CLIENT ALERTS & INSIGHTS

# Ohio Enacts Mini-WARN Statute

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The Worker Adjustment and Retraining Notification Act of 1988 ("WARN Act") requires covered employers to provide 60 days' notice to employees in the event of a "plant closing" or "mass layoff." Some states also have "mini-WARN" statutes that impose additional requirements on such employers.

On September 29, 2025, Ohio will join those states when its recently enacted mini-WARN statute becomes effective. Ohio's mini-WARN statute, codified as Ohio Revised Code § 4113.31, requires employers to "comply with all requirements in the WARN Act" and will require covered employers to provide at least 60 days' written notice to employees or their union representatives in the event of a "plant closing" or "mass layoff." Ohio's mini-WARN statute also provides that "[t]he requirements specified in this section do not establish a different standard than that established by federal statutes and regulations." However, there are a few notable departures from the WARN Act, which are detailed below.

## Key Definitions

Ohio's mini-WARN statute explicitly adopts the definitions of "employer," "plant closing," and "mass layoff" from the WARN Act.

- **Employer.** Any business or enterprise that employs 100 or more employees, excluding part-time employees, or that employs 100 or more employees who in total work at least 4,000 hours per week, excluding overtime.
- **Plant Closing.** The permanent or temporary shutdown of a single site of employment, or one or more facilities or operating units within a single site, if the shutdown results in the loss of employment for 50 or more employees at that site during any 30-day period.
- **Mass Layoff.** A reduction in force that is not the result of a plant closing and that either results in the loss of employment at a single site of employment during any 30-day period for at least 50 employees, if those layoffs comprise at least 33% of full-time employees at that site, or affects at least 500 employees.

## Notice Requirement and Exceptions

Ohio's mini-WARN statute requires employers to provide at least 60 days' written notice to employees or their union representatives if both of the following apply:

- The employer employs 100 or more employees who, in total, work at least 4,000 hours per week; and

- The employer lays off 50 or more employees at a single site of employment during any 30-day period.

Under the WARN Act, notice is required if the employer lays off at least 50 employees and those layoffs comprise at least 33% of full-time employees at the employment site. The text of Ohio's mini-WARN statute does not include the 33% qualifier, but because the Ohio mini-WARN statute requires compliance with the WARN Act, the same qualifier should apply. Ohio's mini-WARN statute does not address the WARN Act's requirement to aggregate multiple layoffs at the same job site within a 90-day period to reach the thresholds to trigger notice. However, since Ohio's mini-WARN statute explicitly states that it does not "establish a different standard than that established by federal statutes and regulations," it will likely follow the 90-day aggregation requirement as well.

In addition to providing notice to employers or their union representatives, employers are also required to provide 60 days' written notice to certain state and local government officials, namely the Ohio Director of Job and Family Services and the chief elected official of both the municipal corporation and the county where the plant closing or mass layoff is taking place. This is a departure from the WARN Act, which only requires notice to be given to the chief elected official of the local government unit to which the employer paid the highest taxes for the preceding year.

Ohio's mini-WARN statute also incorporates the WARN Act's provisions regarding reducing or waiving the 60-day notice requirement due to exigent or unforeseeable circumstances. This includes when a plant closing or mass layoff is due to a natural disaster (i.e., flood, earthquake, drought) or business circumstances that were not reasonably foreseeable at the time the notice would have been required. Notice is also not required if the plant closing or mass layoff results from a strike or lockout.

**Content of Written Notices**

Ohio's mini-WARN statute requires employers to include additional information in the written notices that are not required by the WARN Act. Below is an overview of the required content for each type of notice, with the Ohio-specific requirements emphasized in italics.

If employees are represented by a union, employers must include the following information in the written notice:

- The location of the facility affected by the plant closing or mass layoff.
- A detailed statement explaining the reason for the plant closing or mass layoff and whether it is permanent or temporary.
- The expected date when the plant closing or mass layoff will begin and the anticipated date on which the employees' employment will end.
- The total number of employees affected by the plant closing or mass layoff, including their job titles or positions and any department or division impacted.

If employees are not represented by a union, employers must include the following information in the notice:

- A detailed statement explaining the reason for the plant closing or mass layoff and whether it is permanent or temporary.
- The expected date when the plant closing or mass layoff will begin and the anticipated date on which the employees' employment will end.
- Whether the employee has bumping rights or other reemployment rights under a collective bargaining agreement or a company policy, including any procedures to exercise such rights.
- Information on how affected employees can access unemployment insurance benefits or other assistance programs.
- The name, title, and contact information of an employer representative who can answer questions about the plant closing or mass layoff.
- Information about any available employee services, including job placement assistance, retraining programs, or counseling services.

Notice to the required state and local government officials must include all of the above information, as well as the following additional information:

- A description of any action taken or plan to mitigate the impact of the plant closing or mass layoff, including any efforts to secure alternative employment or training for employees.
- The name of each employee organization representing affected employees, and the name and address of the chief elected officer of each organization.
- A copy of the notice provided to employees or their union representatives.

Employers operating in Ohio should become familiar with their obligations under Ohio's mini-WARN Statute and work with counsel to prepare accordingly in the event of a qualifying plant closing or mass layoff. We will continue to monitor and report on further developments, including any guidance that may be released by the Ohio Director of Job and Family Service. For more information, please contact a member of **Benesch's Labor & Employment Practice Group**.