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Severance Legislation in New Jersey



On January 21, 2020, New Jersey Governor Phil Murphy signed legislation into law mandating severance pay for New Jersey workers whose employment terminates due to widespread downsizing or plant closures.

This law applies to businesses with 100 or more full-time employees. It requires these businesses to provide at least ninety days' notice to employees prior to termination of employment and pay one week of severance for each full year of employment. The severance paid should be either the average regular rate of

compensation received during the employee's last three years of employment with the employer or the final regular rate of compensation paid to the employee, whichever rate is higher.

The law states that this severance "shall be regarded as compensation due to an employee for back pay and losses associated with the termination of the employment relationship, and earned in full upon the termination of the employment relationship . . ." S. 3170 (2017).

Reportedly, this legislation is a response to the closure of several large retail companies in New Jersey over the last several years, most notably Toys R Us. When Toys R Us declared bankruptcy in 2017, the company laid off approximately 2,000 New Jersey employees. Initially, the company advised the workers that they would not receive any form of severance. The workers organized to demand financial assistance. At the same time, public reporting revealed that a bankruptcy judge permitted the company to pay millions of dollars in bonuses to the company's executives. Ultimately, Toys R Us established a \$20 million financial assistance fund for terminated workers.

This law will go into effect in July of 2020. Visit this link to read the text of the legislation, S. 3170: https://www.njleg.state.nj.us/2018/Bills/S3500/3170_11.HTM

New Jersey Mandatory Transportation Fringe Benefits



Prior to 2017, both state and federal authorities encouraged employers to provide qualified commuter transportation benefits to employees by making employers' costs in connection with these benefit plans tax deductible. With the passage of the Tax Cuts and Jobs Act of 2017, however, the federal government eliminated this federal tax deduction. This change in the tax law left employers in limbo over whether to continue to offer commuter transportation benefit programs.

In March of last year, New Jersey responded to this change in federal tax law with passage of "An Act Concerning Pre-Tax Transportation Fringe Benefits," also known as S. 1567. Under this law, every employer of twenty or more employees in the State of New Jersey must offer a pre-tax transportation fringe benefit plan to its employees. The law does carve out an exception for employees subject to collective bargaining agreements.

A pre-tax transportation fringe benefit allows an employee to segregate wages on a pre-tax basis solely to be used to pay for certain eligible transportation services, including transit passes and commuter highway vehicle travel. Employers may still offer a qualified parking benefit as part of a pre-tax transportation fringe benefit program but are not required to do so. The pre-tax fringe benefit amount per employee is capped at \$270 per month in 2020, increased from a \$265 cap in 2019.

Depending upon their specific circumstances, employers can choose to implement a benefit plan internally or can seek the assistance of a third party administrator.

Although signed on March 1, 2019, the law remains inoperative until March 1, 2020 or whenever the Commissioner of Labor and Workforce Development puts forth rules and regulations pursuant to the law. It appears as though the deadline for employers to have a pre-tax transportation fringe benefit program in place will be March 1, 2020.

New Jersey can impose a penalty of between \$100 and \$250 on any employer who does not have a program in place by March 1, 2020. However, the employer will have ninety days to cure the violation prior to payment of any penalty.

The law also mandates that the New Jersey Transit Corporation, in conjunction with the New Jersey Turnpike Authority and the South Jersey Transportation Authority, organize a public awareness campaign to encourage the public to contact their employers about pre-tax

transportation fringe benefits.

Visit this link to read the text of the legislation, S. 1567: https://www.njleg.state.nj.us/2018/Bills/S2000/1567_I1.HTM.

New York Paid Family Leave - 2020 Update



The first article of the first issue of this newsletter discussed changes to New York's Paid Family Leave law. Here is an update on New York's Paid Family Leave law as some changes took effect on January 1, 2020.

In 2020, the employee benefit amount increased by 5% to 60% of the lesser of the employee's average weekly wage or the Statewide Average Weekly Wage. The Statewide Average Weekly Wage increased from \$1,357.11 to \$1,401.17 on January 1, 2020 so the maximum required weekly benefit for 2020 is \$840.70. This benefit amount percentage will increase one more time in 2021 to 67%.

Also, beginning in January 2020, the allowable employee contribution rate to the family leave insurance program increased from 0.153% to 0.270% of an employee's gross wages each pay period, not to exceed the Statewide Average Weekly Wage. Therefore, an employee's maximum annual contribution to the family leave insurance program increased from \$107.97 to \$196.72 this year. Employers should start taking deductions from employee paychecks at this new rate beginning January 1, 2020.

In 2020, employees remain eligible for ten weeks of leave, the same amount as was available in 2019. The amount of leave will eventually increase to a total of twelve weeks.

Employers should review their family leave practices and procedures to ensure compliance with these New York family leave changes.

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