

NEW JERSEY'S SIGNIFICANT AND EXPANSIVE WARN ACT AMENDMENTS WILL SOON GO INTO EFFECT: 4 KEY CHANGES YOU SHOULD KNOW ABOUT

Insights
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Since January 2020, New Jersey employers have been watching and waiting for the effective date of key amendments to the state's mass layoffs law – formally the Millville Dallas Airmotive Plant Job Loss Notification Act, but more commonly known as the New Jersey WARN Act. Due to COVID, the effective date of the amendments was delayed until 90 days after the expiration of Executive Order No. 103. However, on January 10, Governor Phil Murphy signed legislation providing that the amendments will be effective April 10 even though Executive Order 103 remains in place. What are the four most significant changes you need to know about?

What Are the Amendments?

Employers should be aware of the significant changes to the [New Jersey WARN Act](#). The four most significant amendments:

1. Expanded Definitions of Covered Employers and Establishment

Notice and severance obligations will be triggered if an employer terminates, within any 30-day period or a 90-day lookback period, a total of 50 or more employees, including full-time and part-time employees, who work anywhere within the State of New Jersey. A few key definitions will soon change to expand coverage:

- Currently, the NJ WARN Act applies only to employers with 100 or more full time employees. As of April 10, it will

Related People



Alba V. Aviles

Partner

[908.516.1058](tel:908.516.1058)



Rosemary S. Gousman

Partner

[908.516.1060](tel:908.516.1060)

apply to employers with 100 or more employees whether they are full-time or part-time.

- The definition of “establishment” will also expand from a single location to multiple locations within New Jersey.

2. Mandatory Severance for Terminated Employees

If the NJ WARN Act is triggered, employers will have to provide mandatory severance of one week of pay for each year of service the worker had with the company, even if they provide timely notice. Employees may be entitled to an additional four weeks of severance pay where the employer does not provide proper notice. A lawsuit is currently pending in federal court challenging the mandatory severance requirements as preempted by the federal Employee Retirement Income Security Act, but the fate of this litigation remains uncertain – so employers should be prepared to comply unless and until a court says otherwise.

3. Notice Period Increases from 60 to 90 Days

The amendments require employers to provide not less than 90 days’ notice before the first termination of employment that occurs as a result of a qualifying mass layoff or termination or transfer of operations. The current version of the law and the federal WARN law requires 60-days’ notice.

4. Individual Liability for Corporate Managers

The amendments impose personal liability for failures to carry out the notice and severance provision upon “any person or group of persons acting directly or indirectly in the interest of an employer.” This includes any person who operates as the nominal employer, owns a corporate subsidiary that owns and operates the nominal employer, or makes the decision responsible for the employment action that gives rise to a mass layoff or termination or transfer of operations.

What Should Employers Do?

Due to the serious ramifications of the amendments, you should take proactive steps to ensure you will be ready for the implementation on April 10. You should begin to plan well in advance for any reductions in force including consideration of potential severance obligations.

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If you are contemplating a layoff on or after April 10, or a series of layoffs that will extend beyond April 10, you should contact counsel regarding the impact and timing of obligations under the amendments.

Finally, to get a better sense of the full scope of this law, you should review our Frequently Asked Questions about the amendments as discussed [in our previous publication](#) on this topic.

Conclusion

If you need any assistance preparing for these new requirements, contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in [our New Jersey office](#). We will continue to monitor the latest developments related to this area and provide updates as warranted, so you should ensure you are subscribed to [Fisher Phillips' Insight system](#) to gather the most up-to-date information directly to your inbox.