

CHAPTER 80

(HB 146)

AN ACT relating to unemployment insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 341 IS CREATED TO READ AS FOLLOWS:

At the time of being notified of a valid claim, the Office of Unemployment Insurance shall advise the eligible worker of the following resources:

- (1) *Five (5) additional weeks of benefits as set forth in subsection (5) of Section 9 of this Act by complying with an approved job training and certification program as described in Section 3 of this Act;*
- (2) *The Work Ready Kentucky Scholarship Program administered by the Kentucky Higher Education Assistance Authority;*
- (3) *The Federal Pell Grant Program;*
- (4) *The Free Application for Federal Student Aid (FAFSA); and*
- (5) *Additional education and training resources determined to be appropriate by the secretary that would support the worker in obtaining skills or credentials necessary to find employment.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 341 IS CREATED TO READ AS FOLLOWS:

The secretary shall provide to the Legislative Research Commission a copy of any notification received by the cabinet from the United States Department of Labor or any division thereof regarding the conformity of state unemployment compensation with the Federal Unemployment Tax Act, 26 U.S.C. sec. 3301 et seq., the Social Security Act of 1935, 42 U.S.C. sec. 301 et seq., or the Federal-State Extended Unemployment Compensation Act of 1970, Pub. L. No. 91-373, within five (5) days of receiving the notification.

➔Section 3. KRS 341.005 is amended to read as follows:

As used in this chapter, unless the context clearly requires otherwise:

- (1) "Approved job training or certification program" means:
 - (a) A program approved by the secretary that leads to a short-term certificate or credential, an industry-recognized certificate, diploma, or associate of applied science degree in one (1) of Kentucky's top five (5) high-demand workforce sectors identified by the Kentucky Workforce Innovation Board and the Education and Labor Cabinet; ~~for~~
 - (b) A program approved and determined by the secretary to improve an individual's employability in a high-wage, high-demand occupation; *or*
 - (c) *A training program approved under the Trade Act of 1974, 19 U.S.C. sec. 2296;*
- (2) "Cabinet" means the Education and Labor Cabinet;
- (3) "Commission" means the Unemployment Insurance Commission;
- (4) "Enhanced federal benefits" means any temporary federally funded or partially federally funded benefits, administered by the Commonwealth and payable through voluntary agreements between the Commonwealth and the United States Department of Labor, that supplement or increase weekly state benefit amounts. "Enhanced federal benefits" does not mean benefits such as, without limitation, benefits otherwise calculated and distributed in accordance with KRS 341.350 to 341.415, extended benefits provided for in KRS 341.700 to 341.740, ~~for~~ shared work benefits provided for in KRS 341.4161 to 341.4173, *disaster unemployment assistance benefits, 42 U.S.C. sec. 5177, or trade readjustment allowances, 19 U.S.C. secs. 2291 to 2294 or any amendments thereto;*
- (5) "Secretary" means the secretary of the Education and Labor Cabinet or his or her duly authorized representative; and
- (6) "State average unemployment rate" means the seasonal adjusted statewide unemployment rate that applies to the six (6) month period in which the claim is filed. One six (6) month period shall begin on January 1 of each

year and one six (6) month period shall begin on July 1 of each year. For the six (6) month period beginning on January 1, the state average unemployment rate shall be the average of Kentucky's seasonal adjusted unemployment rates for the preceding months of July, August, and September. For the six (6) month period beginning on July 1, the state average unemployment rate shall be the average of Kentucky's seasonal adjusted unemployment rates for the preceding months of January, February, and March. In calculating the state average unemployment rate, the cabinet shall utilize the most recent seasonal adjusted unemployment rate determined by the United States Department of Labor, Bureau of Labor Statistics.

