

Andrew S. Berns Quoted In NJBIZ Article, "Layoff Payoffs"

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Article by Daniel J. Munoz

In enacting the nation's first law requiring severance pay for workers caught in mass layoffs, New Jersey will serve as the nation's test case. The state will demonstrate the benefits for employees and reveal any unintended consequences.

The uncertainty has labor analysts and business advocates worried that the law will deter businesses from moving to New Jersey, especially given other employee-friendly policies implemented here, such as paid sick time, expanded family leave, worker misclassification laws and a \$15 minimum wage.

Nevertheless, the measure has drawn praise from progressives and worker's rights groups.

"The law is good for protecting workers during mass layoffs, and I think that's really important because it provides greater security for New Jersey employees and gives workers opportunities," said Naomi Williams, an assistant professor at the Rutgers School of Management and Labor Relations.

"The short-notice layoff really leaves workers struggling, especially [those] with lower incomes and those living paycheck to paycheck."

Under the measure, signed in January by Gov. Phil Murphy, businesses with at least 100 employees must provide 90 days' notice for layoffs or operations transfers that would mean at least 50 workers are let go within a period of 30 days. That would be up from 60 days for lay-offs of that size – a requirement created by the Worker Adjustment and Retraining Notification Act, or WARN Act, in

2007.

In addition, terminated employees are entitled to receive severance of one week's pay for every year worked at the company. Employers who fail to provide 90-days' notice must dole out an additional four weeks of pay to each of those outgoing workers.

"If you were thinking of a layoff work toward it now, so you don't have to abide by the requirements of the layoff."

[Andrew Berns](#), a partner at the law firm [Einhorn, Barbarito, Frost & Botwinick PC](#), also suggests that businesses begin planning to meet the law's requirements. "You should theoretically have a fund, when a business is healthy, that takes whatever the law requires and put it away into something that should be untouchable so that in the event that this happens you have a fund to pay people," he said. "Because unemployment is not going to necessarily pay you enough to survive, because people rely on severance."

The new law also includes other protections, for example, characterizing severance pay "compensation" that would be "earned in full" at the time of the employee's termination. The measure also lays out requirements for "successor employers" who may take ownership of the company, such as protections against pay cuts.

To read the entire NJBiz Article, click [here](#).