

New Jersey Significantly Modifies the New Jersey WARN Act to Require Severance Pay for Mass Layoffs

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On January 21, 2020, New Jersey Governor Phil Murphy signed [Senate Bill 3170](#) (the “amendments” or “NJ WARN Act”) into law making New Jersey the first state in the nation to require severance pay for mass layoffs. The law, scheduled to go into effect on July 19, 2020, will make it dramatically more expensive for companies to conduct a large scale reduction in force in New Jersey.

Specifically, the amendments revised the NJ WARN Act as follows:

- **Reduced Trigger Requirements:** A WARN notice will be required upon a layoff of 50 employees. Previously, employees only counted toward the trigger requirement when they worked a certain amount of time with the company and a certain number of hours per week. The notice requirement would also only be triggered when 33% percent of the workforce was laid off. Both requirements have been eliminated in the amendments.
- **Coverage Beyond a Single Place of Employment:** The amendments also provide that, in deciding whether a WARN notice is warranted, a company is to consider all terminations that it is making in the state. Previously the New Jersey statute restricted its scope to terminations that took place at a single place of employment.
- **Expanded Notice Period:** The amendments increase the notice period from 60 days to 90 days, meaning that employers must provide 90 days advance notice to employees of a mass layoff.
- **Severance Guaranteed:** The most drastic change in the amendments is that severance pay is now guaranteed to terminated workers. Previously, employers were only required to pay employees if the employer failed to provide employees with the proper 60 days advance notice of the layoff. Now all employees are entitled to one week of severance pay for each year they have worked with the company. Furthermore, the severance pay obligation is increased to four weeks of severance pay if the employer fails to provide timely notice of the layoff.

- **Increased Employer Coverage:** The amendments eliminate the tenure and hours of work requirements for employer coverage. Under the amendments, all employers with 100 or more employees will be subject to the NJ WARN Act, regardless of how long those employees have been with the company or how many hours those employees work per week.
- **Claims Are More Difficult to Waive:** Under the amendments, employees may not waive their rights to severance under NJ WARN Act without state or court approval. This requirement may also impact companies that have policies requiring a release of claims as a condition of severance. Under the amendments, an employer who triggers the NJ WARN Act and has such a policy will be required to provide more than that statutorily required severance pay in order for the release to be supported with adequate consideration.

In light of the drastic increase in coverage and penalties, New Jersey employers should review their termination policies and consider seeking the advice of counsel before making any significant reductions in force in New Jersey.

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