➔Section 4. KRS 341.100 is amended to read as follows:

- (1) In determining for any purpose under this chapter whether or not any work is suitable for a worker the secretary shall consider, among other pertinent conditions, the degree of risk involved to his or her health, safety and morals; his or her physical fitness and prior training; his or her experience and prior earnings; his or her length of unemployment and prospects for securing local work in his or her customary occupation; and the distance of the available work from his or her residence. ***The secretary shall consider any employment offer to be suitable work:***
 - (a) ***That is offered to a worker who has received at least six (6) weeks of benefits during his or her present period of unemployment;***
 - (b) ***For which the worker will be paid one hundred twenty percent (120%) of his or her weekly benefit amount;***
 - (c) ***That is located within a distance of thirty (30) miles of the worker's residence, or is work that can be completed remotely on a permanent basis; and***
 - (d) ***That the worker is able and qualified to perform, regardless of whether or not he or she has related experience or training.***
- (2) For the purpose of this chapter, no work shall be suitable nor shall benefits be denied under this chapter to any otherwise eligible worker for refusing to accept new work or new conditions of work under one (1) or more of the following:
 - (a) If the position offered is vacant due directly to a strike, lock-out or other labor dispute;
 - (b) If the wages, hours, or other conditions of the work offered are substantially less favorable than those prevailing for similar work in the locality;
 - (c) If, as a condition of being employed, the worker would be required to join a company union or to resign from or refrain from joining any bona fide labor organization; and
 - (d) If the acceptance of such work would be prejudicial to the continuance of an established employer-employee relationship to which the worker is a party.

~~[(3) Notwithstanding any other provision in this section, the secretary shall consider any employment offer to be suitable work for the purposes of this chapter:~~

- ~~(a) That is offered to a worker who has received at least six (6) weeks of benefits during his or her present period of unemployment;~~
- ~~(b) For which the worker will be paid one hundred twenty percent (120%) of his or her weekly benefit amount;~~
- ~~(c) That is located within a distance of thirty (30) miles of the worker's residence, or is work that can be completed remotely on a permanent basis; and~~
- ~~(d) That the worker is able and qualified to perform, regardless of whether or not he or she has related experience or training.]~~

➔Section 5. KRS 341.127 is amended to read as follows:

- (1) By December 1, 2021, and annually thereafter until December 1, 2025, the cabinet shall report to the Governor and the Interim Joint Committee on Economic Development and Workforce Investment:
 - (a) The status of the unemployment trust fund, including any federal advances required for trust fund solvency;
 - (b) The average claim duration for individuals receiving unemployment benefits; and

- (c) The average weekly wage for individuals receiving unemployment benefits.
- (2) By December 1, 2021, the cabinet shall report to the Governor and the Interim Joint Committee on Economic Development and Workforce Investment a review of the amount of wages subject to tax. The review shall include:
 - (a) An analysis of the equitable treatment of employers based on the amount of wages subject to tax;
 - (b) A comparison of the percentage of wages subject to tax for small, medium, and large businesses; and
 - (c) Examples of how changes to the amount of wages subject to tax would impact trust fund balances and employer contributions.
- (3) By December 1, 2022, and annually thereafter until December 1, 2025, the cabinet shall report to the Governor and the Interim Joint Committee on Economic Development and Workforce Investment and provide analysis of the impact of the shared work benefits described in KRS 341.4161 to 341.4173, the unemployment trust fund, and unemployment insurance taxes paid by employers.
- (4) ***By December 1, 2023, the cabinet shall report to the Governor and the Interim Joint Committee on Economic Development and Workforce Investment a review of potential changes to the computation of employer contribution rates and how these changes could affect employer contribution rates and the unemployment insurance trust fund. Potential changes considered in the analysis shall include:***
 - (a) ***Setting the number of consecutive calendar quarters for a new employer to receive his or her own unique experience rating at four (4) consecutive calendar quarters under Sections 6 and 7 of this Act;***
 - (b) ***Changing the computation of the "reserve ratio" formula in subsection (5)(c) of Section 6 of this Act to include an annual average of taxable payrolls of twelve (12) consecutive calendar quarters;***
 - (c) ***Making any amendments to the rate schedule table in Section 6 of this Act based on changes listed in paragraphs (a) and (b) of this subsection to ensure unemployment insurance trust fund sustainability;***
 - (d) ***Charging benefits to employers in proportion to base period wages rather than that of the most recent employer;***
 - (e) ***Indexing the unemployment insurance trust fund balance computations in subsection (3) of Section 6 of this Act to inflation and making annual adjustments thereafter; and***
 - (f) ***Indexing the taxable wage base to inflation and making annual adjustments thereafter, pursuant to KRS 341.030.***
- (5)~~(4)~~ This section expires on January 31, 2026.

