(6) subject to subsection (b), the term ''employment loss'' means (A) an employment termination, other than a discharge for cause, voluntary departure, or retirement, (B) a layoff exceeding 6 months, or (C) a reduction in hours of work of more than 50 percent during each month of any 6-month period;

(7) the term ''unit of local government'' means any general purpose political subdivision of a State which has the power to levy taxes and spend funds, as well as general corporate and police powers; and

(8) the term ''part-time employee'' means an employee who is employed for an average of fewer than 20 hours per week or who has been employed for fewer than 6 of the 12 months preceding the date on which notice is required.

(b) Exclusions from definition of employment loss

(1) In the case of a sale of part or all of an employer's business, the seller shall be responsible for providing notice for any plant closing or mass layoff in accordance with section 2102 of this title, up to and including the effective date of the sale. After the effective date of the sale of part or all of an employer's business, the purchaser shall be responsible for providing notice for any plant closing or mass layoff in accordance with section 2102 of this title. Notwithstanding any other provision of this chapter, any person who is an employee of the seller (other than a part-time employee) as of the effective date of the sale shall be considered an employee of the purchaser immediately after the effective date of the sale.

(2) Notwithstanding subsection (a)(6), an employee may not be considered to have experienced an employment loss if the closing or layoff is the result of the relocation or consolidation of part or all of the employer's business and, prior to the closing or layoff—

(A) the employer offers to transfer the employee to a different site of employment within a reasonable commuting distance with no more than a 6-month break in employment; or

(B) the employer offers to transfer the employee to any other site of employment regardless of distance with no more than a 6-month break in employment, and the employee accepts within 30 days of the offer or of the closing or layoff, whichever is later.

(Pub. L. 100–379, § 2, Aug. 4, 1988, 102 Stat. 890.)

EFFECTIVE DATE

Pub. L. 100–379, § 11, Aug. 4, 1988, 102 Stat. 895, provided that: ''This Act [enacting this chapter] shall take effect on the date which is 6 months after the date of enactment of this Act [Aug. 4, 1988], except that the authority of the Secretary of Labor under section 8 [section 2107 of this title] is effective upon enactment.''

SHORT TITLE

Pub. L. 100–379, § 1(a), Aug. 4, 1988, 102 Stat. 890, provided that: ''This Act [enacting this chapter] may be cited as the 'Worker Adjustment and Retraining Notification Act'.''

§ 2102. Notice required before plant closings and mass layoffs

(a) Notice to employees, State dislocated worker units, and local governments

An employer shall not order a plant closing or mass layoff until the end of a 60-day period after the employer serves written notice of such an order—

(1) to each representative of the affected employees as of the time of the notice or, if there is no such representative at that time, to each affected employee; and

(2) to the State or entity designated by the State to carry out rapid response activities under section 3174(a)(2)(A) of this title, and the chief elected official of the unit of local government within which such closing or layoff is to occur.

If there is more than one such unit, the unit of local government which the employer shall notify is the unit of local government to which the employer pays the highest taxes for the year preceding the year for which the determination is made.

(b) Reduction of notification period

(1) An employer may order the shutdown of a single site of employment before the conclusion of the 60-day period if as of the time that notice would have been required the employer was actively seeking capital or business which, if obtained, would have enabled the employer to avoid or postpone the shutdown and the employer reasonably and in good faith believed that giving the notice required would have precluded the employer from obtaining the needed capital or business.

(2)(A) An employer may order a plant closing or mass layoff before the conclusion of the 60-day period if the closing or mass layoff is caused by business circumstances that were not reasonably foreseeable as of the time that notice would have been required.

(B) No notice under this chapter shall be required if the plant closing or mass layoff is due to any form of natural disaster, such as a flood, earthquake, or the drought currently ravaging the farmlands of the United States.

(3) An employer relying on this subsection shall give as much notice as is practicable and at that time shall give a brief statement of the basis for reducing the notification period.

(c) Extension of layoff period

A layoff of more than 6 months which, at its outset, was announced to be a layoff of 6 months or less, shall be treated as an employment loss under this chapter unless—

(1) the extension beyond 6 months is caused by business circumstances (including unforeseeable changes in price or cost) not reasonably foreseeable at the time of the initial layoff; and

(2) notice is given at the time it becomes reasonably foreseeable that the extension beyond 6 months will be required.

(d) Determinations with respect to employment loss

For purposes of this section, in determining whether a plant closing or mass layoff has oc-

curred or will occur, employment losses for 2 or more groups at a single site of employment, each of which is less than the minimum number of employees specified in section 2101(a)(2) or (3) of this title but which in the aggregate exceed that minimum number, and which occur within any 90-day period shall be considered to be a plant closing or mass layoff unless the employer demonstrates that the employment losses are the result of separate and distinct actions and causes and are not an attempt by the employer to evade the requirements of this chapter.

