

Employment Law Update: New Legislation Delays Implementation of Amendments to NJ WARN Act and Exempts "Mass Layoffs" Due to COVID-19

In response to the ongoing impacts of the COVID-19 pandemic, emergency legislation (S-2353) was passed and signed into law by New Jersey Governor Phil Murphy on April 14, 2020. Effective immediately, the legislation delays the implementation of recent amendments to the New Jersey WARN Act (NJ WARN Act) in view of the state of emergency declared by the Governor's Executive Order 103.

Legislation amending the NJ WARN Act (S-3160) was signed into law by Governor Murphy on January 21, 2020. The amendments were set to go into effect on July 19, 2020, providing new definitions for what constitutes a "mass layoff" in New Jersey. The amendments in S-3160 would apply to all companies with 100 full and part time employees and would call for 90 days advance notice before termination, coupled with hefty penalties for violators.

S-2353 essentially provides for two major exemptions to the implementation of these pending amendments:

First, S-2353 changes the definition of "mass layoff" under the NJ WARN Act amendments, regardless of the size of the company. The bill specifically exempts layoffs "which are caused by a fire, flood, natural disaster, national emergency, act of war, civil disorder, or certain other events." This definition closely tracks the exemption provided under the federal WARN Act. Moreover, despite the fact that the NJ WARN Act fails to specifically reference COVID-19, S-2353 was apparently conceived to cover all layoffs or terminations relating to the pandemic.

Second, S-2353 delays implementation of the NJ WARN Act amendments under S-3160, which require payment of severance to laid off employees, for 90 days after the termination of Governor Murphy's "stay at home" Executive Order 103.

The amended NJ WARN Act was scheduled to go into effect this summer, but given the extraordinary extenuating circumstances arising from the COVID-19 pandemic, those changes will now be postponed. It appears likely, however, that the temporary exemptions put into place by S-2353 will not permanently alter the NJ WARN Act amendments enacted under S-3160. We will continue to monitor developments related to requirements under the NJ WARN Act and will keep you advised accordingly.

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