➔Section 6. KRS 341.270 is amended to read as follows:

- (1) Except as otherwise provided in this section, each employer's contribution rate shall be three percent (3%). Effective for employers who become subject to this chapter on or after January 1, 1999, except as otherwise provided in this section, each employer's contribution rate shall be two and seven-tenths percent (2.7%).
- (2) Except as otherwise provided in this section, no subject employer's contribution rate shall be less than two and seven-tenths percent (2.7%), unless he or she has been an employer subject to the provisions of this chapter for ***twelve (12)***~~four (4)~~ consecutive calendar quarters ended as of the computation date. In any calendar year in which the rate schedule prescribed in paragraph (3)(a) of this section is in effect, no subject employer who was assigned an entry rate of three percent (3.0%) under the provisions of subsection (1) of this section prior to January 1, 1999, shall have a contribution rate less than two and eight hundred fifty-seven thousandths percent (2.857%), unless subject to this chapter for the minimum time period specified above.
- (3) For the calendar year 2001 and each calendar year thereafter, employer contribution rates shall be determined in accordance with "Table A" set out in subsection (4) of this section. For each calendar year, the secretary shall determine the rate schedule to be in effect based upon the "trust fund balance" as of September 30 of the preceding year. If the "trust fund balance":
 - (a) Equals or exceeds one and eighteen hundredths percent (1.18%) of the total wages paid in covered employment in the state during the state fiscal year ended as of June 30 of that year, the rates listed in the "Trust Fund Adequacy Rates" schedule of "Table A" shall be in effect;

- (b) Equals or exceeds five hundred million dollars (\$500,000,000) but is less than the amount required to effectuate the "Trust Fund Adequacy Rates" schedule as provided in paragraph (a) of this subsection, the rates listed in "Schedule A" of "Table A" shall be in effect;
 - (c) Equals or exceeds three hundred fifty million dollars (\$350,000,000) but is less than five hundred million dollars (\$500,000,000), the rates listed in "Schedule B" of "Table A" shall be in effect;
 - (d) Equals or exceeds two hundred fifty million dollars (\$250,000,000) but is less than three hundred fifty million dollars (\$350,000,000), the rates listed in "Schedule C" of "Table A" shall be in effect;
 - (e) Equals or exceeds one hundred fifty million dollars (\$150,000,000) but is less than two hundred fifty million dollars (\$250,000,000), the rates listed in "Schedule D" of "Table A" shall be in effect; and
 - (f) Is less than one hundred fifty million dollars (\$150,000,000), the rates listed in "Schedule E" of "Table A" shall be in effect.
- (4) For the calendar year 1982 and each calendar year thereafter, contribution rates shall be determined upon the basis of an individual employer's reserve ratio as of the computation date and the schedule of rates established under subsection (3) of this section. Except as otherwise provided in this section, the contribution rate for each subject employer for the calendar year immediately following the computation date shall be the rate in that "Schedule" of "Table A," as set out below, effective with respect to the calendar year, which appears on the same line as his or her reserve ratio as shown in the "Employer Reserve Ratio" column of the same table.

