

New Jersey Mini-WARN Act Overhaul Takes Effect in 90 Days

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Almost three years after signing into law legislation significantly amending the state's mini-WARN Act (officially known as the "Millville Dallas Airmotive Plant Job Loss Notification Act") (NJ WARN), Governor Phil Murphy signed [Assembly Bill No. 4768](#) on January 10, 2023, permitting the far-reaching amendments to take effect on April 10, 2023 (ninety days from signing). The effective date of the sweeping revisions had been put on hold due to the COVID-19 pandemic and on "pause" until the governor lifted the state of emergency declared in March 2020 in [Executive Order 103](#). New Jersey legislators recently decided to "unlink" the NJ WARN revisions from the state of emergency, which remains in effect, and by signing Bill No. A4768, the governor accelerated the effective date of the NJ WARN amendments.

The major changes to NJ WARN include the following:

Expanded notice obligations. Employers with 100 or more employees must provide at least ninety days' advance notice to affected employees before discharging the first employee as part of a mass layoff, termination of operations, or transfer of operations. Under existing NJ WARN, only sixty days' advance notice is required.

Mandatory severance. Even when the required advance notice is provided, employers must provide discharged employees with "severance pay equal to one week of pay for each full year of employment." Under existing NJ WARN, employers are required to pay severance only as a penalty if they fail to provide the required notice. (A [lawsuit is still pending](#), however, to declare the severance pay requirement preempted by federal law.)

Lower threshold for mass layoffs. Under existing NJ WARN, a covered mass layoff must result in the discharge of at least: (1) 500 employees at the establishment or (2) 50 employees representing at least 33 percent of the total workforce of the establishment. The new law eliminates the 500-employee prong and the "33 percent" requirement from the 50-employee prong. In other words, NJ WARN will now be triggered by a mass layoff impacting at least 50 employees at or reporting to an establishment, even if less than 33 percent of the employees at the establishment are impacted.

Expanded counting and coverage of part-time employees. Under the amendments, part-time employees must be counted in both the 100-employee threshold (for a covered employer) and 50-employee threshold (for a termination of operations or a mass layoff). Part-time employees are also now entitled to ninety days' advance notice and severance pay, just like full-time employees.

Expanded statewide definition of "establishment." Under the original NJ WARN, "establishment" was defined as "a single location or a group of contiguous locations, including groups of facilities which form an office or industrial park or separate facilities just across the street from each other." Under the amendments,

an “establishment” “may be a single location or a group of locations, including any facilities located in [the state of New Jersey].” This change appears to require employers to aggregate all of their locations in New Jersey to determine if the 50-employee threshold is met.

Employers planning reductions in force will now have to consider all of these new obligations. Employers have many questions about these new amendments, especially [during the transition period](#) shortly before and after the amendments take effect.

Ogletree Deakins will continue to monitor developments with respect to this law and will post updates on the firm’s [New Jersey](#) and [Reductions in Force](#) blogs as additional information becomes available. Important information for employers is also available via the firm’s [webinar](#) and [podcast](#) programs.