

Executive Orders

EXECUTIVE ORDER MJF 98-38

State Employee Drug Testing

WHEREAS, the Office of the Governor and the state of Louisiana have a long-standing commitment to working toward a drug-free Louisiana;

WHEREAS, the employees of the state of Louisiana are among the state's most valuable resources, and the physical and mental well-being of these employees is necessary for them to properly carry out their responsibilities;

WHEREAS, substance abuse causes serious adverse consequences to users, impacting on their productivity, health and safety, dependents, and co-workers, as well as the general public;

WHEREAS, to curb the use of illegal drugs by employees of the state of Louisiana, the Louisiana Legislature enacted laws which provide for the creation and implementation of drug testing programs for state employees;

WHEREAS, Executive Order Number MJF 97-33, signed on August 29, 1997, created the Drug Testing Task Force for the purpose of recommending procedures for the implementation of four drug testing programs authorized, mandated and/or regulated by R.S. 49:1015, as amended by Act Number 1194 of the 1997 Regular Session of the Legislature, and by Act Nos. 1303 and 1459 of the 1997 Regular Session of the Legislature which direct state agencies to develop and implement drug testing programs for public employees, elected officials, beneficiaries of certain public assistance programs, and certain persons who receive anything of economic value from the state; and

WHEREAS, the report of the Drug Testing Task Force, issued on November 3, 1997, included the recommendation to consider whether to implement drug testing programs for state employees which test:

1. all prospective employees;
2. employees following an accident, when reasonable suspicion of the employee's drug involvement exists; and
3. employees, randomly, when those employees are in safety-sensitive or security-sensitive positions.

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1:

A. The fifteen (15) executive departments and all other agencies, boards, commissions, and entities of state government in the executive branch over which the governor has appointing authority or, as chief executive officer of the state, has general executive authority, which are not authorized by the Louisiana Constitution of 1974, as amended, or legislative act to manage and supervise their own system, (hereafter "executive agency") shall promulgate a written policy which mandates drug testing of employees, appointees, prospective employees, and prospective appointees, pursuant

to R.S. 49:1001, et seq., as set forth in this Order.

B. All executive departments which operate under the authority of another statewide elected official or which are authorized by the Louisiana Constitution of 1974, as amended, or legislative act to manage and supervise its own system, (hereafter "executive agency") are requested to promulgate a written policy which mandates drug testing of employees, appointees, prospective employees, and prospective appointees pursuant to R.S. 49:1001, et seq., as set forth in this Order.

SECTION 2:

A. The appointing authority of each executive agency shall duly promulgate a written policy in compliance with R.S. 49:1001, et seq., which *at a minimum* mandates drug testing of an employee or appointee (hereafter "employee") or a prospective employee or prospective appointee (hereafter "prospective employee") as follows:

1. When individualized, reasonable suspicion exists of an employee's drug use;
2. Following an accident that occurs during the course and scope of an employee's employment that:
 - a) involves circumstances leading to a reasonable suspicion of the employee's drug use,
 - b) results in a fatality, or
 - c) results in or causes the release of hazardous waste as defined in R.S. 30:2173(2) or hazardous materials as defined in R.S. 32:1502(5);
3. Randomly, as a part of a monitoring program established by the executive agency to assure compliance with terms of a rehabilitation agreement;
4. Prior to hiring or appointing a prospective employee;
5. Prior to promoting an employee to a safety-sensitive or security-sensitive position or to a higher safety-sensitive or security-sensitive position; and
6. Randomly, for all employees in safety-sensitive or security-sensitive positions.

B. The appointing authority of each executive agency shall determine which positions within their agency, if any, are "safety-sensitive or security-sensitive positions," by considering statutory law, jurisprudence, the practices of the executive agency, and the following *non-exclusive list of examples* of safety-sensitive and/or security-sensitive positions:

1. Positions with duties that may require or authorize the safety inspection of a structure;
2. Positions with duties that may require or authorize access to a prison or an incarcerated individual;
3. Positions with duties that may require or authorize carrying a firearm;
4. Positions with duties that may allow access to controlled substances (drugs);
5. Positions with duties that may require or authorize inspecting, handling, or transporting hazardous waste as

defined in R.S. 30:2173(2) or hazardous materials as defined in R.S. 32:1502(5);

6. Positions with duties that may require or authorize any responsibility over power plant equipment;

7. Positions with duties that may require instructing or supervising any person to operate or maintain, or that may require or authorize operating or maintaining, any heavy equipment or machinery; and

8. Positions with duties that may require or authorize the operation or maintenance of a public vehicle, or the supervision of such an employee.