TABLE A
Rate Schedule

| Employer Reserve Ratio | Trust Fund Adequacy Rates | A | B | C | D | E |
|------------------------------|------------------------------------|-------|-------|-------|-------|-------|
| 8.0% and over | 0.000% | 0.30% | 0.40% | 0.50% | 0.60% | 1.00% |
| 7.0% but under 8.0% | 0.000% | 0.40% | 0.50% | 0.60% | 0.80% | 1.05% |
| 6.0% but under 7.0% | 0.008% | 0.50% | 0.60% | 0.70% | 0.90% | 1.10% |
| 5.0% but under 6.0% | 0.208% | 0.70% | 0.80% | 1.00% | 1.20% | 1.40% |
| 4.6% but under 5.0% | 0.508% | 1.00% | 1.20% | 1.40% | 1.60% | 1.80% |
| 4.2% but under 4.6% | 0.808% | 1.30% | 1.50% | 1.80% | 2.10% | 2.30% |
| 3.9% but under 4.2% | 1.008% | 1.50% | 1.70% | 2.20% | 2.40% | 2.70% |
| 3.6% but under 3.9% | 1.308% | 1.80% | 1.80% | 2.40% | 2.60% | 3.00% |
| 3.2% but under 3.6% | 1.508% | 2.00% | 2.10% | 2.50% | 2.70% | 3.10% |
| 2.7% but under 3.2% | 1.608% | 2.10% | 2.30% | 2.60% | 2.80% | 3.20% |

| | | | | | | |
|-------------|--------|-------|-------|-------|-------|--------|
| 2.0% but | | | | | | |
| under 2.7% | 1.708% | 2.20% | 2.50% | 2.70% | 2.90% | 3.30% |
| 1.3% but | | | | | | |
| under 2.0% | 1.808% | 2.30% | 2.60% | 2.80% | 3.00% | 3.40% |
| 0.0% but | | | | | | |
| under 1.3% | 1.908% | 2.40% | 2.70% | 2.90% | 3.10% | 3.50% |
| -0.5% but | | | | | | |
| under -0.0% | 6.500% | 6.50% | 6.75% | 7.00% | 7.25% | 7.50% |
| -1.0% but | | | | | | |
| under -0.5% | 6.750% | 6.75% | 7.00% | 7.25% | 7.50% | 7.75% |
| -1.5% but | | | | | | |
| under -1.0% | 7.000% | 7.00% | 7.25% | 7.50% | 7.75% | 8.00% |
| -2.0% but | | | | | | |
| under -1.5% | 7.250% | 7.25% | 7.50% | 7.75% | 8.00% | 8.25% |
| -3.0% but | | | | | | |
| under -2.0% | 7.500% | 7.50% | 7.75% | 8.00% | 8.25% | 8.50% |
| -4.0% but | | | | | | |
| under -3.0% | 7.750% | 7.75% | 8.00% | 8.25% | 8.50% | 8.75% |
| -6.0% but | | | | | | |
| under -4.0% | 8.250% | 8.25% | 8.50% | 8.75% | 9.00% | 9.25% |
| -8.0% but | | | | | | |
| under -6.0% | 8.500% | 8.50% | 8.75% | 9.00% | 9.25% | 9.50% |
| Less | | | | | | |
| than -8.0%. | 9.000% | 9.00% | 9.25% | 9.50% | 9.75% | 10.00% |

(5) As used in this section and elsewhere in this chapter, unless the context clearly requires otherwise:

- (a) "Trust fund balance" means the amount of money in the unemployment insurance fund, less any unpaid advances made to the state under Section 1201 of the Social Security Act. In determining the amount in the fund as of a given date all money received by the Office of Unemployment Insurance on that date shall be considered as being in the fund on that date;
- (b) "Total wages" means all remuneration for services, as defined in KRS 341.030(1) to (7), paid by subject employers;
- (c) An employer's "reserve ratio" means the percentage ratio of his or her reserve account balance as of the computation date to his or her taxable payrolls for the **twelve (12)**~~four (4)~~ consecutive calendar quarters ended as of June 30 immediately preceding the computation date;
- (d) For the purposes of this section, an employer's "reserve account balance" means the amount of contributions credited to his or her reserve account as of the computation date, less the benefit charges through June 30 immediately preceding the computation date. If benefits charged to an account exceed contributions credited to the account, the account shall be considered as having a debit balance and a reserve ratio of "less than zero"; and
- (e) "Computation date" is July 31 of each calendar year prior to the effective date of new rates of contributions.

