



POLICY ON REDUCTION OF EMPLOYER CONTRIBUTION RATE

Introduction

The following states the policy of the American Federation of Musicians and Employers' Pension Fund ("Fund") regarding reductions in employer contribution rates. In general, employers are not permitted to reduce their contribution rate or "effective" contribution rate.

Pursuant to the Fund's Trust Agreement (found here <https://afm-epf.org/PlanDocuments/AgreementDeclarationofTrust.aspx>), any collective bargaining agreement, participation agreement, or other written agreement requiring contributions to the Fund (which are referred to collectively as "collective bargaining agreements" or "CBAs") is subject to approval of the Board of Trustees of the Fund. The Trustees have adopted a policy setting forth the requirements for CBAs to be acceptable, which can be found here: <https://afm-epf.org/Portals/2/AFMDocuments/ProceduresforApprovingCollectiveBargainingAgreements.pdf>

One of the requirements set forth in that policy relates to reductions in contributions. The following describes those requirements in greater detail.

Any CBA that does not comply with the rules of the Fund, including those set forth in this policy, may be rejected by the Trustees, which may result in the employer being assessed withdrawal liability.

Policy

The Fund's Rehabilitation Plan generally requires that the contribution rate be at least 10% higher than the rate in effect at the expiration of the first CBA that expired on or after August 1, 2018. (The original Rehabilitation Plan adopted in 2010 required a rate increase at that time as well.) Thus, the contribution rate cannot be reduced below the level in effect under that CBA that expired on or after August 1, 2018. See the June 2018 Update to the Rehabilitation Plan for more information (found here https://afm-epf.org/Portals/2/AFMDocuments/RehabUpdate_201806.pdf). The Rehabilitation Plan contains further explanation, including examples, of this requirement to increase the contribution rate.

In addition, the Fund has a rule in its Trust Agreement that prohibits reductions in the effective contribution rate below previous levels. See Amendment 11 to the Trust Agreement (see link above).

Specifically, the rate cannot be reduced below the rate that was provided for at the expiration of the CBA in effect on October 15, 2009. If the terms of a CBA (including any predecessor to the CBA) were first in effect after October 15, 2009 (i.e., an agreement's earliest iteration was entered into after October 15, 2009), then the minimum effective contribution rate that is allowed is the rate set forth in the first CBA in effect after October 15, 2009.

The Fund's policy prohibits reductions in contribution rates, but also prohibits reductions in the "effective" contribution rate, which would include, among other things, excluding one classification of

musicians from the employer's contribution obligation that was previously included and excluding wages over a certain limit from contributions.

Examples

Please consider the following examples to help understand this policy.

Example 1: An agreement has been in effect, including extensions and successor CBAs, since before October 15, 2009. The contribution rate on October 15, 2009 was 10% of scale wages. The contribution rate is increased by 9% to 10.9% in compliance with the Rehabilitation Plan as of the CBA that is effective on September 1, 2012, and to 11.99% in compliance with the 2018 update to the Rehabilitation Plan as of the CBA effective on September 1, 2018. The contribution rate does not change thereafter, until the CBA effective on September 1, 2021, when the contribution rate is reduced to 9% of scale wages. This amendment is not acceptable because it reduces the contribution rate below the minimum required by both the Rehabilitation Plan (11.99%) and the Trust Agreement (10%).

Example 2: Assume the same facts as Example 1, but the Union and employer agree to increase scale wages by 5%. Assuming the same number of musicians doing the same amount of work, this will result in a larger pension contribution from the employer. However, the agreement is still not acceptable because it reduces the contribution *rate*. (By the same token, a reduction in scale wages does not violate the Fund's policy even though it would result in a lower pension contributions from the employer, as long as the contribution rate does not decrease and the definition of scale wages is not narrowed.)

Example 3: Assume the same facts as Example 1, except that instead of decreasing the contribution rate, the CBA effective September 1, 2021 provides that contributions will not be paid on scale wages in excess of \$40,000. The agreement is not acceptable because it reduces the effective contribution rate by narrowing the definition of scale wages, which is not permitted under the Trust Agreement.

Note that the same conclusions would apply if the *first* CBA the employer entered into was effective September 1, 2012 and had a 10% contribution rate. Any reductions in the rate or effective rate, like those described in the above examples, from the rate in the first post-2009 CBA, in this case the September 1, 2012 CBA, would not be acceptable.