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Governor Newsom temporarily suspends 60-day notice under Cal-WARN

By Brian Alcala, Hillary Baca, Mae Hau, and Benjamin Kim

As California employers grapple with the ongoing coronavirus (COVID-19) crisis, Governor Gavin Newsom on March 17, 2020, temporarily suspended the 60-day notice requirement of the Cal-WARN Act. The Cal-WARN Act requires employers with 75 or more employees to provide workers and local government officials with at least 60 days' notice before a mass layoff, a plant closure, or a major relocation.

The [Executive Order issued on March 17](#) suspends the 60-day notice requirement from March 4, 2020, "through the end of this emergency." The Executive Order neither specifies what this means nor provides a specific end date. The Executive Order states that an employer that orders a mass layoff, relocation, or termination at a covered establishment because of COVID-19-related business circumstances must "give[] as much notice as is practicable and, at the time notice is given, provide[] a brief statement of the basis for reducing the notification period." The written notice to employees must also contain the following statement: "If you have lost your job or been laid off temporarily, you may be eligible for Unemployment Insurance (UI). More information on UI and other resources available for workers is available at labor.ca.gov/coronavirus2019."

The Executive Order further advises that the Labor and Workforce Development Agency shall provide guidance to the public by March 23, 2020, regarding how the Executive Order will be implemented.

While employers have been given temporary relief from the Cal-WARN Act's requirements, they must still comply with the federal WARN Act. Generally, the federal WARN Act requires employers with 100 or more employees to provide at least 60 calendar days' advance written notice of a plant closing or mass layoff affecting 50 or more employees at a single site of employment. There are a few exceptions to the federal WARN Act, including unforeseeable business circumstances and natural disasters. It is unclear whether COVID-19 is itself an unforeseeable business circumstance or a natural disaster. However, there may be arguments that COVID-19 has led to certain unforeseeable business circumstances that fall into the exception. It is also an open question whether the federal WARN Act will be strictly enforced by the Department of Labor after resolution of the coronavirus outbreak, but for now, there has been no indication to suggest otherwise.

More information about complying with the federal WARN Act can be found in a [recent alert regarding voluntary leaves, hours reductions, furloughs, and layoffs](#).

For more information on the content of this alert, please contact our [Coronavirus Response team](#), your Nixon Peabody attorney, or:

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