



Jan 11, 2023

Categories:

[Gibbons](#)

[Reductions in Force](#)

Authors:

[Richard S. Zackin](#)

New Jersey WARN Act Amendments to Go Into Effect

Yesterday, Governor Murphy signed into law legislation removing the hold on amendments to the New Jersey WARN Act (officially, the Millville Dallas Airmotive Plant Job Loss Notification Act), enacted by the Legislature in January 2020, but suspended in March of that year. Back then the Legislature decided that, because of the COVID-19 pandemic, these amendments should not take effect until 90 days after Governor Murphy rescinded his Executive Order declaring a State of Emergency. That Executive Order remains in effect, but because of yesterday's action, the 2020 amendments will now take effect April 10, 2023. These amendments greatly expand the scope of the Act and, consequently, the burden the Act places on employers.

- The Act now ends the distinction between full-time and part-time employees in two important respects. For the first time, part-time employees will be counted to determine whether an employee has at least 100 employees in New Jersey, thus subjecting an employer to the Act's obligations. Also for the first time, part-time employees are to be counted when determining whether a sufficient number of employees will be terminated to trigger the Act's notice obligations.
- Employers must now give 90-days' notice of an upcoming "mass layoff," "termination of operations," or "transfer of operations." Previously, only 60-days' notice was required.
- The Act's definition of a "mass layoff" has been greatly expanded. Previously, a "mass layoff" occurred only when an employer implemented a reduction-in-force in which, during either a 30-day or 90-day period, 50 or more employees were terminated from an "establishment" and the terminated employees constituted at least 33 percent of the employees at that "establishment." Under the Act as now amended, the 33 percent requirement has been eliminated, and "establishment" has been redefined to include all of an employer's locations in New Jersey. (Under the original Act, an

“establishment” was limited to a single facility or a group of facilities located near each other, such as in an industrial park.) The upshot of these amendments is that an employer’s upcoming workforce reductions occurring anywhere in New Jersey during either a 30-day or 90-day period are to be aggregated for purposes of determining whether at least 50 employees will be terminated, thereby constituting a “mass layoff” triggering the Act’s notice obligations.

- An “employer” is now broadly defined to include “any individual, partnership, association, corporation, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee, and includes any person who, directly or indirectly, owns and operates the nominal employer, or owns a corporate subsidiary that, directly or indirectly, owns and operates the nominal employer or makes the decision responsible for the employment action that gives rise to a mass layoff subject to notification.” In other words, the Act for the first time imposes liability on individuals found to be involved in violation of the Act.
- Perhaps the most radical and significant change to the prior law is the requirement of mandatory severance. In instances when notice is required, the Act dictates that severance – equal to one week of pay for each full year of employment – be paid to each affected employee “as compensation” for “back pay and losses associated with the termination of the employment relationship” and considered to be “earned in full” upon termination of the employment relationship. Previously, this severance pay was required only when an employer failed to give proper notice. Now, if the employer fails to comply with the Act’s notice requirements, the employer must provide each affected employee with four weeks of pay in addition to the above-noted mandatory severance. Further, the right to severance cannot be waived unless the waiver is approved by the Commissioner of Labor or a court of competent jurisdiction. The Act, however, does not provide guidance concerning the circumstances under which the Commissioner or a court might approve such a

waiver. Nevertheless, the upshot of the provision is that a severance agreement, release agreement, or other type of employer/employee agreement will be deemed invalid to the extent it requires the employee to waive the employee's right to severance pay under the Act.

As previously noted, the amended law will take effect on April 10, 2023. In preparation, employers should begin to update their policies accordingly and carefully plan how to structure any future reductions-in-force to avoid, if possible, application of the Act. In the event a reduction-in-force cannot be structured to avoid the law's application, employers may want to establish reserves for the severance pay now required by the Act. Finally, the foregoing is not intended to be a full analysis of the New Jersey WARN Act, a highly complex statute. Consultation with counsel with regard to the Act's application in any given situation is advisable.

If you have any questions regarding this blog, please feel free to contact an attorney in the [Gibbons Employment & Labor Law Group](#)

.

© 2026 FBT Gibbons LLP. May be considered attorney advertising in some jurisdictions.