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After COVID-19 Delay, New Jersey WARN Act Amendments Set to Take Effect in 90 Days

The amendments to the New Jersey WARN Act (NJ WARN Act) will take effect on April 10, 2023, after a nearly three-year reprieve due to the COVID-19 pandemic. On January 10, Governor Phil Murphy signed Assembly Bill 4768, which sets the effective date of the amendments to 90 days from the date Assembly Bill 4768 was signed into law. While the amendments were originally enacted in January 2020, due to the COVID-19 pandemic, Governor Murphy previously signed legislation delaying the effective date of the amendments until 90 days after the state of emergency declared by Executive Order 103 of 2020 had been lifted. Assembly Bill 4768 unties the effective date from the state of emergency declaration.

Summary of Significant Amendments

As we previously discussed [here](#), the amendments to the NJ WARN Act are significant. Below is a summary of some of the key changes.

- **Notice Obligations**—The amendments require employers to provide 90 days' (rather than the previously required 60 days') advance notice of a triggering event (e.g., mass layoff, termination of operations or transfer of operations) to affected employees.
- **Severance Requirement**—Covered employers (those with 100 or more employees) must pay severance to all employees affected by a triggering event in an amount equal to one week of pay for each year of employment. Notably, the obligation to provide severance applies even when the employer complies with the 90-day notice requirement. Employers that fail to provide the requisite 90-day notice, even by a single day, must pay an additional four weeks of severance to each affected employee.
- **Expanded Definition of "Mass Layoff"**—The amendments lower the triggering threshold for a "mass layoff" to include any event involving the termination of employment of more than 50 employees at an "establishment." Notably, this now includes employees who merely report into such establishment even if they do not physically work in New Jersey. Previously, a "mass layoff" only triggered the NJ WARN Act requirements if the layoff resulted in the termination of at least 500 employees at an "establishment" or 50 or more employees comprising 33 percent of the workforce at an establishment.
- **No Distinction Between Full-Time and Part-Time Employees for Employee Threshold Purposes**—The amendments remove any distinction between part-time and full-time employees for evaluating whether the NJ WARN Act is triggered or an employer is covered. All part-time and full-time employees count toward the 100-employee threshold for coverage under the NJ WARN Act and the 50-employee threshold constituting a "mass layoff."
- **Expanded Definition of "Establishment"**—The amendments expand the definition of "establishment" to include all of an employer's noncontiguous locations within New Jersey. These locations are all considered one "establishment" for NJ WARN Act purposes.

Takeaways

The NJ WARN Act amendments significantly alter the obligations imposed on employers undertaking reductions in force, layoffs, or other events that impact employee headcount. As such, employers that are contemplating any events that may

trigger the NJ WARN Act should speak with legal counsel for guidance.

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.

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