

New Jersey Passes Bill to Amend NJ WARN, Create Mass Layoff Exception, Delay Severance, Notice Obligations

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The New Jersey Legislature has passed a bill to amend the Millville–Dallas Airmotive Plant Job Loss Notification Act (New Jersey WARN law) to create a notice exception for mass layoffs under specific circumstances and delay the effective date of the previous amendments.

If signed into law by the Governor, this would provide companies with much-needed relief from the state’s WARN obligations during the COVID-19 crisis. This amendment would take effect immediately upon signing and will be retroactive to March 9, 2020.

On January 21, 2020, New Jersey Governor Phil Murphy signed into law an amendment to the state WARN law to require 90 days’ notice of covered actions and payment of severance to affected employees at a rate of one week for each full year of employment. The amendment would have taken effect on July 19, 2020. (See our article, [Requirements of New Jersey Expanded WARN Act](#).)

Notice Exception

New Jersey WARN defines a “mass layoff” as any reduction in force (not because of a transfer or termination of operations) that results in the termination of employment, during any 30-day period, of at least 50 employees reporting to an establishment. A termination of employment, in turn, includes a layoff “without a commitment to reinstate the employee to his previous employment within six months of the layoff.” Those obligations could create significant, unexpected liabilities given the need to reduce headcount or completely suspend operations under the numerous Executive Orders issued in New Jersey during the COVID-19 pandemic.

To address the situation, the bill would amend the definition of “mass layoff” to expressly exclude any:

mass layoff made necessary because of a fire, flood, natural disaster, national emergency, act of war, civil disorder or industrial sabotage, decertification from participation in the Medicare and Medicaid programs [...] or license revocation[.]

The statute previously contained no exceptions to the notice obligations for a mass layoff. The amendment would be welcomed by the business community adapting to the challenges posed by COVID-19.

Delayed Effective Date of Amendment

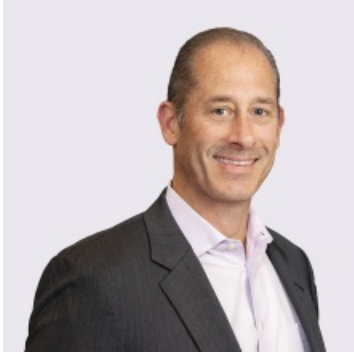
The bill delays the effective dates of the amended WARN statute to the 90th day following the termination of the state of emergency declared by Governor Murphy in his March 9, 2020, Executive Order. Accordingly, the requirements for 90 days’ notice of a mass layoff, termination of operations, or transfer of operations to affected employees

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and severance pay at a rate of one week for each full week of employment would be delayed until three months following lifting of the state of emergency.

If signed into law, the bill provides relief from the financial obligations imposed by the amended state WARN statute. Indeed, many businesses are unable to pay workers severance during a time of limited, if any, revenue for mass layoffs or other covered actions caused by the COVID-19 pandemic.

Jackson Lewis will provide further updates on any developments with respect to this legislation, including the Governor's anticipated signing of the bill into law. If you have any questions, please reach out to a Jackson Lewis attorney.

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