

4123-17-42.1 Eligibility for retrospective rating - Public Employer.

(A) A public employer as defined in division (B)(1) of section 4123.01 of the Revised Code may be eligible for either the Tier I or Tier II retrospective rating plan depending upon satisfying the eligibility requirements for either the Tier I or Tier II retrospective rating plan as described in this rule.

(B) For both the Tier I and Tier II retrospective rating plans, the public employer must satisfy the following requirements:

(1) The public employer must be current on any and all undisputed premiums, administrative costs, assessments, fines or moneys otherwise due to any fund administered by the Ohio bureau of workers' compensation, including amounts due for retrospective rating.

(2) The public employer cannot have any unpaid, undisputed audit findings or other unpaid billings as of the application deadline.

(3) The public employer cannot have cumulative lapses in workers' compensation coverage in excess of fifteen days within the last five rating years.

(4) The public employer must be in an active status on the first day of the policy year.

(5) The employer's estimated experience-rated premium for the retrospective rating year must be greater than or equal to the minimum experience-rated premium threshold listed on the "Retrospective Rating Minimum Premium Percentages Table." If estimated premium is less than the minimum experience-rated premium threshold listed on the "Retrospective Rating Minimum Premium Percentages Table," the bureau will reject the application. In the event the estimated experience-rated premium is equal to or greater than the minimum premium threshold but the actual premium is less than the minimum experience-rated premium threshold, the retrospective rating plan remains in effect for that risk and the minimum premium is based on the minimum experience-rated premium threshold multiplied by the appropriate minimum premium percentage for the hazard group and the claim limit/maximum premium percentage selected.

(C) In addition to the requirements of paragraph (B) of this rule, for the Tier I retrospective rating plan, the public employer must submit audited or reviewed financial statements prepared in accordance with generally accepted accounting principles (GAAP) to satisfy the following requirements:

(1) The public employer must satisfy financial standards demonstrating strength and stability. In reviewing the financial requirements of the public employer, the bureau shall consider, but is not limited to, the following criteria, as applicable:

(a) Significant asset size of the public employer in the state of Ohio.

(b) The public employer's debt structure, including current versus long term debt, recent drastic changes in debt, etc.

(c) Whether the public employer has significant fluctuations in amounts reported on the balance sheet and statement of operations from one year to the next.

(d) The public employer's underlying or uninsured bond rating.

(2) The public employer shall demonstrate that if it sustains a catastrophic or severe workers' compensation loss, it has the ability to maintain its financial viability and to cover all costs of the retrospective rating plan through closure.

(3) The public employer shall maintain a safety program approved by the bureau's division of safety and hygiene.

(4) The public employer cannot have entered into a part-pay agreement for payment of assessments due the state insurance fund for the past three rating years preceding the beginning date of the retrospective policy year.

(5) The public employer cannot be under fiscal watch or emergency pursuant to sections 118.022, 118.04 or 3316.03 of the Revised Code as of the application deadline for retrospective rating.

(D) In addition to the requirements of paragraph (B) of this rule, for the Tier II retrospective rating plan, the public employer must submit audited or reviewed financial statements prepared in accordance with GAAP or other comprehensive basis of accounting as permitted in Ohio auditor of state bulletin 2005-002. For purposes of this rule, GAAP financial statements are preferred. These financial statements must provide information that satisfies the following requirements:

(1) For a public employer that does not demonstrate the ability to satisfy the financial criteria of paragraph (C) of this rule, the public employer must demonstrate the ability to sustain losses that are at the maximum claim limit for the retrospective rating plan and still maintain its financial viability.

(2) Within one year of entering a retrospective rating plan, the public employer must implement the bureau's ten step business plan for safety as defined in rule 4123-17-70 of the Administrative Code. The public employer must agree to meet quarterly with a bureau representative to discuss the retrospective rating program

and to discuss risk management strategies that other public employers are successfully using to control their workers' compensation costs.

Effective: 10/8/09