

**ASSEMBLY BILL**

**No. 2469**

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**Introduced by Assembly Member Grove**

February 24, 2012

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An act to add Sections 11267 and 11267.2 to the Welfare and Institutions Code, relating to public social services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2469, as introduced, Grove. CalWORKs eligibility: periodic drug testing.

Existing law requires each county to provide cash assistance and other social services to needy families through the California Work Opportunity and Responsibility to Kids (CalWORKs) program, using federal Temporary Assistance to Needy Families (TANF) program, state, and county funds. Under existing law, the county is required to annually redetermine eligibility for CalWORKs benefits. Existing law requires a county to develop a plan describing how the county intends to deliver the full range of activities and services necessary to move CalWORKs recipients from welfare to work. The county plan is required to include a plan for the provision of substance abuse treatment services.

This bill would require an applicant for, or recipient of, CalWORKs cash aid to undergo drug testing on a periodic basis, as a condition of eligibility. The bill would specify the substances for which drug testing would be conducted, and would require the department to seek any federal approvals necessary for the implementation of the bill. The bill would specify the duties of the department and county welfare departments in connection with the drug testing procedures, including paying the costs of a licensed substance abuse program, as specified. This bill would provide that otherwise eligible children in the household

of an applicant or recipient who is ineligible for aid because of a positive drug test shall receive CalWORKs aid, under specified conditions.

This bill would authorize the department to implement the bill through all-county letters or similar instructions from the director until regulations are adopted. The bill would require counties to implement the bill’s requirements within 60 days from the date of issuance of the all-county letters.

Because counties administer the CalWORKs program, by increasing county duties, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 11267 is added to the Welfare and
- 2 Institutions Code, to read:
- 3 11267. (a) For purposes of this section and Section 11267.2,
- 4 the following terms have the following meanings:
- 5 (1) “Drug” means any of the following:
- 6 (A) A controlled substance classified as Schedule I, as specified
- 7 in Section 11054 of the Health and Safety Code.
- 8 (B) The following controlled substances, classified as Schedule
- 9 II, as specified in Section 11055 of the Health and Safety Code:
- 10 (i) Cocaine.
- 11 (ii) Opium.
- 12 (iii) Phencyclidine.
- 13 (iv) Methamphetamine.
- 14 (C) A prescription medication for which an individual does not
- 15 have a valid prescription.
- 16 (2) “Drug testing” means a chemical test administered for the
- 17 purpose of determining the presence or absence of a drug or its
- 18 metabolites in a person’s bodily tissue, fluids, or products.

1 (b) Notwithstanding any other law, as a condition of initial or  
2 continued eligibility for cash assistance under this chapter, an  
3 applicant or recipient shall be required to undergo periodic drug  
4 testing.

5 (c) The department shall seek any federal approvals necessary  
6 for the implementation of this section and Section 11267.2.

7 SEC. 2. Section 11267.2 is added to the Welfare and  
8 Institutions Code, to read:

9 11267.2. (a) Pursuant to the requirements of this section, an  
10 applicant for, or recipient of, CalWORKs cash assistance 18 years  
11 of age or older, including a caretaker relative who is included in  
12 the assistance unit, shall be required to undergo periodic drug  
13 testing, as defined in Section 11267. Both parents in a two-parent  
14 household, and a teenage parent who is not required to reside with  
15 a parent, legal guardian, or other caretaker, shall be required to  
16 submit to the drug testing described in this section.

17 (b) (1) The department shall provide written notice of the drug  
18 testing required by this section to each individual at the time of  
19 application, and to each recipient at the time of annual  
20 redetermination, advising the individual that drug testing will be  
21 conducted as a condition for receiving CalWORKs cash assistance,  
22 and that the individual shall bear the cost of testing. The notice  
23 shall advise the individual that he or she may advise the department  
24 of any drugs for which he or she has a valid prescription. The  
25 notice shall include a statement that the required drug testing may  
26 be avoided if the individual elects not to apply for or continue  
27 receiving benefits.