- (6) Notwithstanding any other provisions of this chapter, for the calendar years 2021 and 2022, the employer contribution rates shall be determined using the rates listed in Schedule A of Table A.

➔Section 7. KRS 341.272 is amended to read as follows:

- (1) Notwithstanding any section of this chapter to the contrary, on or after July 15, 1984, any new domestic corporation, or any foreign corporation authorized to do business in this state, or any foreign corporation active in conjunction with a domestic corporation in a joint venture, partnership or other legal entity engaged in the contract construction trades shall pay contributions equal to the maximum rate of contributions payable under the rate schedule in effect for any given calendar year as determined by KRS 341.270; and, such maximum rate of contributions shall remain in effect until the employer has employed persons in this state for not less than **twelve (12)**~~four (4)~~ consecutive calendar quarters ending as of June 30 immediately preceding the computation date. Thereafter, such employer's contribution rate shall be determined in accordance with the provisions of subsection (4) of KRS 341.270.
- (2) On or after January 1, 1989, any new domestic or foreign proprietorship or partnership engaged in the contract construction trades shall be subject to the provisions of subsection (1) of this section.

➔Section 8. KRS 341.375 is amended to read as follows:

- (1) An employer may notify the secretary in writing or electronically of each worker who has declined to accept suitable work when offered or has failed to attend a first interview for suitable work, whether held in-person, virtually, or by phone. The notice shall contain:
- (a) A statement that identifies a person or persons with knowledge of the information;
 - (b) The name and contact information of the person or persons with knowledge of the information; and
 - (c) Specific and detailed information regarding the decline of an offer of suitable work or the failure to attend a first interview regarding suitable work that may potentially disqualify the worker from receiving benefits.
- (2) The information contained in the notice shall be considered, **but not solely relied on**, when **making** a determination of eligibility for benefits~~is made and may constitute grounds for ineligibility~~. **The secretary shall consider the suitability of work in making an eligibility determination pursuant to Section 4 of this Act.**
- (3) The secretary shall provide a portal in which the notice in subsection (1) of this section can be made online.

➔Section 9. KRS 341.385 is amended to read as follows:

- (1) The duration of benefits available to each eligible recipient based upon the state average unemployment rate at the time of his or her application for benefits, up to a maximum of twenty-four (24) weeks, shall be as follows:
- ~~(a) State average unemployment rate of less than or equal to four and one half percent (4.5%): twelve (12) weeks of benefits available;~~
 - ~~(b) State average unemployment rate of greater than four and one half percent (4.5%) up to and including five percent (5%): thirteen (13) weeks of benefits available;~~
 - ~~(c) State average unemployment rate of greater than five percent (5%) up to and including five and one half percent (5.5%): fourteen (14) weeks of benefits available;~~
 - ~~(d) State average unemployment rate of greater than five and one half percent (5.5%) up to and including six percent (6%): fifteen (15) weeks of benefits available;~~
 - ~~(a)(e)~~ State average unemployment rate of **less than or equal to**~~greater than six percent (6%) up to and including~~ six and one-half percent (6.5%): sixteen (16) weeks of benefits available;
 - ~~(b)(f)~~ State average unemployment rate of greater than six and one-half percent (6.5%) up to and including seven percent (7%): seventeen (17) weeks of benefits available;
 - ~~(c)(g)~~ State average unemployment rate of greater than seven percent (7%) up to and including seven and one-half percent (7.5%): eighteen (18) weeks of benefits available;
 - ~~(d)(h)~~ State average unemployment rate of greater than seven and one-half percent (7.5%) up to and including eight percent (8%): nineteen (19) weeks of benefits available;

- (e)~~(i)~~ State average unemployment rate of greater than eight percent (8%) up to and including eight and one-half percent (8.5%): twenty (20) weeks of benefits available;
- (f)~~(j)~~ State average unemployment rate of greater than eight and one-half percent (8.5%) up to and including nine percent (9%): twenty-one (21) weeks of benefits available;
- (g)~~(k)~~ State average unemployment rate of greater than nine percent (9%) up to and including nine and one-half percent (9.5%): twenty-two (22) weeks of benefits available;
- (h)~~(l)~~ State average unemployment rate of greater than nine and one-half percent (9.5%) up to and including ten percent (10%): twenty-three (23) weeks of benefits available; and
- (i)~~(m)~~ State average unemployment rate of greater than ten percent (10%): twenty-four (24) weeks of benefits available.