C. Prior to the appointing authority of an executive agency promulgating its drug testing policy regarding safety-sensitive and/or security-sensitive positions, the appointing authority shall consult with the Louisiana Department of Justice.

SECTION 3:

A. No drug testing of an employee or a prospective employee shall occur in the absence of a duly promulgated written policy which is in full compliance with the provisions of R.S. 49:1001, et seq.

B. Any employee drug testing program in existence on the effective date of this Order shall not be supplanted by the provisions of this Order, but shall be supplemented, where approximate, in accordance with the provisions of this Order and R.S. 49:1001, et seq.

SECTION 4: All information, interviews, reports, statements, memoranda, and/or test results received by the executive agency through its drug testing program are confidential communications, pursuant to R.S. 49:1012, and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in an administrative or disciplinary proceeding or hearing, or civil litigation where drug use by the tested individual is relevant.

SECTION 5:

A. Pursuant to R.S. 49:1011, an executive agency may, but is not required to, afford an employee whose drug test result is certified positive by the medical review officer, the opportunity to undergo rehabilitation without termination of employment.

B. Pursuant to R.S. 49:1008, if a prospective employee tests positive for the presence of drugs in the initial drug screening, the positive drug test result shall be the cause of the prospective employee's elimination from consideration for employment or appointment.

SECTION 6: Each executive agency shall procure employee drug testing services through the Office of State Purchasing, Division of Administration, pursuant to applicable bid laws.

SECTION 7: Each executive agency shall submit to the Office of the Governor, through the Commissioner of Administration, a report on its written policy and drug testing programs, describing the progress of its programs, the number of employees affected by the programs, the categories of testing being conducted, the associated costs of testing, and the effectiveness of the programs, by November 1, 1998. Each executive agency shall annually update its report by November 1.

SECTION 8: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed (or requested pursuant to subsection 1B) to cooperate with the implementation of the provisions in this Order.

SECTION 9: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 10th day of August, 1998.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9809#002

EXECUTIVE ORDER MJF 98-39

Flags at Half-Staff

WHEREAS, twin terrorist bombings occurred on Friday morning, August 7, 1998, against the United States embassies located in Nairobi, Kenya, and Dar es Salaam, Tanzania;

WHEREAS, as a result of the explosions, at least two hundred ten (210) people died and approximately five thousand (5,000) people were injured;

WHEREAS, among the lives lost were twelve (12) Americans, including two (2) Baton Rouge natives, Louise Martin-Klaucke and Michelle Deney O'Connor, the Counsel General at the United States Embassy in Kenya, Julian Bartley, and the Counsel General's son, Jay Bartley;

WHEREAS, the citizens of the state of Louisiana are deeply distressed that so many Americans, Kenyans, and Tanzanians are enduring pain, suffering, and loss due to these heinous acts of terrorism against the United States;

WHEREAS, the citizens of the state of Louisiana mourn their lost family, friends, and fellow Americans who served and represented our country abroad; and

WHEREAS, the citizens of the state of Louisiana wish to show their respect for the Americans, Kenyans, and Tanzanians who were killed, injured, or lost loved ones as a result of the embassy bombings;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: As an expression of respect for the citizens of Louisiana, America, Kenya and Tanzania who were killed, injured, or lost loved ones as a result of the terrorist bombings that occurred on Friday morning, August 7, 1998, at the United States embassies in Nairobi, Kenya, and Dar es Salaam, Tanzania, effective immediately, the flags of the United States and the state of Louisiana shall be flown at half-staff over the State Capitol and all public building and institutions of the

state of Louisiana, until sunset on Sunday, August 16, 1998.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 11th day of August, 1998.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9809#003

EXECUTIVE ORDER MJF 98-40

Bond Allocation—Industrial Development Board
of the Parish of Iberia, Inc.

