

1 AN ACT relating to unemployment insurance and declaring an emergency.

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

3 ➔Section 1. KRS 341.030 is amended to read as follows:

- 4 (1) As used in this chapter, unless the context clearly requires otherwise, and except as
5 provided in subsections (2) to (7) of this section, "wages" means all remuneration
6 for services, including commissions, bonuses, and, except for services performed in
7 agriculture and domestic employment, the cash value of all remuneration in any
8 medium other than cash. The reasonable cash value of remuneration in any medium
9 other than cash shall be estimated and determined in accordance with rules
10 prescribed by the commission.
- 11 (2) Amounts paid to traveling salesmen or other workers as allowance or
12 reimbursement for traveling or other expenses, incurred on the business of the
13 employing unit, constitute wages only to the extent of the excess of the amounts
14 over the expenses actually incurred and accounted for by the worker to his
15 employer; provided, however, that the cash value of meals and lodging when
16 furnished to the worker for the convenience of the employer shall not constitute
17 wages.
- 18 (3) For purposes of this chapter, the term "wages" includes tips which are:
- 19 (a) Received while performing services which constitute employment;
- 20 (b) Included in a written statement furnished to the employer pursuant to Section
21 6053(a) of the Internal Revenue Code; and
- 22 (c) Shall be treated as having been paid by the employing unit.
- 23 (4) "Wages" does not include the amount of any payment made to, or on behalf of, a
24 worker under a plan or system established by an employing unit that makes
25 provision for its workers generally or for a class of its workers, including any
26 amount paid by an employing unit for insurance or annuities, or into a fund, to
27 provide for any such payment, on account of:

- 1 (a) Retirement;
- 2 (b) Sickness or accident disability but, in the case of payments made to an
3 employee or any of his dependents, this subsection shall exclude from the
4 term "wages" only payments which are received under a workers'
5 compensation law;
- 6 (c) Medical and hospitalization expenses in connection with accident or sickness
7 disability; or
- 8 (d) Death, if the worker has not:
- 9 1. The option to receive, instead of provision for the death benefit, any part
10 of the payment, or if the death benefit is insured, any part of the
11 premiums or contributions to premiums paid by his employing unit; and
- 12 2. The right, under the provisions of the plan or system or policy of
13 insurance providing for the death benefit, to assign the benefit, or to
14 receive a cash consideration in lieu of it either upon his withdrawal from
15 the plan or system providing for the benefit or upon termination of the
16 plan or system or policy of insurance or of his employment with his
17 employing unit.
- 18 (5) "Wages" does not include any payment on account of sickness or accident
19 disability, or medical or hospitalization expenses in connection with sickness or
20 accident disability, made by an employer to, or on behalf of, an employee after the
21 expiration of six (6) calendar months following the last calendar month in which the
22 employee worked for the employer.
- 23 (6) "Wages" does not include the amount of any payment made by an employing unit
24 without deduction from the remuneration of the worker of the tax imposed under
25 Section 3101 of the Internal Revenue Code or any payment required from an
26 employer under a state unemployment compensation law with respect to
27 remuneration paid to an employee for domestic service in a private home of the

1 employer or for agricultural labor.

2 (7) (a) "Wages" does not, for the purposes of KRS 341.260 to 341.310, include that
3 part of remuneration which, after wages equal to eight thousand dollars
4 (\$8,000) have been paid in a calendar year to a worker by a subject employer
5 or his predecessor with respect to covered employment during any calendar
6 year, is paid to the worker by the subject employer during the calendar year
7 unless that part of the wages is subject to a tax under a federal law, imposing a
8 tax against which credit may be taken for contributions required to be paid
9 into a state unemployment fund. On January 1, 2012, the amount of eight
10 thousand dollars (\$8,000) in this subsection shall increase to nine thousand
11 dollars (\$9,000), which shall increase by an additional three hundred dollars
12 (\$300) on January 1 of each subsequent year, unless limited by paragraph (b)
13 or (c) of this subsection, not to exceed twelve thousand dollars (\$12,000). For
14 the purpose of this subsection, the term "covered employment" shall include
15 service constituting covered employment under any unemployment
16 compensation law of another state.