28 (2) In addition to the written notice required by paragraph (1),  
29 the department may conduct informational sessions to explain  
30 application of the drug testing policy to applicants and recipients.

31 (3) Drug testing pursuant to this section shall be conducted with  
32 a reasonable level of dignity, and reasonable efforts shall be  
33 undertaken to make the process as easy as possible for the applicant  
34 or recipient.

35 (c) The initial drug test shall be performed after providing the  
36 applicant or recipient with 48 hours' notice. Following the initial  
37 test, a recipient shall be subject to one random drug test per year,  
38 upon 48 hours' notice.

39 (d) (1) Drug testing pursuant to this section shall consist of a  
40 preliminary urine test, or other minimally intrusive screening test.

1 If that test detects the presence of drugs, a subsequent confirmation  
2 test, such as a blood test, shall be performed.

3 (2) The costs of testing shall be borne by the applicant or  
4 recipient, and shall be paid at the time of testing. If the individual's  
5 drug test results are negative, the costs of testing shall be  
6 reimbursed in the individual's next aid payment.

7 (e) (1) If an individual's drug test is positive for drug use, the  
8 individual shall be provided with a list of licensed substance abuse  
9 treatment providers in his or her county of residence, and shall be  
10 ineligible to apply for or receive cash benefits for a period of one  
11 year, except as provided in paragraph (2).

12 (2) Notwithstanding paragraph (1), an individual shall be eligible  
13 to reapply for cash benefits under this chapter after six months, if  
14 the individual provides proof that he or she has successfully  
15 completed a licensed substance abuse treatment program.

16 (3) If an individual elects to participate in a substance abuse  
17 treatment program, the state shall bear the cost of treatment, up to  
18 the maximum amount the individual would have received in cash  
19 benefits under this chapter, for the period of treatment.

20 (4) If an individual has a second positive drug test after regaining  
21 eligibility, the individual shall be ineligible to apply for or receive  
22 cash benefits for a period of three years.

23 (f) Any otherwise eligible child or children in the applicant's  
24 or recipient's household shall receive the aid amount required  
25 under this chapter. The applicant or recipient shall designate  
26 another adult to receive benefits on behalf of the child or children,  
27 subject to the approval of the county welfare department. If the  
28 applicant or recipient is unable or unwilling to appoint an  
29 acceptable person for this purpose, one shall be appointed by the  
30 county welfare department. The county welfare department shall  
31 report the results of the applicant's or recipient's positive drug test  
32 to the appropriate child welfare services agency.

33 SEC. 3. (a) Notwithstanding the rulemaking provisions of the  
34 Administrative Procedure Act (Chapter 3.5 (commencing with  
35 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
36 Code), the department may implement this act through all-county  
37 letters or similar instructions from the director until regulations  
38 are adopted. A county shall have 60 days from the date of issuance  
39 of the all-county letters to implement the drug testing procedures  
40 required by this act.

1 (b) The department shall adopt emergency regulations  
2 implementing these provisions no later than July 1, 2013. The  
3 department may readopt any emergency regulation authorized by  
4 this section that is the same as, or substantially equivalent to, any  
5 emergency regulation previously adopted under this section.

6 (c) The initial adoption of regulations pursuant to this section  
7 and one readoption of emergency regulations shall be deemed to  
8 be an emergency and necessary for the immediate preservation of  
9 the public peace, health, safety, or general welfare. Initial  
10 emergency regulations and the one readoption of emergency  
11 regulations authorized by this section shall be exempt from review  
12 by the Office of Administrative Law. The initial emergency  
13 regulations and the one readoption of emergency regulations  
14 authorized by this section shall be submitted to the Office of  
15 Administrative Law for filing with the Secretary of State and each  
16 shall remain in effect for no more than 180 days, by which time  
17 final regulations shall be adopted.

18 SEC. 4. If the Commission on State Mandates determines that  
19 this act contains costs mandated by the state, reimbursement to  
20 local agencies and school districts for those costs shall be made  
21 pursuant to Part 7 (commencing with Section 17500) of Division  
22 4 of Title 2 of the Government Code.