
EMPLOYMENT NEWS ALERT

Brian E. Curtis, Esq.

The 'Paid Leave' Provisions of the NJ Family Leave Act

In our last issue of *Employment News Alert*, we discussed the interplay of the paid leave provisions of the NJ Family Leave Act (FLA) with the requirements imposed on employers by NJ courts to reasonably accommodate temporarily-disabled workers with light-duty assignments as well as paid time off.

Our Legislature's recent extension of the State's current Temporary Disability Benefits law to include and provide for immediate implementation of *paid leave for all employees state-wide*, modifying the FLA from its current form of providing *unpaid* leave only to those employees of companies meeting certain qualifications and exempting small businesses and other companies with fewer than 50 employees. ***All businesses are now subject to the paid leave provisions, regardless of the number of employees you have!***

According to a recent study published by Harvard and McGill Universities, the U.S. is one of only four countries in the world that do not offer their workers *paid* family leave in one form or another. The other three countries? Papua New Guinea, Lesotho, and Swaziland.

Those who support paid leave in NJ rely on this study at every turn. But their arguments fail to address the practicalities of today's small-business environment in NJ, a highly-taxed, highly-regulated, consumer- and worker-friendly environment. Small businesses are the lifeblood of our economy here and are responsible for nearly 70% of job growth in the State. Our Legislature's actions in changing the law so drastically seems to ignore this reality.

The law was originally supposed to follow the California model and extend temporary disability insurance to provide family leave benefits for workers caring for sick family members, newborns, and newly adopted children. It was to provide that the collection of an assessment on employees to pay for family leave benefits will begin on January 1, 2009 and that payment of family leave benefits will begin on July 1, 2009, giving the State some lead time to collect these funds into a dedicated account before employees start requesting benefits. In 2009, the assessment will be calculated at 0.14 percent of the portion of each worker's wages that is subject to temporary disability insurance taxes. In 2010 and subsequent years, the assessment would rise to 0.18 percent.

The law allows NJ employers the option of using the state-operated plan or a private plan through self-insurance or an insurance policy, with certain restrictions, primarily that the private plan be substantially similar to the state plan in that employees cannot be charged more, benefits could not be less, and eligibility could not be more restrictive than that which is found in the state plan.

At first glance, it appears a modest and reasonable proposal. However, its broad reach, in which *all* employees in the State are covered regardless of (1) the size of the employer, (2) the length of time an employee has been with a particular company, or (3) the full-time/part-time status of an employee, essentially destroys the FLA in its current form.



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an application to employers with 50 or more employees.

Instantaneously imposing not only leave requirements but also *paid* leave, upon small employers already reeling in this tight economy, may well be disastrous for these employers and their employees, current and future, as well as the overall economy of our State.

WHAT CAN YOUR COMPANY DO NOW?

Start implementing your new *paid* leave policy now – don't wait! We strongly recommend that preliminary notices be issued to your workers *before* the law takes effect on July 1.

WE CAN HELP YOU! We have created draft policies that you can apply to your Company's unique workplace. We can help you implement the right policies to address these issues! ***CALL US NOW!***

If you would like additional information on the topics detailed in this issue, or any prior issues, of Employment News Alert, or otherwise need assistance and advice on any employment matter, please call or email as follows:

Brian E. Curtis, Esq.
(732) 277-8261
becurtis@strykertams.com

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