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New Jersey Workers' Compensation: Senate Bill 2998 Update

As reported on June 2, 2021, the New Jersey State Senate was to vote on S 2998, which would have given a worker who sustained a work-related injury a hiring preference once they have reached maximum medical improvement. Learn more about the history of this bill by checking out our previous WG Alert [here](#). The only limitation on the application of this proposed legislation was that it would only subject employers of 50 or more employees to the hiring preference. While the bill was poised to pass as is on June 3, 2021, the Senate decided to amend the bill by placing two additional exceptions on what employers would be bound by in this legislation. Those amendments were voted on and approved that day by the Senate. One of the amendments excludes athletes employed by professional sports teams from the hiring preference. The other exception is for any contractor of 50 or more employees, as defined by NJS 34:11-56.50. These are contractors who enter into contracts subject to the provisions of the New Jersey Prevailing Wage Act. These amendments were also adopted in the companion bill before the Assembly, namely A2617. The full Senate has since passed the amended version of the bill on June 21, 2021, and Assembly bill, A 2617 is before the full Assembly on June 24, 2021, and passed by a vote of 73-0. This means that the legislation now sits on the governor's desk waiting for his signature of approval.

The amendments to this legislation are somewhat interesting for different reasons. The exclusion of employee athletes of professional sports teams may be understandable since a professional sports team may not want to reinstate a member to a team where that individual may have sustained an injury affecting their ability to perform at a high level in any given professional sport. The exclusion of a contractor under NJS 34:11-56.50 appears to be more politically motivated in that such contractors are those who enter into public works contracts. That is, these covered contractors of 50 or more employees who enter into public works contracts with the government would not be burdened with this rehiring preference.

Comment: While the amendments to this legislation represent two relatively minor carve-outs as it applies to certain employers, the overall proposal has not changed in any manner in regard to its enforcement capabilities, and the lack thereof. Furthermore, the legislation does not address how it will be applied when it conflicts with those employers who have entered into collective bargaining agreements with union employees. If this legislation does become law as expected, it may likely cause more litigation for both employers and employees who will be searching for answers as to its enforcement powers, along with its conflicts with other employment laws already on the books for the protection of workers.