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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 1273 Session of  
2022

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INTRODUCED BY KANE, CAPPELLETTI, A. WILLIAMS, KEARNEY, SAVAL,  
MUTH, COSTA AND COLLETT, JULY 18, 2022

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REFERRED TO LABOR AND INDUSTRY, JULY 18, 2022

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AN ACT

1 Relating to transfers of operations, terminations of  
2 operations, mass layoffs and changes in control.

3 The General Assembly of the Commonwealth of Pennsylvania  
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Mandatory  
7 Severance for Mass Layoffs Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall  
10 have the meanings given to them in this section unless the  
11 context clearly indicates otherwise:

12 "Business." An individual, partnership, association,  
13 corporation or any person or group of persons that employs 50 or  
14 more employees.

15 "Change of control." A material change in ownership of an  
16 employer or a filing seeking bankruptcy protection.

17 "Covered employee." The following:

18 (1) An individual who has been employed by an employer

1 for at least 90 days immediately before a change of control  
2 affecting that individual's principal place of employment. A  
3 change of control affects a covered employee's principal  
4 place of employment if the change of control results in the  
5 predecessor employer transferring control of the place of  
6 employment to the successor employer.

7 (2) The term does not include:

8 (i) a managerial, supervisory or confidential  
9 employee;

10 (ii) a temporary employee; or

11 (iii) a part-time employee who has worked less than  
12 20 hours per week for the predecessor employer for at  
13 least 90 days immediately before the change of control.

14 "Department." The Department of Labor and Industry of the  
15 Commonwealth.

16 "Employer." An individual, partnership, association,  
17 corporation or a person or group of persons acting directly or  
18 indirectly in the interest of an employer in relation to an  
19 employee, including a person who, directly or indirectly, owns  
20 and operates the nominal employer or owns a corporate subsidiary  
21 that, directly or indirectly, owns and operates the nominal  
22 employer or makes the decision responsible for the employment  
23 action that gives rise to a mass layoff subject to notification.

24 "Establishment." A single place of employment that has been  
25 operated by an employer for more than three years, including a  
26 single location or a group of locations in this Commonwealth.  
27 The term does not include a temporary construction site.

28 "Facility." A building.

29 "Mass layoff." A reduction in force that is not the result  
30 of a transfer of operations or termination of operations and

1 that results in the termination of employment at an  
2 establishment during any 30-day period for 50 or more  
3 employees at or reporting to the establishment.

4 "Operating unit." An organizationally distinct product,  
5 operation or specific work function within or across facilities  
6 at a single establishment.

7 "Predecessor employer." The person who controls a business  
8 before a change of control.

9 "Principal place of employment." An office or other facility  
10 where an employee is principally assigned to work by a  
11 predecessor employer.

12 "Successor employer." A person who controls a business after  
13 a change of control.

14 "Termination of employment." The following:

15 (1) The layoff of an employee without a commitment to  
16 reinstate the employee to the employee's previous employment  
17 within six months of the layoff.

18 (2) The term does not mean:

19 (i) a voluntary departure;

20 (ii) retirement;

21 (iii) discharge;

22 (iv) suspension for misconduct connected with  
23 employment;

24 (v) layoff of a seasonal employee; or

25 (vi) a situation in which an employer offers to an  
26 employee, at a location inside this Commonwealth and not  
27 more than 50 miles from the previous place of employment,  
28 the same employment or a position with equivalent status,  
29 benefits, pay and other terms and conditions of  
30 employment.

1           (3) A layoff under paragraph (1) of more than six months  
2 which, at its outset, was announced to be a layoff of six  
3 months or less, shall not be treated as a termination of  
4 employment if the extension beyond six months is caused by  
5 business circumstances not reasonably foreseeable at the time  
6 of the initial layoff and notice is given at the time it  
7 becomes reasonably foreseeable that the extension beyond six  
8 months will be required.

9 "Termination of operations." The following:

10           (1) The permanent or temporary shutdown of a single  
11 establishment or of one or more facilities or operating units  
12 within a single establishment.

13           (2) The term does not include a termination of  
14 operations made necessary because of a fire, flood, natural  
15 disaster, national emergency, act of war, civil disorder or  
16 industrial sabotage, decertification from participation in  
17 the Medicare and Medicaid programs as provided under Titles  
18 XVIII and XIX of the Social Security Act (49 Stat. 620, 42  
19 U.S.C. § 301 et seq.) or license revocation under the laws of  
20 this Commonwealth.

21 "Total compensation." The following:

22           (1) The combined value of a covered employee's wages and  
23 benefits immediately before a change of control. Total  
24 compensation may be paid entirely as wages or in any  
25 combination of wages and fringe benefits, to be determined by  
26 the successor employer.

27           (2) The term includes, but is not limited to, a covered  
28 employee's hourly wage rate or the per diem value of the  
29 covered employee's monthly salary and the employer payments  
30 toward the covered employee's health and welfare and pension

1 benefits.

2 "Transfer of operations." The permanent or temporary  
3 transfer of a single establishment or one or more facilities or  
4 operating units within a single establishment to another  
5 location within or outside this Commonwealth.

6 "Transition period." A period of 180 days immediately  
7 following the effective date of a change of control.

