

LEGISLATIVE BILL 239

Approved by the Governor March 13, 1973

Introduced by R. Maresh, 32

AN ACT to amend section 23-378, Reissue Revised Statutes of Nebraska, 1943, section 48-126.01, Revised Statutes Supplement, 1972, and section 48-115, Revised Statutes Supplement, 1972, as amended by section 1, Legislative Bill 150, Eighty-third Legislature, First Session, 1973, relating to ambulance service; to provide joint ambulance service between counties and municipalities; to provide for the cost of county ambulance service; to provide workmen's compensation benefits to volunteer ambulance drivers and attendants; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 23-378, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-378. The county boards of counties, and the governing bodies of cities and villages, may provide ambulance service as a governmental service either within or without the county or municipality, as the case may be, ~~and~~ Each may enter into agreement with the other under the Interlocal Cooperation Act for the purpose of providing necessary ambulance service, or may provide separate service for itself. ~~may--expend--public~~ Public funds may be expended therefor, and ~~may--charge~~ a reasonable service fee may be charged to the user. Before any such ambulance service is established under the authority of this section, the county board or the governing bodies of cities and villages shall hold a public hearing after giving at least ten days' notice thereof, which notice shall include a brief summary of the general plan for providing such ambulance service, including an estimate of the initial cost and the possible continuing cost of operating such service. If the board or governing body after such hearing determines that public ambulance service is needed, it may proceed as authorized in this section. The authority granted in this section shall be cumulative and supplementary to any existing powers heretofore granted. Any county board of counties and the governing bodies of cities and villages may pay their cost for such service out of available general funds, or may levy a tax for the purpose of

providing necessary ambulance service, which levy shall be in addition to all other taxes and shall be in addition to restrictions on the levy of taxes provided by statute; Provided, that when a fire district provides ambulance service the county shall pay the cost for the county ambulance service by levying a tax on that property not in a fire district providing ambulance service.

Sec. 2. That section 48-115, Revised Statutes Supplement, 1972, as amended by section 1, Legislative Bill 150, Eighty-third Legislature, First Session, 1973, be amended to read as follows:

48-115. The terms employee and workman are used interchangeably and have the same meaning throughout this act. The said terms include the plural and all ages and both sexes, and shall be construed to mean:

(1) Every person in the service of the state or of any governmental agency created by it including the Nebraska National Guard and members of the military forces of the State of Nebraska, under any appointment or contract of hire, expressed or implied, oral or written; Provided, that (a) for the purposes of this act, volunteer firemen of any fire department of any rural or suburban fire protection district, city or village, which fire department is regularly organized under the laws of the State of Nebraska, shall be deemed employees of such rural or suburban fire protection district, city or village while in the performance of their duties as members of such department, and shall be considered as having entered and as acting in the regular course of their employment when traveling from any place from which they have been called to active duty to a fire station or other place where firefighting equipment that their company or unit is to use is located or to any emergency that the volunteer firemen may be officially called to participate in; (b) members of such volunteer fire department, before they are entitled to benefits under this act, shall be recommended by the chief of the fire department for membership therein to the board of directors, the mayor and city commission, the mayor and council or the chairman and board of trustees, as the case may be, and upon confirmation, shall be deemed employees of the rural or suburban fire protection district, city or village; (c) members of such fire department after confirmation to membership may be removed by a majority vote of such board of directors, commission, council or board, and thereafter shall not be considered employees of such rural or suburban fire protection district, city or village; (d) firemen of any fire department of any rural or suburban fire protection