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter the Act) and Act Number 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996, to establish:

1. a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1998 (hereafter the 1998 Ceiling);
2. the procedure for obtaining an allocation of bonds under the 1998 Ceiling; and
3. a system of central record keeping for such allocations; and

WHEREAS, the Industrial Development Board of the Parish of Iberia, Inc. has requested an allocation from the 1998 Ceiling to be used in connection with financing the acquisition, construction and equipping of a particle board plant located at 2617 North Side Road, New Iberia, parish of Iberia, for Acadia Board Company, Ltd. (the "Project"), in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE I, M.J. MIKE FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1998 Ceiling as follows:

| AMOUNT OF ALLOCATION | NAME OF ISSUER | NAME OF PROJECT |
|----------------------|--|----------------------------|
| \$8,880,000 | Industrial Development Board of the Parish of Iberia, Inc. | Acadia Board Company, Ltd. |

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the Application for Allocation of a Portion of the State of Louisiana's Private Activity Bond Ceiling

submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before November 24, 1998.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the capitol, in the city of Baton Rouge, on this 26th day of August, 1998.

M.J. "Mike" Foster
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9809#006

EXECUTIVE ORDER MJF 98-41

Bond Allocation—Parish of Jefferson
Home Mortgage Authority

WHEREAS, Executive Order Number MJF 98-24, issued on May 26, 1998, granted a private activity bond allocation from the 1998 private activity bond volume limit to the Parish of Jefferson Home Mortgage Authority for a bond issue in accordance with the requirements of Executive Order Number MJF 96-25; and

WHEREAS, it is necessary to amend Executive Order Number MJF 98-24 in order to extend the time period in which the bond issue may be delivered to initial purchasers;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: Section 3 of Executive Order Number MJF 98-24 is hereby modified to provide as follows:

The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before October 1, 1998.

SECTION 2: All other sections of Executive Order Number MJF 98-24 shall remain in full force and effect, and are not affected by the provisions of this Order.

SECTION 3: The provisions of this Order are effective upon signature.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 26th day of August, 1998.

M.J. "Mike" Foster
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9809#007

EXECUTIVE ORDER MJF 98-42

Office of the Louisiana Oil Spill Coordinator

WHEREAS, The Oil Spill Prevention and Response Act (hereafter "the act"), set forth in R.S. 30:2451, et seq., was enacted by Act Number 7 of the 1991 First Extraordinary Session of the Legislature to support and complement the Oil Pollution Act of 1990 (P.L. 101-380) and other federal laws, and to assist the Louisiana Legislature in fulfilling its duty to protect, conserve, and replenish the natural resources of this state in accordance with the mandates of Article IX, Section 1 of the Louisiana Constitution of 1974, as amended;

WHEREAS, the act contains the Louisiana Legislature's findings that the state of Louisiana is subject to greater exposure to a major oil spill disaster than any other state as a result of factors such as "the large volumes of stored oil, numerous production platforms and miles of pipelines, large numbers of inland barges, and heavy tanker traffic, including the Louisiana Offshore Oil Port which receives fifteen percent of the oil imported into the United States[,] . . . coupled with the limited adequate highway access to the coast and remote inland areas for rapid transport of oil spill equipment and few areas suitable for staging facilities . . .";

WHEREAS, for the purpose of developing and coordinating the state of Louisiana's statewide oil spill prevention and response plan, the act created within the office of the governor the office of the Louisiana oil spill coordinator and provided for the office to be administered by a coordinator appointed by the governor; and

WHEREAS, to streamline the operations of the executive department and to better facilitate the office of the Louisiana oil spill coordinator's efforts to fulfill its statutory duties, the

best interests of the citizens of the state of Louisiana would be served by increasing the amount of coordination of operations between the office of the Louisiana oil spill coordinator and those of the Department of Natural Resources which maintains the office of conservation, the office of coastal restoration and management, the office of mineral resources, and the Oilfield Site Restoration Commission;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The office of the Louisiana oil spill coordinator (hereafter "Office") shall be housed in the Department of Natural Resources (hereafter "Department") and the coordination of the activities and operations of the Office with those of the Department shall be supervised by the secretary of the Department of Natural Resources (hereafter "Secretary").

SECTION 2: With the exception of the coordinator and deputy coordinator, the appointing authority of all employees of the Office shall be the Secretary.

SECTION 3:

A. The contracts that the coordinator may enter pursuant to the provisions of R.S. 30:2455, *et seq.*, shall be entered by the state of Louisiana through the Office and the Department with the approval and under the co-signature of the Secretary.

B. The Secretary, on behalf of the Department, shall accept and assume primary responsibility for all contracts the coordinator may have previously entered pursuant to the provisions of R.S. 30:2455, *et seq.*

SECTION 4: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the implementation of the provisions of this Order.

SECTION 5: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 3rd day of September, 1998.

M.J. "Mike" Foster
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9809#030