

LEGISLATURE OF NEBRASKA
NINETY-EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 421

Introduced by Speaker Bromm, 23; at the request of the Governor

Read first time January 15, 2003

Committee: Judiciary

A BILL

1 FOR AN ACT relating to the Nebraska Workers' Compensation Court; to
2 amend sections 48-152, 48-159, and 48-1,110, Reissue
3 Revised Statutes of Nebraska, and sections 48-162.02 and
4 48-1,116, Revised Statutes Supplement, 2002; to transfer
5 the compensation court, judges, and employees to the
6 Supreme Court for administrative and budgetary purposes;
7 to change provisions relating to salaries and funds; to
8 eliminate obsolete provisions; to state intent; to
9 provide an operative date; to repeal the original
10 sections; and to declare an emergency.
11 Be it enacted by the people of the State of Nebraska,

1 Section 1. The Nebraska Workers' Compensation Court,
2 including all its judges, and all persons employed by the agency on
3 June 30, 2003, are transferred to the Supreme Court on July 1,
4 2003, for administrative and budgetary purposes only. No employee
5 of the Nebraska Workers' Compensation Court, including its judges,
6 shall have his or her annual salary existing as of June 30, 2003,
7 reduced on July 1, 2003, as a result of such transfer. No employee
8 of the Nebraska Workers' Compensation Court, including its judges,
9 shall lose any state benefits earned as of June 30, 2003, and all
10 accrued leave and benefits are transferred to the Supreme Court on
11 July 1, 2003, for all transferred employees, including the judges
12 of the Nebraska Workers' Compensation Court. Any employee
13 transferred to the Supreme Court shall not lose any accrual rate
14 value for his or her sick leave or vacation leave as a result of
15 such transfer. All insurance coverages received under the Nebraska
16 State Insurance Program that are in effect on June 30, 2003, for
17 all employees of the Nebraska Workers' Compensation Court,
18 including its judges, shall continue in full force and remain in
19 effect as of the transfer of such employees on July 1, 2003.

20 Sec. 2. All equipment, books, files, records, and other
21 property in the possession of the Nebraska Workers' Compensation
22 Court, its offices, and staff on June 30, 2003, are transferred to
23 the Supreme Court and to its inventory, as required by law, as of
24 July 1, 2003.

25 Sec. 3. All funds under the agency control of the
26 Nebraska Workers' Compensation Court, along with any fund balances
27 existing as of June 30, 2003, plus any investment income credited
28 to the respective agency funds, are transferred to the Supreme

1 Court on July 1, 2003.

2 Sec. 4. The State Court Administrator or his or her
3 designee shall provide or contract for necessary facilities,
4 supplies, equipment, and support staff needed by the Nebraska
5 Workers' Compensation Court and its offices. All expenses of the
6 Nebraska Workers' Compensation Court shall be included in the
7 budget of the Supreme Court. The court administrator of the
8 Nebraska Workers' Compensation Court shall prepare a budget and
9 request for appropriations for the Nebraska Workers' Compensation
10 Court and shall submit such request to the Supreme Court and with
11 its approval to the appropriate authority in accordance with law.

12 Sec. 5. Salaries and salary adjustments for all
13 employees of the Nebraska Workers' Compensation Court, except its
14 judges, shall be established pursuant to direction or guidelines
15 received from the Supreme Court, but not to exceed the amount of
16 the appropriation and salary limit made by the Legislature for such
17 purpose. Such salaries shall be payable in the same manner as the
18 salaries of other state employees are paid. Employees of the
19 Nebraska Workers' Compensation Court shall not receive any other
20 salary or pay for their services from any other source.

21 Sec. 6. Section 48-152, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 48-152. Recognizing that (1) industrial relations
24 between employers and employees within the State of Nebraska are
25 affected with a vital public interest, (2) an impartial and
26 efficient administration of the Nebraska Workers' Compensation Act
27 is essential to the prosperity and well-being of the state, and (3)
28 suitable laws should be enacted for the establishing and for the

1 preservation of such an administration of the Nebraska Workers'
2 Compensation Act, there is hereby created, pursuant to the
3 provisions of Article V, section 1, of the Nebraska Constitution, a
4 court, consisting of seven judges, to be selected or retained in
5 office in accordance with the provisions of Article V, section 21,
6 of the Nebraska Constitution and to be known as the Nebraska
7 Workers' Compensation Court, which court shall have authority to
8 administer and enforce all of the provisions of the Nebraska
9 Workers' Compensation Act, and any amendments thereof, except such
10 as are committed to the courts of appellate jurisdiction. The
11 Nebraska Workers' Compensation Court shall be located within the
12 Supreme Court for administrative and budgetary purposes only.

