospitals, and the Adjutant General shall conduct at least 100 random drug tests of employees at the State veterans memorial homes.

The bill defines the type of staff to be considered “direct care,” and includes various Civil Service job titles and various professions as determined by the Commissioner of Human Services or the Adjutant General. Further, an employee shall retain any available right of review by the Civil Service Commission.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services assumes a cost of \$56 for each drug test for controlled dangerous substances, as this is the cost to the Department of Law and Public Safety to conduct an employee drug test. The actual cost to DHS and DMVA to conduct a drug test may be greater or less than \$56 depending on whether the two agencies must issue a Request for Proposal for drug testing services.

At \$56 per drug test cost, it would cost the State approximately \$34,000 to conduct a minimum of 500 tests on direct care employees of the State developmental centers and psychiatric hospitals and 100 tests on direct care employees of the veterans memorial homes annually.

The State would be able to obtain federal reimbursement for drug testing costs incurred on behalf of testing direct care employees of the State developmental centers, as such costs would be an allowable cost for purposes of determining federal reimbursement for services provided at the State developmental centers. As it is not known how many direct care employees at the State developmental centers will be tested, the amount of federal reimbursement that may be obtained cannot be determined. Further, any federal reimbursement the State realizes on behalf of drug testing direct care employees of State developmental centers, will not materialize until at least one to two years after the State incurs the expense, after federal reimbursement rates are finalized. Thus, federal reimbursement for drug testing costs incurred in 2010 may not be realized until 2011 or 2012.

Costs the Civil Service Commission may incur in hearing employee appeals cannot be determined. The Office of Legislative Services has no information as to how much it costs the commission to process and handle an individual appeal or the number of appeals employees may file with the commission.

Section: Human Services

*Analyst: Jay A. Hershberg
Principal Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L. 1980, c.67 (C. 52:13B-6 et seq.).

ASSEMBLY, No. 2956

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED JUNE 12, 2008

Sponsored by:

Assemblyman LOUIS D. GREENWALD

District 6 (Camden)

Assemblywoman SHEILA Y. OLIVER

District 34 (Essex and Passaic)

Assemblywoman PAMELA R. LAMPITT

District 6 (Camden)

Assemblywoman SANDRA LOVE

District 4 (Camden and Gloucester)

SYNOPSIS

Requires persons applying for employment and employees of State psychiatric hospitals to undergo drug testing.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/13/2008)

1 AN ACT concerning State psychiatric hospital employees and
2 supplementing Title 30 of the Revised Statutes.

3

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

6

7 1. a. As a condition of employment at a State psychiatric
8 hospital listed in R.S.30:1-7, an applicant for employment shall
9 consent to and undergo drug testing performed by an outside drug
10 testing facility in a manner prescribed by the Commissioner of
11 Human Services. The drug testing shall be at the expense of the
12 applicant.

13 b. If a person applying for employment at a State psychiatric
14 hospital on or after the effective date of this act tests positive for the
15 unlawful use of any controlled dangerous substance, or refuses to
16 submit to drug testing, the person shall be removed from
17 consideration for employment.

18

19 2. a. A person who is employed at a State psychiatric hospital
20 on the effective date of this act shall consent to and undergo drug
21 testing within 180 days of the effective date of this act. The drug
22 testing shall be at the expense of the employee.

23 b. In addition to the testing requirement in subsection a. of this
24 section, the chief executive officer of a State psychiatric hospital, or
25 his designee, may, on the basis of an employee's visible impairment
26 or professional misconduct which relates adversely to patient care
27 or safety, require an employee to undergo drug testing. The drug
28 testing shall be at the expense of the Department of Human
29 Services.

30 c. If an employee tests positive for the unlawful use of any
31 controlled dangerous substance he may be referred to employee
32 advisory services, or terminated, as applicable, based on his job
33 title. If an employee refuses to submit to drug testing, the employee
34 shall be terminated. In all cases, however, the employee shall retain
35 any available right of review by the Merit System Board in the
36 Department of Personnel.

37 d. Drug testing subsequent to employment shall be performed
38 by an outside drug testing facility in a manner prescribed by the
39 Commissioner of Human Services.

40

41 3. Pursuant to the "Administrative Procedure Act," P.L.1968,
42 c.410 (C.52:14B-1 et seq.), the Commissioner of Human Services
43 shall adopt rules and regulations necessary to effectuate the
44 purposes of this act, including, but not limited to, those rules and
45 regulations necessary to ensure the confidentiality of the person
46 undergoing drug testing, and that drug test results are not reported
47 to law enforcement authorities.

