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Breaking up is hard to do for businesses, too

Jacksonville Business Journal - by [Dolly Penland](#) Correspondent

Given the current economy, many business owners are considering cutbacks of all sorts — including laying off workers.

“We are seeing a lot of reduction-in-force activity,” said John Dickinson, managing member of the Jacksonville office of **Constangy, Brooks & Smith LLC**. “It’s across the board. I don’t think we have seen any sector that has been spared, even in the public sector.”

The first thing to consider before looking at payroll is whether the budget can be slashed in other areas.

“Look where you can cut costs first,” such as purchases for “equipment and therefore, service to that equipment,” Dickinson said. “Can you freeze increases rather than give annual increases? A lot of businesses are now deciding to cut back on their matching 401(k) contributions.”

There are alternatives to a reduction in force that business owners might consider, such as shortened workweeks, implementing a hiring freeze or initiating an early retirement incentive program or a general voluntary separation program, where employees are given a severance package when they voluntarily resign.

“Some folks are ready to leave anyway, and for a little sweetener they can be nudged enough to want to leave if they’re already on the precipice of that decision,” Dickinson said.

The state of Florida also has a Short-Time Compensation Program, a voluntary employer program that lets employers reduce weekly hours rather than temporarily laying off employees during a slowdown. Under the program, employees get a partial unemployment check to supplement the reduced paycheck.

“So, you’re going to pay more unemployment tax later, but the amount isn’t equivalent to the amount you’re saving,” said Bob McKenzie, president of McKenzieHR.

If layoffs are inevitable in order to keep the business viable, it’s important to do a proper analysis of the work force and the factors that will be used to determine who stays and who goes.

A survey conducted by online payroll service **SurePayroll** found that 53 percent of the businesses surveyed did not have a formal termination process in place.

“Not having a formal termination policy in place is a big mistake,” said SurePayroll President Michael Alter. “If there’s no rule book on terminating employees, everything is ambiguous. That can lead to a failure to fire employees who ought to be terminated and can even lead to legal issues if terminations are viewed by employees as being unfair.”

It’s vital, then, to have a policy in place to minimize the company’s exposure to any legal claims that the firings were based on illegal reasons such as age, race or sex when implementing a reduction in force.

“It’s a complicated process,” Dickinson said. “You have to be careful how you choose and what criteria you use so that it’s not discriminatory. So a proper analysis needs to be done to meet the legal test if it’s challenged. If job performance is used, it’s very important to have good documentation of the performance of the staff.”

It’s a good idea to look at the makeup of the work force and which jobs are most critical before and after any reductions in staff. McKenzie recommends making a list of “keepers,” the people who best take care of the business and the customers.

“You have to look at the entire work force to see who are your real keepers, even if you have duplication of keepers in the same types of positions,” said McKenzie, who added that it’s also better to cut back too far and possibly rehire people later, than not cut back far enough. “If you have a couple of people working overtime, that’s cheaper than a full-time employee,” he said. “And what you’re doing is keeping the rest of the people busy so they don’t have time to [speculate] about what else might be going on.”

It’s critical to clearly communicate with the employees about what is going on, why cutbacks are necessary and what the company’s plans are. It’s also important to train supervisors and managers so they know how to answer employees’ questions.

“Communicate the good, the bad and the ugly,” McKenzie said. “These are adults you’re dealing with, and they actually react better when you tell them the real story.”

McKenzie advised helping the employees selected for termination by providing outplacement services so they can prepare their résumés and update their job hunting skills. “Give them time, and give them help,” he said. “The economy is awful right now, so it’s going to be difficult to find other jobs. Treat them as fairly as possible and give them other opportunities to get out there.”