

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 151

Introduced by Lathrop, 12.

Read first time January 07, 2011

Committee: Business and Labor

A BILL

1 FOR AN ACT relating to the Nebraska Workers' Compensation Act; to
2 amend sections 48-167, 48-175.01, 48-177, and 48-191,
3 Reissue Revised Statutes of Nebraska; to change
4 provisions relating to location, hearings, and documents;
5 to repeal the original sections; and to declare an
6 emergency.

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

1 Section 1. Section 48-167, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 48-167 The Nebraska Workers' Compensation Court shall
4 keep and maintain, ~~in its office at the State Capitol,~~ full and true
5 record of all proceedings, documents, or papers ordered filed, rules
6 and regulations, and decisions or orders.

7 Sec. 2. Section 48-175.01, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 48-175.01 (1) The performance of work in the State of
10 Nebraska (a) by an employer, who is a nonresident of the State of
11 Nebraska, (b) by any resident employer who becomes a nonresident of
12 this state after the occurrence of an injury to an employee, or (c)
13 by any agent of such an employer shall be deemed an appointment by
14 such employer of the clerk of the Nebraska Workers' Compensation
15 Court as a true and lawful attorney and agent upon whom may be served
16 all legal processes in any action or proceeding against him or her,
17 arising out of or under the provisions of the Nebraska Workers'
18 Compensation Act, and such performance of work shall be a
19 signification of the employer's agreement that any such process,
20 which is so served in any action against him or her, shall be of the
21 same legal force and validity as if served upon him or her personally
22 within this state. The appointment of agent, thus made, shall not be
23 revocable by death but shall continue and be binding upon the
24 executor or administrator of such employer. For purposes of this
25 section, performance of work shall include, but not be limited to,

1 situations in which (i) the injury or injury resulting in death
2 occurred within this state, (ii) the employment was principally
3 localized within this state, or (iii) the contract of hire was made
4 within this state.

5 (2) Service of such process, as referred to in subsection
6 (1) of this section, shall be made by serving a copy thereof upon the
7 clerk of the Nebraska Workers' Compensation Court, personally in his
8 or her office ~~in the State Capitol~~ or upon someone who, previous to
9 such service, has been designated in writing by the clerk of the
10 Nebraska Workers' Compensation Court as the person or one of the
11 persons with whom such copy may be left for such service upon the
12 clerk of the Nebraska Workers' Compensation Court, and such service
13 shall be sufficient service upon the employer. In making such
14 service, a copy of the petition and a copy of the process shall,
15 within ten days after the date of service, be sent by the clerk of
16 the Nebraska Workers' Compensation Court, or such person acting for
17 him or her in his or her office, to the defendant by registered or
18 certified mail addressed to the defendant's last-known address, and
19 the defendant's return receipt and affidavit of the clerk of the
20 Nebraska Workers' Compensation Court, or such person in his or her
21 office acting for him or her, of compliance therewith shall be
22 appended to such petition and filed in the office of the clerk of the
23 Nebraska Workers' Compensation Court. The date of the mailing and the
24 date of the receipt of the return card aforesaid shall be properly
25 endorsed on such petition and filed by the clerk of the Nebraska

1 Workers' Compensation Court, or someone acting for him or her.

2 (3) The Nebraska Workers' Compensation Court shall, on
3 its own motion, order such continuance of answer day and trial date,
4 as may to the compensation court seem necessary to afford the
5 defendant reasonable opportunity to plead and to defend. No such
6 continuance shall be for more than ninety days except for good cause
7 shown.

8 (4) It shall be the duty of the clerk of the Nebraska
9 Workers' Compensation Court to keep a record of all processes so
10 served, in accordance with subsections (1) and (2) of this section,
11 which record shall show the date of such service, and to so arrange
12 and index such record as to make the same readily accessible and
13 convenient for inspection.

14 Sec. 3. Section 48-177, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 48-177 (1) At the time a petition or motion is filed, one
17 of the judges of the Nebraska Workers' Compensation Court shall be
18 assigned to hear the cause. It shall be heard in the county in which
19 the accident occurred, except as otherwise provided in section
20 25-412.02 and except that, upon the written stipulation of the
21 parties, filed with the compensation court at least fourteen days
22 before the date of hearing, the cause may be heard in any other
23 county in the state. ~~An action may be dismissed by the plaintiff, if~~
24 ~~represented by legal counsel, without prejudice to a future action,~~
25 ~~before the final submission of the case to the compensation court.~~

1 ~~Upon a motion for dismissal duly filed by the plaintiff, showing that~~
2 ~~a dispute between the parties no longer exists, the compensation~~
3 ~~court may dismiss any such cause without a hearing thereon.~~

4 (2) Any such cause may be dismissed without prejudice to
5 a future action (a) by the plaintiff, if represented by legal
6 counsel, before the final submission of the case to the compensation
7 court or (b) by the compensation court upon a stipulation of the
8 parties that a dispute between the parties no longer exists.

9 (3) Notwithstanding subsection (1) of this section, all
10 nonevidentiary hearings, and any evidentiary hearings approved by the
11 compensation court and by stipulation of the parties, may be heard by
12 the court telephonically or by videoconferencing or similar equipment
13 at any location within the state as ordered by the court and in a
14 manner that ensures the preservation of an accurate record. Such
15 hearings shall include motion hearings, original hearings, and review
16 hearings. Hearings conducted in this manner shall be consistent with
17 the public's access to the courts.

18 Sec. 4. Section 48-191, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 48-191 Notwithstanding any more general or special law
21 respecting the subject matter hereof, whenever the last day of the
22 period within which a party to an action may file any ~~paper document~~
23 or pleading with the Nebraska Workers' Compensation Court, or take
24 any other action with respect to a claim for compensation, falls on a
25 Saturday, a Sunday, any day on which the compensation court is closed

1 by order of the Chief Justice of the Supreme Court, or any day
2 declared by statutory enactment or proclamation of the Governor to be
3 a holiday, the next following day, which is not a Saturday, a Sunday,
4 a day on which the compensation court is closed by order of the Chief
5 Justice of the Supreme Court, or a day declared by such enactment or
6 proclamation to be a holiday, shall be deemed to be the last day for
7 filing any such ~~paper-document~~ or pleading or taking any such other
8 action with respect to a claim for compensation.

9 Sec. 5. Original sections 48-167, 48-175.01, 48-177, and
10 48-191, Reissue Revised Statutes of Nebraska, are repealed.

11 Sec. 6. Since an emergency exists, this act takes effect
12 when passed and approved according to law.