ASSEMBLY HUMAN SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2956

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 12, 2008

The Assembly Human Services Committee reports favorably and with committee amendments, Assembly Bill No. 2956.

This bill requires drug testing of applicants for employment and current employees at State psychiatric hospitals listed in R.S.30:1-7. Under P.L.1988, c.45 (C.30:4-3.4 et seq.), prospective State psychiatric hospital employees must undergo a criminal history record check, but they currently do not have to undergo drug testing.

Under the provisions of this bill, as a condition of employment at a State psychiatric hospital, an applicant must consent to and undergo drug testing. The drug testing shall be at the applicant's expense. If the applicant tests positive for illicit drug use, or refuses to submit to drug testing, the applicant will be removed from consideration for employment.

The bill also requires a person who is employed at a State psychiatric hospital on the effective date of the bill to consent to and undergo drug testing within 180 days of the bill's effective date. This drug testing would be at the expense of the Department of Human Services.

If an employee tests positive for illicit drug use he may be referred to employee advisory services, or terminated, as applicable, based on his job title. If an employee refuses to submit to drug testing, the employee shall be terminated. In all cases, however, the employee will retain any available right of review by the Merit System Board in the Department of Personnel.

Drug testing shall be performed by an outside drug testing facility in a manner prescribed by the Commissioner of Human Services.

This bill further provides that the commissioner shall adopt those rules and regulations necessary to ensure the confidentiality of the person being tested for illicit drug use, and that drug test results are not reported to law enforcement authorities.

The bill has a delayed effective date of 90 days after enactment, but allows the commissioner to take anticipatory action in advance as necessary for the bill's implementation.

COMMITTEE AMENDMENTS:

The committee amendments provide that the drug testing of employees would be at the expense of the Department of Human Services, rather than at the expense of the employee. The amendments also delete language in the bill that had permitted drug testing based on an employee's visible impairment or professional misconduct.

STATEMENT TO
[First Reprint]
ASSEMBLY, No. 2956

with Assembly Floor Amendments
(Proposed By Assemblyman GREENWALD)

ADOPTED: JUNE 16, 2008

The floor amendment restores the provision of the bill that requires the cost of drug testing to be at the expense of the employee.

STATEMENT TO
[Second Reprint]
ASSEMBLY, No. 2956

with Assembly Floor Amendments
(Proposed By Assemblyman GREENWALD)

ADOPTED: SEPTEMBER 25, 2008

This floor amendment restores the ability of the chief executive officer of a State psychiatric hospital, or his designee, to require an employee to undergo drug testing on the basis of an employee's visible impairment or professional misconduct which relates adversely to patient care or safety. Under these circumstances, drug testing will be at the expense of the Department of Human Services.

STATEMENT TO
[Third Reprint]
ASSEMBLY, No. 2956

with Assembly Floor Amendments
(Proposed by Assemblyman GREENWALD)

ADOPTED: JANUARY 7, 2010

These amendments specify, as a condition of employment as direct care staff members at State psychiatric hospitals, developmental centers, and veterans memorial homes, that applicants must undergo drug testing for controlled dangerous substances. Once employed as direct care staff members in these facilities, employees are subject to random and for cause drug testing for controlled dangerous substances at such intervals as the Commissioner of Human Services or Adjutant General, as applicable, deems appropriate.

Specifically, the amendments:

- extend the provisions of the bill to include direct care staff members of State developmental centers and veterans memorial homes, as well as State psychiatric hospitals (as the bill originally provided);
- require the Commissioner of Human Services to annually perform random drug tests on 500 direct care staff members of State psychiatric hospitals and developmental centers, and the Adjutant General to annually perform random drug tests on 100 direct care staff members of veterans memorial homes;
- delete the requirement that all current employees of State psychiatric hospitals undergo drug testing as a condition of continued employment;
- require the commissioner and the Adjutant General, as applicable, to notify all affected employees of the provisions of this bill;
- limit the provisions of the bill to direct care staff members, rather than all employees of State psychiatric hospitals, and define “direct care staff member” to mean a: Human Services Technician and Human Services Assistant; physician; psychiatrist; dentist; psychologist; nurse; nurse assistant; physical, occupational, or speech therapist; social worker; and any other staff member employed by a State psychiatric hospital, developmental center, or veterans memorial home who provides direct care to a patient or resident at the facility, as determined by the commissioner or Adjutant General, as applicable; and
- make other technical corrections to the bill.

These amendments make this bill identical to Senate No. 2493 (2R).