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Ohio's WARN Act Takes Effect on September 29

Most larger employers are familiar with the federal Worker Adjustment and Retraining and Notification (WARN) Act, which requires covered employers (generally, those having 100 or more full-time employees) to provide 60 days' notice when a "plant closing" or "mass layoff" occurs. The federal WARN Act requires Ohio employers to provide the required notice to employees or their unions (for employees who are represented); the Ohio Department of Job and Family Services (ODJFS); and the chief elected official of the applicable local unit of government. Recently, the Ohio legislature enacted Ohio Revised Code Section 4113.31, which is commonly referred to as the "Ohio WARN Act." The Ohio WARN Act becomes effective on September 29, 2025.

The Ohio WARN Act requires additional notice information relating to plant closings or mass layoffs beyond what is required by the federal WARN Act. Specifically, in addition to notifying employees and/or their unions, the ODJFS, and the local unit of government, the Ohio WARN Act requires that the chief elected official in the applicable county also be notified. Perhaps, more importantly, the content of the notices must include more details, as set forth below.

Notices to a Union

The federal WARN Act requires that a notice to a union representing affected employees include:

- The location of the facility affected and the name and telephone number of a company official to contact for further information;
- Whether the plant closing or mass layoff will be permanent or temporary, and whether the entire plant is to be closed;
- The expected date of the first separation and the anticipated schedule for making separations; and
- The job titles of positions to be affected and the names of the workers currently holding those jobs.

The Ohio WARN Act adds the following requirements to the union notice:

- A detailed statement explaining the reason for the plant closing or mass layoff; and
- An identification of the department(s) or division(s) within the company affected by the plant closing or mass layoff.

Notices to Employees Not Represented by a Union

The federal WARN Act requires that a notice to employees not represented by a union include:

- A statement as to whether the planned action is expected to be permanent or temporary and, if the entire plant is to be closed, a statement to that effect;
- The expected date when the plant closing or mass layoff will commence and the expected date when the individual employee will be separated;
- An indication whether or not bumping rights exist; and
- The name and telephone number of a company official to contact for further information.

The Ohio WARN Act adds the following requirements to the individual employee notice:

- A detailed statement explaining the reason for the plant closing or mass layoff;
- The identification of procedures for exercising bumping rights, if they exist;
- Information on how affected employees can access unemployment insurance benefits and other assistance programs; and
- Information about any available services for an affected employee, including job placement assistance, retraining programs, or counseling services.

Notices to Government Officials (Including County Officials)

The federal WARN Act requires that a notice to government officials include:

- The name and address of the employment site where the plant closing or mass layoff will occur and the name and telephone number of a company official to contact for further information;
- A statement as to whether the planned action is expected to be permanent or temporary and, if the entire plant is to be closed, a statement to that effect;
- The expected date of the first separation and the anticipated schedule for making separations;
- The job titles of positions to be affected and the number of affected employees in each job classification;
- An indication as to whether or not bumping rights exist;
- The name of each union representing affected employees and the name and address of the chief elected officer of each union.

The Ohio WARN Act adds the following requirements to the government officials' notice:

- A detailed statement explaining the reason for the plant closing or mass layoff;
- The identification of procedures for exercising bumping rights, if they exist;
- A description of any action taken or planned to mitigate the impact of the plant closing or mass layoff, including any efforts to secure alternative employment or training for affected employees; and
- A copy of the notice provided to affected employees or their representatives, as applicable.

Uncertainty Concerning the Federal WARN Act's 33% Rule for Mass Layoffs

Regarding the dissemination of notices, the Ohio WARN Act seems intended to track the requirements of the federal WARN Act. The Ohio WARN Act adopts the federal WARN Act's definitions of "employer," "mass layoff," and "plant closing," and the statute specifically provides that, "An employer in [Ohio] shall comply with all requirements in the [federal] WARN Act [and its regulations]. The requirements specified in this section do not establish a different standard than that established by federal statutes and regulations." R.C. 4113.31(B). However, in another section, the Ohio WARN Act states that notice is required when an Ohio employer lays off 50 or more employees at a single site of employment during any 30-day period, yet without reference to the federal WARN Act's additional caveat that for a layoff of more than 50 employees to require notice, the employees must comprise at least 33% of the workforce (unless 500 or more employees are affected). Thus, there is a conflict between the Ohio WARN Act's incorporation of the federal WARN Act's definition of "mass layoff" and this other section describing notice. The Ohio WARN Act provides that the ODJFS director may issue additional guidance. Hopefully, the above issue soon will be addressed.

Next Steps

Covered employers in Ohio considering plant closures or mass layoffs must comply with both the Ohio WARN Act and the federal WARN Act, which can get complicated. Both statutes spawn complicated, highly fact-intensive questions, including: when and whether employees are countable towards applicable thresholds; exceptions for faltering companies, unforeseen business circumstances, and natural disasters; addressing remote employees; and aggregating separate layoffs. As a best practice, these issues should be fully addressed **before** effectuating a plant closing or mass layoff.

If you have any questions about the Ohio WARN Act or the federal WARN Act, please contact the author or any member of Frost Brown Todd's [Labor and Employment Practice Group](#).

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