

HOUSE BILL REPORT

HB 2100

As Reported by House Committee On:
Labor & Workplace Standards

Title: An act relating to reducing the impacts of mass layoffs by identifying demographic disparities and educating employees of relief options.

Brief Description: Reducing the impacts of mass layoffs.

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

Brief History:

Committee Activity:

Labor & Workplace Standards: 1/17/24, 1/26/24 [DPS].

Brief Summary of Substitute 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 provide 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 demographic data about their employees and provide a rapid response partner reasonable access to employees being terminated in a mass layoff or plant closure.

HOUSE COMMITTEE ON LABOR & WORKPLACE STANDARDS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Berry, Chair; Fosse, Vice Chair; Schmidt, Ranking Minority Member; Bronoske, Doglio, Ormsby, Ortiz-Self, Rude and Ybarra.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

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 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 from employment. 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 Act 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 Substitute Bill:

Employee Survey.

By October 1, 2024, the ESD must develop a mass layoff survey and a data collection system 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, must contain a brief explanation of the purpose of the survey, and must clearly indicate that the survey is voluntary.

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 the survey. Within 45 days after the employer has provided the survey to employees, the employer must submit to the ESD general demographic data, as determined by the ESD, that the employer has of its entire workforce at the site of the layoff, 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 a presentation to employees to assist them in quickly maximizing public and private resources to lessen the impact of job loss.

Reasonable access to employees means:

- the access occurs during the employees' regular working hours at the employees' regular worksite or customary work location or at a location mutually agreed to by the employer, the exclusive bargaining representative, if applicable, and the rapid response partner; and
- the time for the presentation is for no less than 90 minutes.

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

Substitute Bill Compared to Original Bill:

The substitute bill makes the following changes: (1) requires the ESD to develop a data collection system and removes the requirement for employers to collect and submit surveys; (2) requires the ESD to inform employers of the employer's responsibility to provide the survey to employees; (3) specifies that the demographic data the employer must provide to the ESD of its workforce is limited to the workforce at the site of the layoff; (4) amends the rapid response provisions to allow for more flexibility; (5) shortens the required minimum time for the rapid response presentation, from two hours to 90 minutes; (6) removes language from the intent section; and (7) corrects a reference to the workforce development entity.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) The state needs better data to understand how mass layoffs impact certain workers. These layoffs are disruptive to the workforce. The bill will help us understand who is being impacted and will ensure that workers have access to resources they need. Rapid response teams provide resources tailored to cover workers in their specific location.

(Opposed) None.

(Other) The bill needs clarifying language to reflect that the Employment Security Department will develop an electronic survey and create an online portal for employees to go to. The bill also should be clarified to allow the rapid response unit to meet with workers remotely.

Persons Testifying: (In support) Representative Darya Farivar, prime sponsor; and Sybill Hyppolite, Washington State Labor Council, American Federation of Labor and Congress of Industrial Organizations.

(Other) Patrick Connor, National Federation of Independent Businesses.

Persons Signed In To Testify But Not Testifying: None.