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Coronavirus Legal Issues Update – New Jersey Coronavirus Legislation

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Yesterday, the New Jersey Senate voted to approve an emergency package of bills aimed to respond to the COVID-19 pandemic, which has caused tens of thousands of New Jersey businesses to scale back hours or close indefinitely. Once signed into law by Governor Murphy, the bills will all be effective immediately, and will provide added protections to displaced workers as well as relief to employers by authorizing more than \$65 million in spending.

Tax Filing Extensions

A3841/S2300 extends the April 15 tax deadline for income and corporate business taxes for as long as the federal tax filing extension, but no later than June 30, 2020, which is the last day Murphy can sign the state budget to avoid a government shutdown. Under the bill, taxpayers will not face penalties or interest if their tax return is filed by the end of the specified extension.

Compensation to Workers for Lost Wages

A3846/S2293 establishes a \$20 million temporary unemployment insurance program to compensate workers for wages lost while they are in quarantine due to the outbreak, as well as to compensate businesses who pay wages to workers who are ordered quarantined. To the extent funds are available, the fund will provide monetary relief to individuals for actual lost wages in an amount that is equivalent to the individual's average weekly rate of compensation from the past calendar year, if individuals do not have fully paid leave, and the individual suffers actual loss wages as a result of coronavirus due to:

- (a) the individual's absence from work due to the need to care for a family member;
- (b) the individual's absence from work due to the illness of the individual;
- (c) the individual's absence from work due to a school or childcare facility being closed; and
- (d) for such other purposes as determined by the Commissioner.

Employees are prohibited from collecting payments under this bill during any period in which the employee is collecting benefits under the unemployment compensation law.

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The fund will also be used to assist employers who pay wages to workers who are ordered under quarantine by a licensed healthcare practitioner as a result of coronavirus.

Prohibition Against Firing Workers

A3848/S2301 provides that an employer shall not terminate or otherwise penalize an employee if the employee requests or takes time off from work based on the written or electronically transmitted recommendation of a medical professional licensed in New Jersey that the employee take time off for a specified period of time because the employee has, or is likely to have, an infectious disease, including COVID-19, which may infect others at the employee's workplace. The bill further provides that the employer must reinstate the employee to employment in the position held when the leave commenced with no reduction in seniority, status, employment benefits, pay or other terms and conditions of employment.

An employer that violates the law can be ordered to reinstate the employee to his or her former position with no reduction in status, benefits, or pay, and is subject to a fine in the amount of \$2,500 for each violation.

Grants to Small Businesses

A3845/S2284 amends the New Jersey Economic Development Authority Act and authorizes the authority to award business grants to small and medium-sized businesses and not-for-profit corporations for the duration of economic disruptions due to the current COVID-19 public health emergency. The bill gives the authority the power to offer grants for the planning, designing, acquiring, constructing, reconstructing, improving, equipping, and furnishing of a project, including, but not limited to, grants for working capital and meeting payroll requirements during the declared public health emergency.

The bills leave several questions unanswered. For instance, the bill providing compensation for lost wages does not define "family member." And, the bill requiring employers to reinstate workers who are medically certified for time-off due to COVID-19, does not allow for reinstatement to an equivalent position with the same general duties, compensation and benefits, which is allowed under the New Jersey Family Leave Act and the federal Family Medical Leave Act. Presumably, the Commissioner of Labor in enforcing these new laws will look to New Jersey's current laws, for clarification and guidance.

SPSK will continue to monitor legislative developments at the state, federal and local level, and will provide further updates on future legislative enactments. If you have any questions about the laws referenced in this Alert, please contact the authors at jmj@spsk.com or rjr@spsk.com.

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