



## Ohio Revised Code

### Section 4141.26 Notifying employer of contribution rate.

Effective: September 5, 2005

Legislation: Senate Bill 81 - 126th General Assembly

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(A) As soon as practicable after the first day of September but not later than the first day of December of each year, the director of job and family services shall notify each employer of the employer's contribution rate as determined for the next ensuing contribution period pursuant to section 4141.25 of the Revised Code provided the employer has furnished the director, by the first day of September following the computation date, with the wage information for all past periods necessary for the computation of the contribution rate.

(B) If an employer has not timely furnished the necessary wage information as required by division (A) of this section, the employer's contribution rate for such contribution period shall not be computed as provided in section 4141.25 of the Revised Code, but instead the employer shall be assigned a contribution rate equal to one hundred twenty-five per cent of the maximum rate provided in that section, with the following exceptions:

(1) If the employer files the necessary wage information by the thirty-first day of December of the year immediately preceding the contribution period for which the rate is to be effective, the employer's rate shall be computed as provided in division (A) of section 4141.25 of the Revised Code.

(2) The director shall revise the contribution rate of an employer who has not timely furnished the necessary wage information as required by division (A) of this section, who has been assigned a contribution rate pursuant to division (B) of this section, and who does not meet the requirements of division (B)(1) of this section, if the employer furnishes the necessary wage information to the director within eighteen months following the thirty-first day of December of the year immediately preceding the contribution period for which the rate is to be effective. The revised rate under division (B)(2) of this section shall be equal to one hundred twenty per cent of the contribution rate that would have resulted if the employer had timely furnished the necessary wage information under division (A) of this section.



The director shall deny an employer's request for a revision of the employer's rate as provided in division (B)(2) of this section if the director finds that the employer's failure to timely file the necessary wage information was due to an attempt to evade payment.

The director shall round the contribution rates the director determines under division (B) of this section to the nearest tenth of one per cent.

(C) If, as a result of the computation pursuant to division (B) of this section, the employer's account shows a negative balance in excess of the applicable limitations, in that computation, the excess above applicable limitations shall not be transferred from the account as provided in division (A)(2) of section 4141.24 of the Revised Code.

(D) The rate determined pursuant to this section and section 4141.25 of the Revised Code shall become binding upon the employer unless:

(1) The employer makes a voluntary contribution as provided in division (B) of section 4141.24 of the Revised Code, whereupon the director shall issue the employer a revised contribution rate notice if the contribution changes the employer's rate; or

(2) Within thirty days after the mailing of notice of the employer's rate or a revision of it to the employer's last known address or, in the absence of mailing of such notice, within thirty days after the delivery of such notice, the employer files an application with the director for reconsideration of the director's determination of such rate setting forth reasons for such request. The director shall promptly examine the application for reconsideration and shall notify the employer of the director's reconsidered decision, which shall become final unless, within thirty days after the mailing of such notice by certified mail, return receipt requested, the employer files an application for review of such decision with the unemployment compensation review commission. The commission shall promptly examine the application for review of the director's decision and shall grant such employer an opportunity for a fair hearing. The proceeding at the hearing before the commission shall be recorded in the means and manner prescribed by the commission. For the purposes of this division, the review is considered timely filed when it has been received as provided in division (D)(1) of section 4141.281 of the Revised Code.



The employer and the director shall be promptly notified of the commission's decision, which shall become final unless, within thirty days after the mailing of notice of it to the employer's last known address by certified mail, return receipt requested, or, in the absence of mailing, within thirty days after delivery of such notice, an appeal is taken by the employer or the director to the court of common pleas of Franklin county. Such appeal shall be taken by the employer or the director by filing a notice of appeal with the clerk of such court and with the commission. Such notice of appeal shall set forth the decision appealed and the errors in it complained of. Proof of the filing of such notice with the commission shall be filed with the clerk of such court.

The commission, upon written demand filed by the appellant and within thirty days after the filing of such demand, shall file with the clerk a certified transcript of the record of the proceedings before the commission pertaining to the determination or order complained of, and the appeal shall be heard upon such record certified to the commission. In such appeal, no additional evidence shall be received by the court, but the court may order additional evidence to be taken before the commission, and the commission, after hearing such additional evidence, shall certify such additional evidence to the court or it may modify its determination and file such modified determination, together with the transcript of the additional record, with the court. After an appeal has been filed in the court, the commission, by petition, may be made a party to such appeal. Such appeal shall be given precedence over other civil cases. The court may affirm the determination or order complained of in the appeal if it finds, upon consideration of the entire record, that the determination or order is supported by reliable, probative, and substantial evidence and is in accordance with law. In the absence of such a finding, it may reverse, vacate, or modify the determination or order or make such other ruling as is supported by reliable, probative, and substantial evidence and is in accordance with law. The judgment of the court shall be final and conclusive unless reversed, vacated, or modified on appeal. An appeal may be taken from the decision of the court of common pleas of Franklin county.

(E) The appeal provisions of division (D) of this section apply to all other determinations and orders of the director affecting the liability of an employer to pay contributions or the amount of such contributions, determinations respecting application for refunds of contributions, determinations respecting applications for classification of employment as seasonal under section 4141.33 of the Revised Code, and exceptions to charges of benefits to an employer's account as provided in division (D) of section 4141.24 of the Revised Code.



(F) The validity of any general order or rule of the director adopted pursuant to this chapter or of any final order or action of the unemployment compensation review commission respecting any such general order or rule may be determined by the court of common pleas of Franklin county, and such general order, rule, or action may be sustained or set aside by the court on an appeal to it which may be taken by any person affected by the order, rule, or action in the manner provided by law. Such appeal to the court of common pleas of Franklin county shall be filed within thirty days after the date such general order, rule, or action was publicly released by the director or the commission. Either party to such action may appeal from the court of common pleas of Franklin county as in ordinary civil cases.

(G) Notwithstanding any determination made in pursuance of sections 4141.23 to 4141.26 of the Revised Code, no individual who files a claim for benefits shall be denied the right to a fair hearing as provided in section 4141.281 of the Revised Code, or the right to have a claim determined on the merits of it.

(H)(1) Notwithstanding division (D) of this section, if the director finds that an omission or error in the director's records or employer reporting caused the director to issue an erroneous determination or order affecting contribution rates, the liability of an employer to pay contributions or the amount of such contributions, determinations respecting applications for refunds of contributions, determinations respecting applications for classification of seasonal status under section 4141.33 of the Revised Code, or exceptions to charges of benefits to an employer's account as provided in division (D) of section 4141.24 of the Revised Code, the director may issue a corrected determination or order correcting the erroneous determination or order, except as provided in division (H)(2) of this section.

(2) The director may not issue a corrected determination or order correcting an erroneous determination or order if both of the following apply:

(a) The erroneous determination or order was caused solely by an omission or error of the director;

(b) A correction of the erroneous determination or order would adversely affect the employer or any of the employers that were parties in interest to the erroneous determination or order.



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A corrected determination or order issued under this division takes precedence over and renders void the erroneous determination or order and is appealable as provided in division (D) of this section.