district, city or village shall be considered as acting in the performance and within the scope of their duties in fighting fire or saving property or life outside of the corporate limits of their respective districts, cities or villages, but only if directed to do so by the chief of the fire department or some person authorized to act for such chief; (e) any members of the state Civil Defense Agency, any local organization for civil defense or civil defense mobile support unit, which state Civil Defense Agency, local organization for civil defense or civil defense mobile support unit is regularly organized under the laws of the State of Nebraska, shall be deemed employees of such state Civil Defense Agency, local organization for civil defense or civil defense mobile support unit while in the performance of their duties as members of such state Civil Defense Agency, local organization or mobile support unit; and (f) any person fulfilling conditions of probation pursuant to any order of a juvenile or municipal court of this state who shall be working for a governmental body pursuant to any condition of probation shall be deemed an employee of such governmental body for the purposes of this act; and (g) volunteer ambulance drivers and attendants who provide ambulance service for any county, city, or village or any combination of such county, city, or village under the authority of section 23-378 shall be deemed employees of the county, city, or village or combination thereof while in the performance of their duties as such ambulance drivers or attendants and shall be considered as having entered into and as acting in the regular course of their employment when traveling from any place from which they have been called to active duty to a hospital or other place where the ambulance they are to use is located or to any emergency in which the volunteer drivers or attendants may be officially called to participate, but such volunteer ambulance drivers or attendants shall be considered as acting in the performance and within the scope of their duties outside of the corporate limits of their respective county, city, or village only if officially directed to do so; and (h) before such volunteer ambulance drivers or attendants shall be entitled to benefits under this act, they shall be confirmed to perform such duties by the county board, or the governing body of the city or village or combination thereof, as the case may be, and upon such confirmation shall be deemed employees of the county, city, or village or combination thereof. Such volunteer ambulance drivers or attendants may be removed by majority vote of such county board or governing body of the city or village; and

(2) Every person in the service of an employer who is engaged in any trade, occupation, business, or

profession as described in section 48-106, under any contract of hire, expressed or implied, oral or written, including aliens and also including minors, who for the purpose of making election of remedies under this act shall have the same power of contracting and electing as adult employees.

Every executive officer of a corporation elected or appointed under the provisions or authority of the charter, articles of incorporation or by-laws of such corporation shall be an employee of such corporation under the provisions of this act.

The said terms shall not be construed to include (a) any person whose employment is casual, and which is not in the usual course of the trade, business, profession or occupation of his employer; the term casual shall be construed to mean occasional, coming at certain times without regularity, in distinction from stated or regular; or (b) any person to whom articles and materials are given to be made up, cleaned, washed, finished, repaired or adapted for sale in the worker's own home or on other premises not under the control or management of the employer, unless the employee is required to perform the work at a place designated by the employer.

If an employee subject to this act suffers an injury on account of which he or, in the event of his death, his dependents would otherwise have been entitled to the benefits provided by this act, the employee or, in the event of his death, his dependents shall be entitled to the benefits provided under this act if the injury or injury resulting in death occurred within this state, or if at the time of such injury (a) the employment was principally localized within this state, (b) the employer was performing work within this state, or (c) the contract of hire was made within this state.

Sec. 3. That section 48-126.01, Revised Statutes Supplement, 1972, be amended to read as follows:

48-126.01. In determining the compensation to be paid any member of the military forces of this state, or any member of a volunteer fire department in any rural or suburban fire protection district, city or village, or any member of the state Civil Defense Agency, any local organization for civil defense or civil defense mobile support unit, or member of a volunteer ambulance unit, which military forces, fire department, state Civil Defense Agency, local organization for civil defense or civil defense mobile support unit, or volunteer ambulance unit is regularly organized under the laws of the State of Nebraska, or any person fulfilling conditions of

probation pursuant to any order of a juvenile or municipal court of this state who shall be working for a governmental body pursuant to any condition of probation, for injuries resulting in disability or death received in the performance of his duties as a member of such military forces, department, agency, organization or unit, or pursuant to an order of a juvenile or municipal court, the wages of such a member or person shall be taken to be those received by him from his regular employer, and he shall receive such proportion thereof as he is entitled to under the provisions of section 48-121; Provided, if such member or person is not regularly employed by some other person, for the purpose of such determination, it shall be deemed and assumed that he is receiving income from his business or from other employment equivalent to wages in an amount one and one half times the maximum compensation rate for total disability. If the wages received for the performance of duties as a member of such military forces, department, agency, organization or unit exceed the wages received from a regular employer, such member shall be entitled to a rate of compensation based upon wages received as a member of such military forces, department, agency, organization or unit.

Sec. 4. That original section 23-378, Reissue Revised Statutes of Nebraska, 1943, section 48-126.01, Revised Statutes Supplement, 1972, and section 48-115, Revised Statutes Supplement, 1972, as amended by section 1, Legislative Bill 150, Eighty-third Legislature, First Session, 1973, are repealed.