17 (b) If the trust fund balance on September 30 of a calendar year equals or exceeds
18 two hundred million dollars (\$200,000,000), the taxable wage base amount in
19 effect at that time shall not increase on January 1 of the next calendar year or
20 on January 1 of subsequent calendar years, except as provided in paragraphs
21 (c) and (e) of this subsection.

22 (c) If the trust fund balance on September 30 of a calendar year equals or exceeds
23 two hundred million dollars (\$200,000,000), but is twenty million dollars
24 (\$20,000,000) or less lower than the trust fund balance amount that would
25 trigger in a lower schedule of contribution rates under KRS 341.270, the
26 taxable wage base shall increase by three hundred dollars (\$300) on January 1
27 of the next calendar year and that taxable wage base amount shall be the

1 taxable wage base amount in effect for subsequent calendar years, subject to
2 the limitations in paragraph (d) of this subsection.

3 (d) The total number of years that the increase in the taxable wage base shall be
4 prohibited or limited under paragraph (b) or (c) of this subsection shall not
5 exceed the total number of years that contributing employers paid additional
6 federal unemployment taxes because of a reduction in the credit against the
7 federal unemployment tax established in 26 U.S.C. sec. 3302 beginning in
8 2011.

9 (e) If the taxable wage base on January 1 of the calendar year immediately
10 following the last year the increase in the taxable wage base was prohibited or
11 limited under this subsection is less than twelve thousand dollars (\$12,000),
12 the taxable wage base amount shall be increased by three hundred dollars
13 (\$300), and by an additional three hundred dollars (\$300) on January 1 of each
14 subsequent calendar year until the taxable wage base amount reaches twelve
15 thousand dollars (\$12,000).

16 (f) Notwithstanding paragraphs (b) and (c) of this subsection, if the trust fund
17 balance is less than two hundred million dollars (\$200,000,000) on September
18 30 of a calendar year, the suspension of the taxable wage base increase shall
19 not occur.

20 (g) Notwithstanding any other provision of this subsection, any increase in the
21 maximum weekly benefit rate which otherwise would have occurred except
22 for the suspension of the taxable wage base increase shall be implemented in
23 accordance with the provisions of this chapter.

24 (h) The provisions of this subsection shall apply unless the United States
25 Department of Labor notifies the secretary that implementation of this
26 subsection would result in decertification of Kentucky's unemployment
27 insurance program, impact any cap application, affect the receipt of

1 emergency unemployment compensation funds, create an ineligibility for
2 receipt of federal funds, or result in other penalties or sanctions under the
3 Social Security Act or Federal Unemployment Tax Act, 26 U.S.C. secs. 3301
4 et seq.

5 (i) Notwithstanding any other provisions of this chapter, for the calendar
6 ~~years~~~~[year]~~2021 and 2022, the taxable wage base increase shall be suspended
7 and the taxable wage base in effect for the calendar year 2020 shall be
8 utilized.

9 ➔Section 2. KRS 341.270 is amended to read as follows:

10 (1) Except as otherwise provided in this section, each employer's contribution rate shall
11 be three percent (3%). Effective for employers who become subject to this chapter
12 on or after January 1, 1999, except as otherwise provided in this section, each
13 employer's contribution rate shall be two and seven-tenths percent (2.7%).

14 (2) Except as otherwise provided in this section, no subject employer's contribution rate
15 shall be less than two and seven-tenths percent (2.7%), unless he has been an
16 employer subject to the provisions of this chapter for twelve (12) consecutive
17 calendar quarters ended as of the computation date. In any calendar year in which
18 the rate schedule prescribed in paragraph (3)(a) of this section is in effect, no
19 subject employer who was assigned an entry rate of three percent (3.0%) under the
20 provisions of subsection (1) of this section prior to January 1, 1999, shall have a
21 contribution rate less than two and eight hundred fifty-seven thousandths percent
22 (2.857%), unless subject to this chapter for the minimum time period specified
23 above.

