

### **341.275 Financing benefits for nonprofit organizations.**

- (1) For the purpose of this section, a nonprofit organization is an organization (or group of organizations) described in Section 501(c)(3) of the United States Internal Revenue Code which is exempt from income tax under Section 501(a) of such code. For the purpose of this section, "cabinet" shall mean the Education and Workforce Development Cabinet and "secretary" shall mean the secretary of the Education and Workforce Development Cabinet.
- (2) Any nonprofit organization which, pursuant to KRS 341.070(4), 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 to the cabinet for the fund an amount equal to the amount of regular benefits and of one-half (1/2) of the extended benefits paid to workers for weeks of unemployment that is attributable to service in the employ of the nonprofit organization, performed during the effective period of the 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 nonprofit organization which is, or becomes, a subject employer on July 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than the remainder of 1972 and the calendar year of 1973, provided it files with the cabinet a written notice of its election within the thirty (30) day period immediately following such date.
  - (b) Any nonprofit organization which becomes a subject employer after July 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than the period of subjectivity during the year in which such subjectivity begins and the following calendar year by filing a written notice of its election with the cabinet not later than thirty (30) days immediately following the date of the determination of such subjectivity.
  - (c) Any nonprofit organization which makes an election in accordance with paragraph (a) or (b) of this subsection will 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 first be 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) Any nonprofit organization which has been paying contributions under this chapter for a period subsequent to July 1, 1972, may change to a reimbursable basis by filing with the cabinet not later than thirty (30) days prior to the beginning of any calendar year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by such organization for that and the following year.
  - (e) The secretary may for good cause extend the period within which a notice of election, or a notice of termination, must be filed and may permit an election to be retroactive but not any earlier than with respect to benefits paid after

December 31, 1969.

- (f) The secretary shall notify each nonprofit organization of any determination which may be made of its status as an employer and of the effective date of any election which it makes and of any termination of such election. Such determinations shall be subject to appeal and review in accordance with the provisions of KRS 341.430(2).
- (3) Payments 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 nonprofit organization (or group of such organizations) which has elected to make payments in lieu of contributions for an amount equal to the full amount of regular benefits plus one-half (1/2) of the amount of extended benefits paid during such quarter plus any prior period adjustments, which are attributable to service performed in covered employment in the employ of such organization 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) shall be made not later than thirty (30) days after such bill was mailed to the last known address of the nonprofit organization 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 nonprofit organization 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 organization.
  - (d) The amount due specified in any bill from the secretary shall be conclusive on the organization unless, not later than fifteen (15) days after the bill was mailed to its last known address or otherwise delivered to it, the organization 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, collection service, and lien provisions that, pursuant to KRS 341.300 to 341.310, apply to past-due contributions.
- (4) (a) The secretary may, in accordance with regulations prescribed by the cabinet, require any nonprofit organization 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 organization's total wages paid for employment as defined in KRS 341.050(1)(e) for the four (4) calendar quarters immediately preceding the effective date of such election. If the nonprofit organization did not pay

wages in each of such four (4) calendar quarters, the amount of the deposit shall be as determined by the secretary.

- (b) 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 organization, less any deductions as hereinafter provided. The cabinet may deduct from the money deposited under this subsection by a nonprofit organization to the extent necessary to satisfy any due and unpaid payments in lieu of contributions and any applicable interest and penalties provided for in subsection (3)(e) of this section. The secretary shall require the organization 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 organization's deposit at the prior level. The secretary may, at any time, review the adequacy of the deposit made by any organization. If, as a result of such review, he determines that an adjustment is necessary, he shall require the organization to make 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.
  - (c) If any nonprofit organization 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 organization'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.
- (5) If any nonprofit organization is delinquent in making payments in lieu of contributions as required under subsection (3) of this section, the secretary may terminate such organization'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.
- (6) 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. 6, effective August 28, 2010. -- Amended 2009 Ky. Acts ch. 11, sec. 77, effective June 25, 2009. -- Amended 2006 Ky. Acts ch. 211, sec. 145, effective July 12, 2006. -- Amended 1996 Ky. Acts ch. 266, sec. 8, effective July 15, 1996; and ch. 271, sec. 19, effective July 15, 1996. --Amended 1978 Ky. Acts ch. 389, sec. 16, effective July 1, 1978. -- Amended 1974 Ky. Acts ch. 74, Art. VI, secs. 101 and 107(21), (23). --Created 1972 Ky. Acts ch. 21, sec. 19.