
**Labor & Workplace Standards
Committee**

HB 2100

Brief Description: Reducing the impacts of mass layoffs.

Sponsors: Representatives Farivar, Fosse, Berry, Reed, Ormsby, Nance, Reeves and Pollet.

Brief Summary of Bill

- Requires the Employment Security Department to develop a mass layoff survey that employers subject to the federal Worker Adjustment and Retraining Notification Act must distribute to employees affected by a mass layoff or plant closure.
- Requires that the survey be designed to collect demographic data, such as age, gender, race, ethnicity, and other relevant data, without collecting identifying information of the employee.
- Requires the employers to provide a rapid response partner reasonable access to employees being terminated in a mass layoff or plant closure.

Hearing Date: 1/17/24

Staff: Trudes Tango (786-7384).

Background:

The Worker Adjustment and Retraining Notification (WARN) Act is a federal law that requires certain employers to provide employees with a 60-day advanced notification of a plant closing or mass layoff. In general, the WARN Act applies when an employer with 100 or more full-time employees is expected to lay off 50 or more employees at a single site. The WARN Act is also triggered when the employer reduces the hours of work for 50 or more employees by 50 percent

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or more in a six-month period. The WARN Act is not triggered if 50 to 499 employees are laid off and that number is less than 33 percent of the employer's total active workforce at a single site.

The WARN Act requires notice to individual employees to be in writing and contain certain information, such as: (1) a statement as to whether the plant closure or layoff is expected to be permanent or temporary; (2) the expected date of the closure or mass layoff; and (3) the expected date when the individual will be separated. Generally, notice must be by any reasonable method of delivery designed to ensure receipt of the written notice at least 60 days before separation.

An employer who violates the WARN Act is liable to each affected employee for back pay for up to 60 days. An employee alleging a violation of the WARN Act may bring a civil action in federal court.

Employers must also notify the Employment Security Department (ESD). The notice must include, among other things, the job titles of positions that will be affected and the number of affected employees in each job category. The ESD maintains on its website a WARN notification page that lists the businesses that have issued WARN Act notifications. The ESD also contacts the appropriate local workforce investment system partner that provides rapid response services when mass layoffs occur. A rapid response unit, which can comprise of state, local, and nonprofit workforce development partners, contacts employers and worker representatives to offer transitional services and information to affected employees. The rapid response unit offers assistance with unemployment insurance information, job seeker and retraining services, and other information. Rapid response services can be offered on-site or at the local workforce development office.

Summary of Bill:

Employee Survey.

By October 1, 2024, the ESD must develop a mass layoff survey that is designed to collect demographic data, such as age, gender, race, ethnicity, and other relevant data about employees being terminated for the purpose of understanding how individuals in protected classes are impacted. The survey must be designed to collect data anonymously. The survey must also contain a brief explanation of the purpose of the survey and clearly indicate that the survey is voluntary and does not impact the employee's unemployment benefits or other rights or programs for which the employee might be eligible.

When an employer provides employees with termination notifications under the WARN Act, the employer must also provide to each employee being terminated the survey created by the ESD. Employees must have at least 30 days to complete and return the survey to the employer. The employer must implement procedures to collect surveys and submit them to the ESD within 75 days of providing the survey to employees. When the employer submits the surveys to the ESD, the employer must also submit general demographic data, as determined by the ESD, that the employer has of its entire workforce, including employees who are being terminated.

The ESD must compile the data received and include demographic data on the ESD's online WARN Act website.

Reasonable Access for Rapid Response.

An employer subject to the WARN Act must provide a rapid response partner reasonable access to employees who receive a termination notice under the WARN Act. The purpose of providing reasonable access is to provide an in-person presentation to employees to assist them in quickly maximizing public and private resources to lessen the impact of job loss.

A rapid response partner must be a designee of the ESD or a designee from the local work source program or similar workforce development center. Reasonable access to employees means:

- the access occurs during the employees' regular working hours at the employees' regular worksite, or at a location mutually agreed to by the employer and rapid response partner; and
- the time for the in-person presentation is for no less than two hours.

An employee may not be required to attend a rapid response presentation.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.