24 (3) For the calendar year 2001 and each calendar year thereafter, employer contribution
25 rates shall be determined in accordance with "Table A" set out in subsection (4) of
26 this section. For each calendar year, the secretary shall determine the rate schedule
27 to be in effect based upon the "trust fund balance" as of September 30 of the

- 1 preceding year. If the "trust fund balance":
- 2 (a) Equals or exceeds one and eighteen hundredths percent (1.18%) of the total
3 wages paid in covered employment in the state during the state fiscal year
4 ended as of June 30 of that year, the rates listed in the "Trust Fund Adequacy
5 Rates" schedule of "Table A" shall be in effect;
- 6 (b) Equals or exceeds five hundred million dollars (\$500,000,000) but is less than
7 the amount required to effectuate the "Trust Fund Adequacy Rates" schedule
8 as provided in paragraph (a) of this subsection, the rates listed in "Schedule
9 A" of "Table A" shall be in effect;
- 10 (c) Equals or exceeds three hundred fifty million dollars (\$350,000,000) but is
11 less than five hundred million dollars (\$500,000,000), the rates listed in
12 "Schedule B" of "Table A" shall be in effect;
- 13 (d) Equals or exceeds two hundred fifty million dollars (\$250,000,000) but is less
14 than three hundred fifty million dollars (\$350,000,000), the rates listed in
15 "Schedule C" of "Table A" shall be in effect;
- 16 (e) Equals or exceeds one hundred fifty million dollars (\$150,000,000) but is less
17 than two hundred fifty million dollars (\$250,000,000), the rates listed in
18 "Schedule D" of "Table A" shall be in effect; and
- 19 (f) Is less than one hundred fifty million dollars (\$150,000,000), the rates listed in
20 "Schedule E" of "Table A" shall be in effect.
- 21 (4) For the calendar year 1982 and each calendar year thereafter, contribution rates shall
22 be determined upon the basis of an individual employer's reserve ratio as of the
23 computation date and the schedule of rates established under subsection (3) of this
24 section. Except as otherwise provided in this section, the contribution rate for each
25 subject employer for the calendar year immediately following the computation date
26 shall be the rate in that "Schedule" of "Table A," as set out below, effective with
27 respect to the calendar year, which appears on the same line as his reserve ratio as

1 shown in the "Employer Reserve Ratio" column of the same table.

2 TABLE A

3 Rate Schedule

4 Employer Trust	A	B	C	D	E
5 Reserve Fund					
6 Ratio Adequacy					
7 Rates					
8 8.0% and					
9 over 0.000%	0.30%	0.40%	0.50%	0.60%	1.00%
10 7.0% but					
11 under 8.0%	0.000%	0.40%	0.50%	0.60%	0.80%
12 6.0% but					
13 under 7.0%	0.008%	0.50%	0.60%	0.70%	0.90%
14 5.0% but					
15 under 6.0%	0.208%	0.70%	0.80%	1.00%	1.20%
16 4.6% but					
17 under 5.0%	0.508%	1.00%	1.20%	1.40%	1.60%
18 4.2% but					
19 under 4.6%	0.808%	1.30%	1.50%	1.80%	2.10%
20 3.9% but					
21 under 4.2%	1.008%	1.50%	1.70%	2.20%	2.40%
22 3.6% but					
23 under 3.9%	1.308%	1.80%	1.80%	2.40%	2.60%
24 3.2% but					
25 under 3.6%	1.508%	2.00%	2.10%	2.50%	2.70%
26 2.7% but					
27 under 3.2%	1.608%	2.10%	2.30%	2.60%	2.80%
					3.20%

