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## CLIENT ADVISORY

### NEW JERSEY THIRD STATE TO GIVE PAID FAMILY LEAVE

On May 2, 2008 Governor Corzine signed into law a bill that provides for "Family Temporary Disability Leave," which gives employees the right to take up to six weeks of paid leave during any twelve-month period to care for a sick relative, newborn, or adopted child. The law will take effect July 1, 2009.

An employee who takes this leave will receive two-thirds of his or her regular weekly salary, up to a maximum amount of \$524 per week, provided the employee has worked at least 20 weeks or earned a total of at least 1,000 times the minimum wage during the previous year. In order to be eligible to receive paid family leave, the employee must also exhaust maternity and disability leave and use at least two weeks of sick leave and vacation time. In addition, the employee must provide the employer with prior notice, along with a doctor's note listing details of the need for time off.

The Family Temporary Disability Leave program will be paid for through a payroll tax, by which employees will contribute a small percentage of their earned wages to the State Disability Fund. The State Disability Fund will then deposit the money into a fund reserved exclusively for the Family Temporary Disability Leave program. The maximum employee contribution is estimated to be about \$33 per year. Employees will begin paying the tax on January 1, 2009.

The new Family Temporary Disability Leave is essentially an overlay to the New Jersey Family Leave Act (NJFLA) and the federal Family and Medical Leave Act (FMLA). For employers already covered by the FMLA and the NJFLA, the law does not provide any right to additional time off from work, nor does it affect employees' existing rights. Rather, the law only addresses compensation. Paid leave is to run concurrently with leave under the FMLA and NJFLA. Furthermore, the new law does not require that

an employee who has taken Family Temporary Disability Leave be reinstated to the same job, or a similar job to the one held before taking leave. Thus, employers with fewer than 50 employees (who are therefore not covered by the FMLA and the NJFLA) need not offer job reinstatement protection for employees who take paid Family Temporary Disability Leave. The law also expressly precludes small business employees from suing their employers for termination when they use the paid Family Temporary Disability Leave.

This law makes New Jersey the third state after California and Washington to require paid family medical leave. While it is of immediate significance to New Jersey employers and employees, the new law may also signal a trend among states to extend financial support for workers who are in need of family leave.

If you should have any questions regarding the new legislation, please contact us.

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