

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

AMENDMENTS

to

[First Reprint]

**SENATE, No. 3170**

(Sponsored by Senators CRYAN and POU)

REPLACE TITLE TO READ:

AN ACT concerning certain plant closings, transfers, '[and]' <sup>2</sup>and<sup>2</sup> mass layoffs <sup>2</sup>', and changes in control'<sup>2</sup> and amending <sup>2</sup>'and supplementing'<sup>2</sup> P.L.2007, c.212.

REPLACE SECTION 2 TO READ:

'[1.] 2.' Section 2 of P.L.2007, c.212 (C.34:21-2) is amended to read as follows:

2. If an establishment is subject to a transfer of operations or a termination of operations which results, during any continuous period of not more than 30 days, in the termination of employment of 50 or more '[full-time]' employees, or if an employer conducts a mass layoff, the employer who operates the establishment or conducts the mass layoff shall:

a. Provide, in the case of an employer who employs 100 or more '[full-time]' employees, not less than [60] 90 days, or the period of time required pursuant to the federal "Worker Adjustment and Retraining Notification Act," 29 U.S.C. s.2101 et seq., or any amendments thereto, whichever is longer, before the first termination of employment occurs in connection with the termination or transfer of operations, or mass layoff, notification of the termination or transfer of operations or mass layoff to the Commissioner of Labor and Workforce Development, the chief elected official of the municipality where the establishment is located, each employee whose employment is to be terminated and any collective bargaining units of employees at the establishment;

b. Provide to each '[full-time]' employee whose employment is terminated [and to whom the employer provides less than the number of days of notification required pursuant to subsection a. of this section,] severance pay equal to one week of pay for each full year of employment. If the employer provides any employee with less than the number of days of notification required pursuant to

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subsection a. of this section, the employer shall provide that employee with an additional four weeks of pay.<sup>1</sup> The rate of severance pay provided by the employer pursuant to this subsection b. shall be 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. Severance under this subsection 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, notwithstanding the calculation of the amount of the payment with reference to the employee's length of service. <sup>2</sup>An employer shall provide an employee the<sup>2</sup> severance pay <sup>2</sup>[provided by the employer] required<sup>2</sup> pursuant to this subsection b. <sup>2</sup>[shall be in addition to] or<sup>2</sup> any severance pay provided by the employer pursuant to a collective bargaining agreement or for any other reason, <sup>2</sup>[except that any] whichever is greater. Any<sup>2</sup> back pay provided by the employer to the employee pursuant to section 5 of the "Worker Adjustment and Retraining Notification Act," Pub.L.100-379 (29 U.S.C. s.2104), because of a violation of section 3 of that act (29 U.S.C. s. 2102) shall be credited toward meeting the severance pay requirements of this subsection b.; and

c. Provide the response team with the amount of on-site work-time access to the employees of the establishment that the response team determines is necessary for the response team to carry out its responsibilities pursuant to section 5 of P.L.2007, c.212 (C.34:21-5).

In determining whether a termination or transfer of operations or a mass layoff is subject to the notification requirements of this section, any terminations of employment for two or more groups at a single establishment occurring within any 90-day period, when each group has less than the number of terminations which would trigger the notification requirements of this section but the aggregate for all of the groups exceeds that number, shall be regarded as subject to the notification requirements unless the employer demonstrates that the cause of the terminations for each group is separate and distinct from the causes of the terminations for the other group or groups.

d. For purposes of this section, "employer" includes any individual, partnership, association, corporation, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee, and includes any person who, directly or indirectly, owns and operates the nominal employer, or owns a corporate subsidiary that, directly or indirectly, owns and operates the nominal employer 'or makes the decision responsible for the employment action that gives rise to a mass layoff subject to notification.

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e. No waiver of the right to severance provided pursuant to this section shall be effective without approval of the waiver by the commissioner or a court of competent jurisdiction<sup>1</sup>.

(cf: P.L.2007, c.212, s.2)

OMIT SECTION 3 IN ITS ENTIRETY

RENUMBER SECTION 4 AS SECTION 3

REPLACE SYNOPSIS TO READ:

Increases prenotification time and requires severance pay in certain plant closings, transfers, and mass layoffs.

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