8 Section 3. Transfer of operations, termination of operations or  
9 mass layoff.

10 (a) Notification.--If an establishment is subject to a  
11 transfer of operations or termination of operations which  
12 results, during any continuous period of not more than 30 days,  
13 in the termination of employment of 50 or more employees, or if  
14 an employer conducts a mass layoff, the employer who operates  
15 the establishment or conducts the mass layoff shall provide not  
16 less than 90 days, or the period of time required under the  
17 Worker Adjustment and Retraining Notification Act (Public Law  
18 100-379, 29 U.S.C. § 2101 et seq.), whichever is longer, before  
19 the first termination of employment occurs in connection with  
20 the transfer of operations, termination of operations or mass  
21 layoff, notification of the transfer of operations, termination  
22 of operations or mass layoff to:

23 (1) the department;

24 (2) the chief elected official of the municipality where  
25 the establishment is located;

26 (3) each employee whose employment is to be terminated;  
27 and

28 (4) any collective bargaining units of employees at the  
29 establishment.

30 (b) Severance.--An employer subject to subsection (a) shall

1 provide severance pay as follows:

2 (1) The employer shall provide to each employee whose  
3 employment is terminated severance pay equal to one week of  
4 pay for each full year of employment.

5 (2) If the employer provides an employee with less than  
6 the number of days of notification required under subsection  
7 (a), the employer shall provide that employee with an  
8 additional four weeks of severance pay.

9 (3) The rate of severance pay provided by the employer  
10 under this subsection shall be the average regular rate of  
11 compensation received during the employee's last three years  
12 of employment with the employer or the final regular rate of  
13 compensation paid to the employee, whichever rate is higher.

14 (4) Severance pay under this subsection shall be  
15 regarded as compensation due to an employee for back pay and  
16 losses associated with the termination of the employment  
17 relationship, and earned in full upon the termination of the  
18 employment relationship, notwithstanding the calculation of  
19 the amount of the payment with reference to the employee's  
20 length of service.

21 (5) Severance pay provided by the employer under this  
22 subsection shall be in addition to any severance pay provided  
23 by the employer under a collective bargaining agreement or  
24 for any other reason, except that any back pay provided by  
25 the employer to the employee under section 5 of the Worker  
26 Adjustment and Retraining Notification Act because of a  
27 violation of section 3 of that act shall be credited toward  
28 meeting the severance pay requirements of this subsection.

29 (6) Severance pay under this subsection shall not be  
30 subject to the provisions of section 404(d) of the act of

1 December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known  
2 as the Unemployment Compensation Law.

3 (c) Qualification for notification.--In determining whether  
4 a transfer of operations, termination of operations or mass  
5 layoff is subject to the notification requirements of this  
6 section, any terminations of employment for two or more groups  
7 at a single establishment occurring within any 90-day period  
8 when each group has less than the number of terminations that  
9 would trigger the notification requirements of this section but  
10 the aggregate for all of the groups exceeds that number shall be  
11 regarded as subject to the notification requirements, unless the  
12 employer demonstrates that the cause of the terminations for  
13 each group is separate and distinct from the causes of the  
14 terminations for the other group or groups.

15 (d) Approval of waiver.--A waiver of the right to severance  
16 provided under subsection (b) shall not be effective without  
17 approval of the waiver by the department or a court of competent  
18 jurisdiction.

19 Section 4. Change of control.

20 (a) Retention of employees.--

21 (1) Except as otherwise provided in this section, a  
22 successor employer shall retain all covered employees for at  
23 least the transition period following a change of control,  
24 unless the department approves a reduction in the workforce  
25 under subsection (e). During the transition period, the  
26 successor employer may not terminate a covered employee  
27 without cause and may not reduce the total compensation of a  
28 covered employee.

29 (2) A successor employer and a labor organization  
30 representing covered employees may, in a collective

1 bargaining agreement, provide that the agreement supersedes  
2 the requirements of this section.

3 (b) Public notice.--

4 (1) No later than 15 days before the effective date of a  
5 change of control, the predecessor employer shall:

6 (i) Post public notice of the change of control at  
7 each principal place of employment.

8 (ii) Send notice of the change of control to any  
9 labor organization that represents covered employees.

10 (2) The notice shall include the name and contact  
11 information of the predecessor employer, the name and contact  
12 information of the successor employer and the effective date  
13 of the change of control.

14 (3) The notice shall be posted at each principal place  
15 of business of the predecessor employer in a conspicuous  
16 place and in a manner that is readily viewable by covered  
17 employees.

18 (c) Employee information.--No later than 15 days before the  
19 effective date of a change of control, a predecessor employer  
20 shall provide to the successor employer the name, address, date  
21 of hire, total compensation and classification of each covered  
22 employee.

23 (d) Retention of records.--A successor employer shall retain  
24 the following written or electronic records for at least three  
25 years:

26 (1) The information provided to the successor employer  
27 under subsection (c).

28 (2) Any offer of employment made to a covered employee.

29 (3) Any termination of a covered employee during a  
30 transition period, including the reasons for the termination.



1 (4) Any written evaluation of a covered employee.

2 (e) Reduction of employees.--

3 (1) For two years after the transition period, a  
4 successor employer may reduce the total number of employees  
5 who would have qualified as covered employees during the 90-  
6 day period immediately before a change of control only if  
7 approved by the department.

8 (2) The department may not authorize a successor  
9 employer to reduce the number of employees under paragraph  
10 (1) except upon a showing by a preponderance of the evidence  
11 that the employer has conducted a study of the nature and  
12 scope of the work performed by those employees proposed to be  
13 eliminated, and the study shows that the elimination of the  
14 employees is necessary for the continued solvency of the  
15 business.

16 (3) A successor employer may terminate an employee with  
17 cause consistent with any applicable collective bargaining  
18 agreement during the period specified in paragraph (1).

19 (f) Construction.--This section may not be construed to  
20 limit the right of covered employees to bring legal action for  
21 wrongful termination.

22 (g) Rights and remedies.--The rights and remedies provided  
23 under this section are in addition to, and are not intended to  
24 supplant, any existing rights or remedies.

25 Section 5. Effective date.

26 This act shall take effect immediately.