

HB 2567 A STAFF MEASURE SUMMARY

Carrier: Rep. Witt

House Committee On Business and Labor

Action Date: 04/14/17
Action: Do pass with amendments. (Printed A-Eng.)
Vote: 5-3-1-0
Yeas: 5 - Bynum, Doherty, Evans, Fahey, Holvey
Nays: 3 - Barreto, Hack, Kennemer
Exc: 1 - Heard
Fiscal: Fiscal impact issued
Revenue: No revenue impact
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WHAT THE MEASURE DOES:

Requires employers with 100 or more employees to provide 60 days' notice to employees and government officials before ceasing or relocating operations or laying off 50 or more employees. Creates exceptions to notice requirement. Requires employer to provide documentation to court or Bureau of Labor and Industries when invoking exception involving active pursuit of capital or business. Provides private right of action and holds employer liable for back pay and benefits.

ISSUES DISCUSSED:

- Employers filing bankruptcy are not always subject to federal WARN Act notice requirements
- Creating a "Little" WARN Act for Oregon
- Removal of proposed civil compensatory damages as intent is not to be punitive
- Value of providing employees with advance notice of mass layoffs, relocations, or terminations

EFFECT OF AMENDMENT:

Raises employee threshold to 100 for determining which employers must provide notice of mass layoff, or relocation or termination of operations. Eliminates compensatory damages as remedy in civil actions.

BACKGROUND:

The federal Worker Adjustment and Retraining Notification Act (WARN), which became effective on February 4, 1989, outlines provisions for notification to employees in the event of plant closing, mass layoff, sale of businesses, or employment loss. WARN requires employers to provide 60 days' written notice to employees of companies with 100 or more employees who work more than an average of 20 hours a week and have worked more than six months during the last 12 months. The notice must be given when a plant closing will affect at least 50 employees or a mass layoff is planned affecting 500 employees, or 50-499 employees if they account for at least 33 percent of company's workforce. Employer exceptions exist for faltering companies, natural disaster, and for unforeseeable business circumstances. Individuals or a class may bring private action for alleged violations. Violations subject the employer to compensating for back pay and benefits for the period of violation, up to 60 days. A penalty not to exceed \$500 per day may be imposed if the employer fails to notify a unit of local government.

House Bill 2567-A mirrors the federal WARN in many respects, except that it counts employees affected by mass layoff regardless of full-time or part-time status. The measure requires 60-days notice for layoffs, terminations or relocations that affect, in aggregate, 50 or more employees during any 30-day period. Notice must also be provided if

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at least 50 employees, in aggregate, are affected over a 90-day period, unless the employer can demonstrate that the job losses were the result of separate and distinct actions and causes and were not an attempt to avoid the notice requirement. Written notice must be given to affected employees, the Oregon Employment Department, the Office of Community Colleges and Workforce Development, the local workforce development board, and the chief elected official of each city and county in which the mass layoff, relocation or terminations will occur. The measure provides a private right of action for the recovery of back pay and benefits.