(Pub. L. 100–379, § 3, Aug. 4, 1988, 102 Stat. 891; Pub. L. 105–277, div. A, § 101(f) [title VIII, § 405(d)(26), (f)(18)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–424, 2681–432; Pub. L. 113–128, title V, § 512(kk), July 22, 2014, 128 Stat. 1722.)

AMENDMENTS

2014—Subsec. (a)(2). Pub. L. 113–128 substituted ''the State or entity designated by the State to carry out rapid response activities under section 3174(a)(2)(A) of this title,'' for ''the State or entity designated by the State to carry out rapid response activities under section 2864(a)(2)(A) of this title,''.

1998—Subsec. (a)(2). Pub. L. 105–277, § 101(f) [title VIII, § 405(f)(18)], struck out ''the State dislocated worker unit or office (referred to in section 1661(b)(2) of this title), or'' before ''the State or entity''.

Pub. L. 105–277, § 101(f) [title VIII, § 405(d)(26)], substituted ''to the State dislocated worker unit or office (referred to in section 1661(b)(2) of this title), or the State or entity designated by the State to carry out rapid response activities under section 2864(a)(2)(A) of this title, and the chief'' for ''to the State dislocated worker unit (designated or created under title III of the Job Training Partnership Act) and the chief''.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 101(f) [title VIII, § 405(d)(26)] of Pub. L. 105–277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, § 405(f)(18)] of Pub. L. 105–277 effective July 1, 2000, see section 101(f) [title VIII, § 405(g)(1), (2)(B)] of Pub. L. 105–277, set out as a note under section 3502 of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective 6 months after Aug. 4, 1988, see section 11 of Pub. L. 100–379, set out as a note under section 2101 of this title.

§ 2103. Exemptions

This chapter shall not apply to a plant closing or mass layoff if—

(1) the closing is of a temporary facility or the closing or layoff is the result of the completion of a particular project or undertaking, and the affected employees were hired with the understanding that their employment was limited to the duration of the facility or the project or undertaking; or

(2) the closing or layoff constitutes a strike or constitutes a lockout not intended to evade the requirements of this chapter. Nothing in this chapter shall require an employer to serve written notice pursuant to section 2102(a) of this title when permanently replacing a person who is deemed to be an economic striker under the National Labor Relations Act [29 U.S.C. 151 et seq.]: *Provided*, That nothing in this chapter shall be deemed to validate or invalidate any judicial or administrative ruling relating to the hiring of permanent replacements for economic strikers under the National Labor Relations Act.

(Pub. L. 100–379, § 4, Aug. 4, 1988, 102 Stat. 892.)

REFERENCES IN TEXT

The National Labor Relations Act, referred to in par. (2), is act July 5, 1935, ch. 372, 49 Stat. 452, as amended, which is classified generally to subchapter II (§ 151 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 167 of this title and Tables.

EFFECTIVE DATE

Section effective 6 months after Aug. 4, 1988, see section 11 of Pub. L. 100–379, set out as a note under section 2101 of this title.

§ 2104. Administration and enforcement of requirements

(a) Civil actions against employers

(1) Any employer who orders a plant closing or mass layoff in violation of section 2102 of this title shall be liable to each aggrieved employee who suffers an employment loss as a result of such closing or layoff for—

(A) back pay for each day of violation at a rate of compensation not less than the higher of—

(i) the average regular rate received by such employee during the last 3 years of the employee's employment; or

(ii) the final regular rate received by such employee; and

(B) benefits under an employee benefit plan described in section 1002(3) of this title, including the cost of medical expenses incurred during the employment loss which would have been covered under an employee benefit plan if the employment loss had not occurred.

Such liability shall be calculated for the period of the violation, up to a maximum of 60 days, but in no event for more than one-half the number of days the employee was employed by the employer.

(2) The amount for which an employer is liable under paragraph (1) shall be reduced by—

(A) any wages paid by the employer to the employee for the period of the violation;

(B) any voluntary and unconditional payment by the employer to the employee that is not required by any legal obligation; and

(C) any payment by the employer to a third party or trustee (such as premiums for health benefits or payments to a defined contribution pension plan) on behalf of and attributable to the employee for the period of the violation.

In addition, any liability incurred under paragraph (1) with respect to a defined benefit pension plan may be reduced by crediting the employee with service for all purposes under such a plan for the period of the violation.

(3) Any employer who violates the provisions of section 2102 of this title with respect to a unit