

**341.277 Financing benefits for employees of governmental entities.**

- (1) Any governmental entity which, pursuant to KRS 341.070(3), is or becomes a subject employer shall pay contributions under the provisions of KRS 341.270, unless it elects, in accordance with this section, to pay the cabinet for the fund an amount equal to the amount of all regular benefits plus all extended benefits paid to workers for compensable weeks of unemployment occurring on or after January 1, 1979, and for all regular benefits and one-half (1/2) of extended benefits paid to workers for compensable weeks of unemployment occurring prior to such date that is attributable to service performed in covered employment in the employ of such governmental entity during the effective period of such election but only if the employer is the worker's most recent employer. No employer shall be deemed to be the most recent employer unless the eligible worker to whom benefits are payable shall have worked for that employer in each of ten (10) weeks whether or not consecutive.
  - (a) Any governmental entity, which is or becomes a subject employer, may elect to become liable for payment in lieu of contributions for a period of not less than the calendar year in which such subjectivity begins and for the following calendar year provided it files with the cabinet a written notice of its election within thirty (30) days immediately following the date of the determinations of such subjectivity; or
  - (b) Any governmental entity which has paid contributions under the provisions of KRS 341.270 may change to a reimbursable basis by filing with the cabinet a written notice of its election not later than thirty (30) days prior to the beginning of any calendar year to make payments in lieu of contributions for a period of not less than two (2) calendar years following the effective date of such election.
  - (c) Any governmental entity which elects to make payments in lieu of contributions, in accordance with paragraph (a) or (b) of this subsection, shall continue to be liable for payments in lieu of contributions until it files with the secretary a written notice terminating its election not later than thirty (30) days prior to the beginning of the calendar year for which such termination shall become effective except that liability for payments in lieu of contributions shall continue thereafter with respect to wages paid prior to the effective date of such termination.
  - (d) The secretary may for good cause extend the period within which a notice of election must be filed and may permit the effective date of such election to be retroactive.
  - (e) The secretary shall notify each governmental entity of any determination made as to its status as a subject employer, pursuant to KRS 341.070 and the effective date of any election or termination made pursuant to this subsection which determinations shall be subject to appeal and review in accordance with the provisions of KRS 341.430(2).
- (2) Payment in lieu of contributions shall be made in accordance with the provisions of this subsection.

- (a) At the end of each calendar quarter or at the end of any other period as determined by the secretary, the cabinet shall bill each governmental entity (or group of governmental entities) which has elected to make payments in lieu of contributions an amount equal to all regular benefits and all extended benefits paid during such quarter for compensable weeks occurring on or after January 1, 1979, plus any prior period adjustments which are attributable to service performed in covered employment in the employ of such governmental entity plus interest on the total amount billed at the average rate of earnings in the unemployment insurance fund for the prior calendar year. All interest collected under this subsection shall be credited to the unemployment insurance fund.
  - (b) Payment of any bill rendered under paragraph (a) of this subsection shall be made not later than thirty (30) days after such bill was mailed to the last known address of the governmental entity or was otherwise delivered to it, unless there has been an application for review in accordance with paragraph (d) of this subsection.
  - (c) Payments made by any governmental entity under the provisions of this subsection shall not be deducted or deductible, in whole or in part, from the remuneration of workers in the employ of the governmental entity.
  - (d) The amount due specified in any bill from the secretary shall be conclusive on the governmental entity unless, not later than fifteen (15) days after the bill was mailed to its last known address or otherwise delivered to it, the governmental entity files an appeal to the commission, setting forth the grounds for such appeal. Proceedings on appeal to the commission from the amount of a bill rendered under this subsection shall be in accordance with the provisions of KRS 341.430 and the decision of the commission shall be subject to review under the provisions of KRS 341.460(1).
  - (e) Past-due payments of amounts in lieu of contributions shall be subject to the same interest, penalties, and collection provisions that, pursuant to KRS 341.300, apply to past due contributions.
- (3) (a) The secretary may, in accordance with regulations prescribed by the commission, require any governmental entity that elects to become liable for payments in lieu of contributions to deposit with the cabinet within thirty (30) days after the effective date of its election as a condition thereof, money equal to two percent (2%) of the governmental entity's total wages paid for employment as defined in KRS 341.050(1)(d) for the four (4) calendar quarters immediately preceding the effective date of such election. If the entity did not pay wages in each of such four (4) quarters, the amount of deposit, if required, shall be determined by the secretary.
- (b) Provided, however, that the amount of money required to be deposited under this paragraph shall not exceed the amount for which any contributing employer would be liable if subject to the maximum contribution rate applicable to the annual taxable payroll.

- (c) Money deposited in accordance with this subsection shall be retained by the cabinet in an escrow account until all possible liability to the fund under the election is terminated, at which time it shall be returned to the governmental entity, less any deductions as hereinafter provided. The cabinet may deduct from the money deposited under this subsection by a governmental entity to the extent necessary to satisfy any due and unpaid payments in lieu of contributions and any applicable interest and penalties provided for in paragraph (e) of subsection (3) of this section. The secretary shall require the governmental entity within thirty (30) days following any deduction from a money deposit under the provisions of this subsection to deposit sufficient additional money to make whole the governmental entity's deposit at the prior level. The secretary may, at any time, review the adequacy of the deposit made by any governmental entity. If, as a result of such review, he determines that an adjustment is necessary, he shall require the governmental entity to make an additional deposit within thirty (30) days of written notice of his determination or shall return to it such portion of the deposit as he no longer considers necessary, whichever action is appropriate.
- (d) If any governmental entity fails to make a deposit, or to increase or make whole the amount of a previously made deposit, as provided under this subsection, the secretary may terminate such governmental entity's election to make payments in lieu of contributions and such termination shall continue for not less than the remainder of that calendar year and the following calendar year beginning with the quarter in which such termination becomes effective; provided, that the secretary may extend for good cause the applicable filing, deposit or adjustment period by not more than sixty (60) days.
- (4) If any governmental entity is delinquent in making payments in lieu of contributions as required under subsection (3) of this section, the secretary may terminate such governmental entity's election to make payments in lieu of contributions as of the beginning of the next calendar year, and such termination shall be effective for that and the next calendar year.
- (5) Notwithstanding any other section of this chapter, no employing unit electing to make payments in lieu of contributions under the provisions of this section shall be entitled to relief of benefit charges.

**Effective:** August 28, 2010

**History:** Amended 2010 (1st Extra. Sess.) Ky. Acts ch. 5, sec. 7, effective August 28, 2010. -- Amended 1996 Ky. Acts ch. 266, sec. 9, effective July 15, 1996. -- Created 1978 Ky. Acts ch. 389, sec. 17, effective July 1, 1978.