1	2.0% but							
2	under 2.7%	1.708%	2.20%	2.50%	2.70%	2.90%	3.30%	
3	1.3% but							
4	under 2.0%	1.808%	2.30%	2.60%	2.80%	3.00%	3.40%	
5	0.0% but							
6	under 1.3%	1.908%	2.40%	2.70%	2.90%	3.10%	3.50%	
7	-0.5% but							
8	under -0.0%	6.500%	6.50%	6.75%	7.00%	7.25%	7.50%	
9	-1.0% but							
10	under -0.5%	6.750%	6.75%	7.00%	7.25%	7.50%	7.75%	
11	-1.5% but							
12	under -1.0%	7.000%	7.00%	7.25%	7.50%	7.75%	8.00%	
13	-2.0% but							
14	under -1.5%	7.250%	7.25%	7.50%	7.75%	8.00%	8.25%	
15	-3.0% but							
16	under -2.0%	7.500%	7.50%	7.75%	8.00%	8.25%	8.50%	
17	-4.0% but							
18	under -3.0%	7.750%	7.75%	8.00%	8.25%	8.50%	8.75%	
19	-6.0% but							
20	under -4.0%	8.250%	8.25%	8.50%	8.75%	9.00%	9.25%	
21	-8.0% but							
22	under -6.0%	8.500%	8.50%	8.75%	9.00%	9.25%	9.50%	
23	Less							
24	than -8.0%.	9.000%	9.00%	9.25%	9.50%	9.75%	10.00%	

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

27 (a) "Trust fund balance" means the amount of money in the unemployment

1 insurance fund, less any unpaid advances made to the state under Section 1201
2 of the Social Security Act. In determining the amount in the fund as of a given
3 date all money received by the Office of Unemployment Insurance,
4 Department of Workforce Investment, on that date shall be considered as
5 being in the fund on that date;

6 (b) "Total wages" means all remuneration for services, as defined in KRS
7 341.030(1) to (7), paid by subject employers;

8 (c) An employer's "reserve ratio" means the percentage ratio of his reserve
9 account balance as of the computation date to his taxable payrolls for the
10 twelve (12) consecutive calendar quarters ended as of June 30 immediately
11 preceding the computation date;

12 (d) For the purposes of this section, an employer's "reserve account balance"
13 means the amount of contributions credited to his reserve account as of the
14 computation date, less the benefit charges through June 30 immediately
15 preceding the computation date. If benefits charged to an account exceed
16 contributions credited to the account, the account shall be considered as
17 having a debit balance and a reserve ratio of "less than zero"; and

18 (e) "Computation date" is July 31 of each calendar year prior to the effective date
19 of new rates of contributions.

20 (6) Notwithstanding any other provisions of this chapter, for the calendar ~~years~~
21 2021 and 2022, the employer contribution rates shall be determined using the rates
22 listed in Schedule A of Table A.

23 ➔Section 3. KRS 341.614 is amended to read as follows:

24 (1) Effective January 1, 2014, there shall be a surcharge upon all subject contributing
25 employers for any year there are insufficient funds in the unemployment
26 compensation administration fund for the payment of interest on advances under
27 Title XII of the Social Security Act or for the repayment of money, including any

1 interest thereon, received from any source related to the payment of interest on such
2 advances.

3 (2) (a) The surcharge shall be twenty-two hundredths of one percent (0.22%) of the
4 first nine thousand six hundred dollars (\$9,600) in wages paid to each worker
5 by a subject contributing employer or his predecessor with respect to covered
6 employment during any calendar year.

7 (b) Effective January 1, 2015, and each calendar year thereafter, the secretary
8 shall adjust the surcharge percentage rate based on any increase to the taxable
9 wage base for that calendar year as provided in KRS 341.030(7). The purpose
10 of the adjustment shall be to maintain costs per worker comparable to the
11 original surcharge. Any reduction in the surcharge percentage rate shall
12 correspond to the increase to the taxable wage base for that calendar year and
13 shall be rounded up to the nearest one-hundredth of one percent (0.01%).

