



New Jersey Provides State WARN Act Relief In Light Of COVID-19

Insights

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Thanks to a new bill just signed into law by Governor Phil Murphy, New Jersey employers can breathe a sigh of relief when it comes to their workplace reduction obligations. The Millville Dallas Airmotive Plant Job Loss Notification Act – otherwise known as the New Jersey WARN Act – was just amended to exclude COVID-19-related layoffs and postpone the effective date of previous amendments that were set to take effect on July 19, 2020.

Background

The COVID-19 crisis and the resulting economic downturn has forced employers of all sizes to contemplate difficult business decisions, including a workforce reduction. New Jersey employers in particular have had the added pressure of grappling with the recent expansion of the state WARN Act (NJWARN).

As [we previously reported](#), NJWARN was amended on January 21, 2020 to require most businesses in the state to provide a week's worth of pay for each year of service as part of any mass layoff or termination or transfer of operations. The revised law was also set to require covered employers to provide employees with 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.

But with an understanding of the unprecedented situation New Jersey employers now face, state lawmakers and the governor agreed to temporarily adjust the law in several critical ways.

COVID-19 Mass Layoffs Not Subject To NJWARN Requirements

The new law, which is effective retroactively to March 9, 2020, amends NJWARN's definition of "mass layoff" to exclude those layoffs made necessary because of any of the following circumstances:

fire, flood, natural disaster, national emergency, act of war, civil disorder or industrial sabotage, decertification from participation in the Medicare and Medicaid programs as provided under Titles XVIII and XIX of the federal "Social Security Act" ... or license revocation pursuant to [the Health Care Facilities Planning Act].

Because the COVID-19 pandemic has been declared a "national emergency," mass layoffs conducted on or after March 9, 2020 in response to the pandemic are shielded from NJWARN's requirements.

This should provide some relief to employers who are planning to make or who have had to make difficult business decisions in recent weeks.

Effective Date Of NJWARN's Amendments Postponed

The new law also postpones the implementation of the previous amendments to NJWARN. They were set to take effect on July 19, 2020, but will now be delayed until 90 days after the termination of the State of Emergency declared by the Governor in Executive Order 103. Therefore, the obligation to provide a week's worth of pay for each year of service as part of all mass layoffs, and the requirement to provide at least 90 days' notice before any mass layoff, is temporarily suspended.

Remember The Federal WARN Act

While the recent amendments to NJWARN provide employers with some form of relief, it is important to note that New Jersey employers must also be mindful of their potential notice obligations under the law's federal counterpart: the Worker Adjustment and Retraining Notification Act (or the federal WARN Act).

The Federal WARN Act imposes a 60 calendar days' notice obligation on covered employers (those with 100 or more full-time employees) who implement a "plant closing" or "mass layoff"— which can be triggered with a layoff of as few as 50 employees. Even when a plant closing or mass layoff is necessitated by unforeseeable business circumstances or a natural disaster, an employer must give as much notice as is practicable and must, at the time notice is actually given, provide a brief statement of the reason for reducing the notice period.

Note, however, that if employees are laid off for less than six months, then they do not suffer an employment loss and. Depending on the particular circumstances, notice may not be required in such cases. New Jersey employers must carefully evaluate each situation in consultation with their labor and employment counsel to ensure compliance with both state and federal WARN obligations.

Next Steps

We will continue to monitor the rapidly developing situation relating to Covid-19 and provide updates as appropriate. Make sure you are subscribed to [Fisher Phillips' alert system](#) to gather the most up-to-date information. For further information, contact your Fisher Phillips attorney or any of our attorneys in our [New Jersey office](#), or any member of [our COVID-19 Taskforce](#). You can also review our [Comprehensive and Updated FAQs for Employers on the COVID-19 Coronavirus](#) and our [FP Resource Center For Employers](#), maintained by our Taskforce.

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