

The Record SECTION B

# Business & Classifieds

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## ASK A LAWYER

### Congress may expand law on layoff notification

**Q. Do I have to provide notice to my employees of a planned layoff?**

It depends. In many instances both federal and state law require that notice be given to the affected employees, as well as to certain government officials.

The federal Worker Adjustment and Retraining Notification Act (WARN Act) mandates employers with 100 or more employees provide at least 60 days' notice of a mass layoff or plant closing. A mass layoff is an employment loss of 500 or more employ-

ees during any 30-day period, or a layoff of 50 to 499 employees if the total employment loss is at least 33 percent of the workforce. A plant closing is defined as the shutdown of an employment site resulting in 50 or more employees losing their jobs during any 30-day period. An employer who fails to provide adequate notice in either situation may be liable to each aggrieved employee for back pay and benefits.

New Jersey, like some other states, has its own Job Loss Noti-

fication Act (the New Jersey Act), which is similar to the WARN Act and contains the same notice requirements. The New Jersey Act, however, contains some critical differences from the WARN Act, including steeper penalties for violations. Thus, if your business is planning a sizable layoff or plant closure, consult with your attorney regarding your potential liability under each of these acts.

Further, because of the current economic crisis, Congress may

take additional action to protect employees from layoffs. In 2007, Congress attempted but failed to expand the scope of the WARN Act to, among other things, apply the act's notification requirements to companies with as few as 50 workers. The current Congress is expected to consider that legislation again. Employers who fall short of the WARN Act's coverage should closely monitor this legislation in the event of its passage.

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