

COVID-19: NEW JERSEY AMENDS THE NJ WARN ACT TO PROVIDE RELIEF FOR COVID-19-RELATED LAYOFFS; COVID-19-RELATED MASS LAYOFFS ARE EXEMPT FROM NJ WARN NOTICE REQUIREMENTS

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Labor, Employment and Workplace Safety Alert

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Three months ago, prior to the acute onset of COVID-19 in the United States, New Jersey took the unprecedented step of obligating employers to provide severance to employees affected by a mass layoff as defined in the Millville Dallas Airmotive Plant Job Loss Notification Act, also known as the New Jersey “mini WARN Act”¹ or the Worker Adjustment and Retraining Notification Act. On January 21, 2020, Governor Phil Murphy signed into law amendments to the mini WARN Act set to go into effect July 19, 2020. Among those amendments is the requirement that employers must provide severance to each laid-off employee in the amount of one weeks' pay for each year of employment. Previously under the mini WARN Act, employers were obligated to provide severance in connection with a covered mass layoff only if they failed to comply with the required 60-day notice.²

Of course, January was a very different time for employers and employees than what the state, and the nation, is facing now. As a result of the massive labor disruption and necessary layoffs caused by COVID-19, New Jersey recently amended the mini WARN Act once again.³ Effective April 14, 2020, the mini WARN Act excludes from the definition of “mass layoff” any layoff resulting from the COVID-19 pandemic by providing that a mass layoff shall not include a mass layoff made necessary because of, among other reasons, a national emergency. Also excluded from the mini WARN Act are mass layoffs due to fire, flood, natural disaster, act of war, civil disorder, or industrial sabotage. These exclusions are retroactive to March 9, 2020, and thereby exclude any otherwise covered mass layoff from that date forward. Accordingly, where the COVID-19 exclusion applies, employers need not comply with the mini WARN Act's notice requirements nor provide severance for a COVID-19-related mass layoff once that provision is in effect.

In addition to relieving employers from providing notice and paying severance for COVID-19 pandemic-related closures, the effective date for all of the January amendments is postponed from July 19, 2020 to 90 days following Governor Murphy's termination of the state of emergency declaration in New Jersey.⁴

Any employers with questions or issues related to these mini WARN Act amendments should contact the authors or any member of K&L Gates labor, employment and workplace safety practice area.

FOOTNOTES

¹ N.J. STAT. ANN. § 34:21-1, *et seq.*

² The January amendments also extended the notice period from 60 to 90 days and eliminated the single-location analysis. Under the amendments, a mass layoff is covered under the mini WARN Act if it affects at least 50 employees located at any of the employer's sites in New Jersey. In addition, an employer is covered under the act if it employs at least 100 employees at any site across the state.

³ P.L. 2020, c.22.

⁴ Executive Order 103, dated March 9, 2020, and extended indefinitely on April 7, 2020, with Executive Order 119.

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