~~(2) The classification system set forth in subsection (1) of this section shall not apply to claimants with verified definite return to work or recall to work prospects within a period of sixteen (16) weeks from the date of filing of the initial or reopened claim, who shall instead receive one hundred percent (100%) of the weekly benefit rate for each week that they are otherwise eligible, up to sixteen (16) weeks unless the state average unemployment rate is higher than six and one half percent (6.5%), in which case the maximum duration of weeks for these claimants shall follow the classification system set forth in subsection (1) of this section.~~

(2)~~(3)~~ The classification system set forth in subsection (1) of this section shall apply to regular benefits and shall not affect the duration of shared work benefits as set forth in KRS 341.4161 to 341.4173~~or to the duration of extended benefits set forth in KRS 341.700 to 341.740~~.

(3)~~(4)~~ A claimant who has been classified with a group classification code by the agency that meets the requirements of subsection (1) of this section shall remain in this classification throughout the benefit year regardless of whether or not the claimant's classification changes.

(4)~~(5)~~ The secretary may, with the approval of the General Assembly, extend the maximum amount of regular benefits payable, not to exceed twenty-six (26) times the claimant's weekly benefit rate, if:

- (a) An extension for benefits is authorized by the federal government, but only while federal funding is available; or
- (b) During, but not exceeding, any extended benefit period as described in KRS 341.094.

(5) (a)~~(6)~~ Any otherwise eligible individual who is certified as being enrolled and making satisfactory progress in an approved job training or certification program shall be entitled, during the current benefit year, to receive up to an additional five (5) weeks of benefits after all regular benefits have been exhausted under subsection (1) of this section.

(b)~~(a)~~ The amount of benefits payable under this subsection shall equal the weekly benefit amount established by the most recent benefit year.

(c)~~(b)~~ Benefits under this subsection shall not be paid to an individual who is receiving benefits of comparable value or other training allowances from other unrelated sources.

➔Section 10. KRS 341.4169 is amended to read as follows:

- (1) An individual is eligible to receive shared work unemployment compensation benefits with respect to any week only if the secretary finds that:
 - (a) The individual is employed as a member of an affected group under an approved plan that was approved by the secretary before the week and is in effect for the week;
 - (b) The individual is able to work and is available for the normal work week with the shared work employer; and
 - (c) The normal weekly hours of work of the individual are reduced by at least ten percent (10%) but not more than forty percent (40%), with a corresponding reduction in wages.
- (2) A worker shall not be denied shared work benefits if he or she is otherwise eligible for these benefits for any week by reason of the application of any provision of this chapter relating to availability for work, active search for work or participation in work search activities, or refusal to apply for or accept work from other than the worker's shared work employer.

- (3) A worker shall not be denied shared work benefits if he or she is otherwise eligible for these benefits for any week because he or she is participating in *any employer sponsored training or worker training funded by the Workforce Innovation and Opportunity Act, 29 U.S.C. Ch. 32*~~[training sponsored by, or at the direction of, the shared work employer]~~.
- (4) Notwithstanding any other provision in this chapter, a worker shall be deemed unemployed in any week for which compensation is payable to him or her, as an employee in an affected group, for less than his or her normal weekly hours of work in accordance with an approved plan in effect for the week.

➔Section 11. If any provision of this Act or the application thereof to any person or circumstance is held invalid, unconstitutional, or in violation of any federal law:

- (1) The invalid provision shall be null and void; and
- (2) Its invalidity shall not affect other provisions or application of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

➔Section 12. This Act shall take effect July 1, 2023.

Signed by Governor March 23, 2023.