
Commerce & Labor Committee

HB 2352

Brief Description: Prohibiting employers from requiring employees to train their successors.

Sponsors: Representatives Hudgins, Romero, O'Brien, Conway, Simpson, G., Moeller and Morrell.

Brief Summary of Bill

- Requires certain employers to give affected employees and the Department of Labor and Industries (Department) 10 days' advance notice of a layoff of workers required to train other persons to perform their job duties.
- Provides for administration by the Department, and for enforcement through the courts.
- Establishes damages and civil penalties for failing to comply with the notice requirement.

Hearing Date: 1/21/04

Staff: Jill Reinmuth (786-7134).

Background:

Under the federal Worker Adjustment and Retraining Notification Act (the WARN Act), employers are required to give employees and certain government entities 60 days' advance notice of plant closings and mass layoffs. A plant closing is a shutdown that results in an employment loss during any 30-day period of 50 or more employees. A mass layoff is a reduction in force that results in an employment loss during any 30-day period of either: 33 percent of the employees, and at least 50 or more employees; or at least 500 employees. The notice requirement applies only to employers that employ 100 or more employees.

Unless otherwise subject to the WARN Act, employers are not required to give notice of a layoff of workers required to train persons to perform their job duties.

Summary of Bill:

Employers are required to give 10 days' notice of a layoff of workers who were required to train other persons to perform their job duties.

The written notice must be given to the affected workers and the Department of Labor and Industries (Department). The written notice must include the number of affected positions, the

number of affected positions being relocated or outsourced to a different location 100 miles or more away, the job titles and wages of the affected positions, the locations to which affected positions are relocated or outsourced, and additional information specified in rule by the Department.

"Employer" is defined as an employer that has 100 or more workers. "Layoff" is defined as a separation from employment of employees or a termination of certain independent contractors.

Administration and Enforcement

The Department administers the law and investigates alleged violations. In investigations and other proceedings, the Department may examine an employer's books and records. The Department must adopt rules necessary to carry out the law, which may include additional information to be specified in the layoff notice.

Enforcement is through the courts. Employees and their representatives may bring civil actions against employers believed to be in violation of the notice requirement. A prevailing plaintiff may be awarded attorneys' fees.

Damages and Civil Penalties

An employee may be awarded wages and benefits for each day of violation, up to a maximum of 90 days. If the employee was employed for less than 180 days, the maximum is one-half the number of days the employee was employed. Damages are not "wages" for purposes of unemployment compensation.

An employer that fails to give notice is also subject to a civil penalty of \$500 per employee for each day of the violation. Civil penalties are paid into the Unemployment Trust Fund.

Rules Authority: The Department of Labor and Industries must adopt rules necessary to carry out the bill's provisions, which may include requiring additional information to be specified in the layoff notice.

Appropriation: None.

Fiscal Note: Requested on January 15, 2004.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.