

PUBLICATION

Florida Aims for Mandatory Drug Testing

March 14, 2012

On Friday, March 9, the Florida Senate passed legislation allowing state agency heads to randomly test employees for illegal drug use. The bill, House Bill 1205, has already been passed by the House and will be sent to Governor Rick Scott, who is expected to sign it. The bill passed the state senate by a 26-14 vote.

Under the legislation, up to 10 percent of a state agency department's employees could be randomly tested for alcohol and other substances. Tests could be conducted every 90 days. Employees would be selected through the use of a third-party, computer-generated, random sample of departmental employees.

Employees who test positive for alcohol or illegal drugs could be disciplined or discharged. Discharged employees may be referred to an employee assistance program or an alcohol and drug rehabilitation program paid for either by the employee or a health insurance plan. Departments would then determine whether such employees could safely and effectively perform their job duties while in the program. If the employee was found unfit to perform his/her job while in treatment, the legislation would require the employee to either be transferred to another position or placed on leave. Safety-sensitive employees would not be allowed to perform their job while in a treatment program. A copy of the Bill is attached [here](#).

If you have questions about how this decision might affect your business, please contact any of the attorneys in the Firm's Labor and Employment Department.