April 16, 2020

New COVID-19 Amendments to New Jersey's WARN Act Provide Some Relief for Employers

On April 14, Governor Phil Murphy signed legislation delaying the effective date of the recently-enacted sweeping changes to New Jersey's WARN Act (otherwise known as the Millville Dallas Airmotive Plant Job Loss Notification Act) and modifying the conditions triggering that law's notice requirements. This change is a welcome reprieve for New Jersey employers, especially those implementing furloughs and layoffs due to the COVID-19 pandemic.

As we previously reported, New Jersey modified the NJ WARN Act earlier this year, making it the toughest and most costly of such laws in the country. Those modifications require employers to provide mandatory severance pay to employees affected by a mass transfer or termination of operations or mass layoff, expand the definition of "mass layoff," and enhance the penalties available for noncompliance with the Act's notice requirements, among other things.

Although the modifications were set to go into effect July 19, this week's amendments delay the effective date until 90 days following the termination of the current state of emergency. This week's amendments also provide further clarity to employers on a separate but equally important NJ WARN Act issue. Like federal law, the NJ WARN Act requires advance notice to be provided when employers conduct a "termination of operations" (i.e., the shutdown of a single site of employment resulting in at least 50 employment losses) or a "mass layoff" (i.e., a layoff that does not result in the shutdown of a single site of employment, but results in at least 50 employment losses representing at least one-third of the workforce). Now, and retroactive to March 9, mass layoffs are exempted from the law's requirements if they were caused by, among other reasons, a "natural disaster or a national emergency." Previously, this exception applied only to more drastic "terminations of operations."

This week's amendments are a relief to employers wary of complying with the NJ WARN Act's provisions during the COVID-19 pandemic, particularly how the severance requirements, which were set to go into effect on July 19, could apply. Although employers that conduct mass layoffs or terminations of operations due to the COVID-19 pandemic can claim these exceptions under the NJ WARN Act, employers must still comply with the provisions of the federal WARN Act. As such, employers should continue to consult with counsel regarding their obligations when conducting layoffs or terminations of operations during the COVID-19 pandemic and thereafter.

For more Day Pitney alerts and articles related to the impact of COVID-19, as well as information from other reliable sources, please visit our COVID-19 Resource Center.

COVID-19 DISCLAIMER: As you are aware, as a result of the COVID-19 pandemic, things are changing quickly and the effect, enforceability and interpretation of laws may be affected by future events. The material set forth in this document is not an unequivocal statement of law, but instead represents our best interpretation of where things stand as of the date of first publication. We have not attempted to address the potential impacts of all local, state and federal orders that may have been issued in response to the COVID-19 pandemic.

Authors



Francine Esposito
Partner

Parsippany, NJ | (973) 966-8275

fesposito@daypitney.com



Heather Weine Brochin
Partner

Parsippany, NJ | (973) 966-8199

New York, NY | (212)-297-5800

hbrochin@daypitney.com



James M. Leva
Partner

Parsippany, NJ | (973) 966-8416

Stamford, CT | (973) 966-8416

jleva@daypitney.com



Rachel A. Gonzalez
Partner

Parsippany, NJ | (973) 966-8201

New York, NY | (212) 297-5800

rgonzalez@daypitney.com



Theresa A. Kelly
Partner

Parsippany, NJ | (973) 966-8168

tkelly@daypitney.com