14 (c) Notwithstanding paragraph (b) of this subsection, the secretary may reduce the
15 surcharge percentage rate or suspend the surcharge for any calendar year based
16 on the balance of the unemployment insurance interest payment fund and the
17 projected amount due for interest on advances under Title XII of the Social
18 Security Act and for repayment of money, including any interest thereon,
19 received from any source related to the payment of interest on such advances.

20 (3) The surcharge established in this section shall be due and payable at the same time
21 and in the same manner as employer contributions. Any surcharge collected shall be
22 deposited in the unemployment insurance interest payment fund.

23 (4) Any surcharge unpaid on the date on which it is due and payable, pursuant to
24 subsection (3) of this section, shall be subject to interest at the rate of one and one-
25 half percent (1.5%) per month or fraction thereof, not to exceed ninety percent
26 (90%) of the amount of such surcharge, from and after such date until payment is
27 received by the cabinet, regardless of whether such delinquency has been reduced to

1 a judgment or not as provided in subsection (6) of this section or is the subject of an
2 administrative appeal or court action. The interest collected shall be deposited in the
3 unemployment insurance interest payment fund.

4 (5) A lien of the same nature and having the same force, effect, and priority as provided
5 in KRS 341.310 shall commence on all property of a subject contributing employer
6 delinquent in the payment of any surcharge or interest thereon.

7 (6) If, after due notice, any subject contributing employer defaults in payment of any
8 surcharge or interest thereon, the amount due may be collected by a civil action
9 instituted in the Franklin Circuit Court or the Franklin District Court depending on
10 the jurisdictional amount in controversy, including interest and penalties, in the
11 name of the state, and the subject contributing employer adjudged in default shall
12 pay the costs of the action. Civil actions brought under this section shall be heard by
13 the court, without the intervention of a jury, at the earliest possible date and shall be
14 entitled to preference on the calendar of the court over all other civil actions, except
15 petitions for judicial review under this chapter and cases arising under the Kentucky
16 workers' compensation law.

17 (7) At or after the commencement of an action under subsection (6) of this section,
18 attachment may be had against the property of the liable subject contributing
19 employer for such surcharge and interest without execution of a bond, or, after
20 judgment has been entered, an execution may be issued against the property of such
21 employer without the execution of a bond.

22 (8) An action for the recovery of a surcharge or interest thereon under this section shall
23 be barred, and any lien therefor shall be canceled and extinguished, unless collected
24 or suit for collection has been filed within ten (10) years from the due date of such
25 surcharge.

26 (9) Notwithstanding subsection (6) of this section, any delinquent surcharge or interest
27 thereon may be collected in accordance with the levy and distraint provisions of this

1 chapter.

2 (10) Any delinquent surcharge or interest collected after July 31, 2017, shall not be
3 subject to the credit provisions contained in KRS 341.612 and shall be deposited
4 into the penalty and interest account.

5 (11) Notwithstanding any other provisions of this chapter, for the calendar ~~years~~
6 2021 and 2022, there shall be no surcharge assessment.

7 ➔Section 4. There is hereby appropriated Federal Fund moneys from the State
8 Fiscal Recovery Fund of the American Rescue Plan Act in the amount of \$242,628,900 in
9 fiscal year 2021-2022 to the unemployment trust fund to restore the fund balance to pre-
10 pandemic levels.

11 ➔Section 5. Sections 1 to 3 of this Act are retroactive to January 1, 2022.

12 ➔Section 6. Whereas the economic impact of COVID-19 on Kentucky's citizens
13 and businesses is of the utmost importance, an emergency is declared to exist, and this
14 Act takes effect upon its passage and approval by the Governor or upon its otherwise
15 becoming a law.