13 Sec. 7. Section 48-159, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 48-159. (1) ~~As seen as the same may be legally paid~~
16 ~~under the Constitution of Nebraska,~~ each Each judge of the Nebraska
17 Workers' Compensation Court shall receive an annual salary of
18 ninety-two and one-half percent of the salary set for the Chief
19 Justice and judges of the Supreme Court, payable in the same manner
20 as the salaries of other state officers are paid. ~~Such salary is~~
21 ~~an increase from the salary of eighty-five percent of the salary~~
22 ~~set for the Chief Justice and judges of the Supreme Court which~~
23 ~~such judges have received on and after January 6, 1983. The clerk~~
24 ~~and all other assistants and employees of the compensation court~~
25 ~~shall receive such salaries as the compensation court shall~~
26 ~~determine, but not to exceed the amount of the appropriation made~~
27 ~~by the Legislature for such purpose. Such salaries shall be~~
28 ~~payable in the same manner as the salaries of other state employees~~

1 ~~are paid. Such assistants and employees shall not receive any~~
2 ~~other salary or pay for their services from any other source.~~

3 (2) In addition to the salaries, as provided by
4 subsection (1) of this section and section 5 of this act, the
5 judges of the Nebraska Workers' Compensation Court, ~~the clerk, and~~
6 ~~other assistants~~ and the employees of the compensation court shall
7 be entitled, while traveling on the business of the compensation
8 court, to be reimbursed by the state for their necessary traveling
9 expenses, consisting of transportation, subsistence, lodging, and
10 such other items of expense as are necessary, to be paid as
11 provided in sections 81-1174 to 81-1177.

12 Sec. 8. Section 48-162.02, Revised Statutes Supplement,
13 2002, is amended to read:

14 48-162.02. (1) The Workers' Compensation Trust Fund is
15 created. The fund shall be administered by the Nebraska Workers'
16 Compensation Court.

17 (2) The Workers' Compensation Trust Fund shall be used to
18 make legislative fund transfers to the Compensation Court Cash Fund
19 for the purpose of making payments in accordance with sections
20 48-128 and 48-162.01 and for paying administrative expenses
21 relating to ~~such fund~~ the Workers' Compensation Trust Fund. The
22 State Treasurer shall be the custodian of the fund and all money
23 and securities in the fund shall be held in trust by the State
24 Treasurer and shall not be money or property of the state. The
25 fund shall be raised and derived as follows: Every insurance
26 company which is transacting business in this state shall on or
27 before March 1 of each year pay to the Director of Insurance an
28 amount equal to two percent of the workers' compensation benefits

1 paid by it during the preceding calendar year in this state. Every
2 risk management pool providing workers' compensation group
3 self-insurance coverage to any of its members shall on or before
4 March 1 of each year pay to the Director of Insurance an amount
5 equal to two percent of the workers' compensation benefits paid by
6 it during the preceding calendar year in this state but in no event
7 less than twenty-five dollars.

8 (3) The computation of the amounts as provided in this
9 section shall be made on forms furnished by the Department of
10 Insurance and shall be forwarded to the department together with a
11 sworn statement by an appropriate fiscal officer of the company
12 attesting the accuracy of the computation. The department shall
13 furnish such forms to the companies and pools prior to the end of
14 the year for which the amounts are payable together with any
15 information deemed necessary or appropriate by the department.
16 Upon receipt of the payment, the director shall audit and examine
17 the computations to determine that the proper amount has been paid.

18 (4) The Director of Insurance, after notice and hearing
19 in accordance with the Administrative Procedure Act, may rescind or
20 refuse to reissue the certificate of authority of any company or
21 pool which fails to remit the amount due.

22 (5) The Director of Insurance shall remit the amounts
23 paid to the State Treasurer for credit to the Workers' Compensation
24 Trust Fund promptly upon completion of the audit and examination
25 and in no event later than May 1 of the year in which the amounts
26 have been received, except that (a) when there is a dispute as to
27 the amount payable, the proceeds shall be credited to a suspense
28 account until disposition of the controversy and (b) one percent of

1 the amount received shall be credited to the Department of
2 Insurance to cover the costs of administration.

3 (6) Every employer in the occupations described in
4 section 48-106 who qualifies as a self-insurer and who is issued a
5 permit to self-insure shall remit to the State Treasurer for credit
6 to the Workers' Compensation Trust Fund an annual amount equal to
7 two percent of the workers' compensation benefits paid by it during
8 the preceding calendar year in this state but in no event less than
9 twenty-five dollars.

10 (7) The amounts required to be paid by the insurance
11 companies, risk management pools, and self-insurers under this
12 section shall be in addition to any other amounts, either in taxes,
13 assessments, or otherwise, as required under any other law of this
14 state.

15 (8) The presiding judge of the Nebraska Workers'
16 Compensation Court shall be charged with the conservation of the
17 assets of the Workers' Compensation Trust Fund. The Attorney
18 General shall appoint a member of his or her staff to represent the
19 fund when necessary or when requested by the presiding judge in
20 proceedings brought by or against the fund pursuant to section
21 48-162.01. The Attorney General shall appoint a member of his or
22 her staff to represent the fund in all proceedings brought by or
23 against the fund pursuant to section 48-128. When a claim is made
24 by or against the fund pursuant to section 48-128 the State of
25 Nebraska shall be impleaded as a party plaintiff or defendant, as
26 the case may require, and when so impleaded as a defendant service
27 shall be had upon the Attorney General.

28 (9) The Department of Administrative Services shall

1 furnish monthly to the Nebraska Workers' Compensation Court a
2 statement of the Workers' Compensation Trust Fund setting forth the
3 balance of the fund as of the first day of the preceding month, the
4 income and its sources, the payments from the fund in itemized
5 form, and the balance of the fund on hand as of the last day of the
6 preceding month. The State Treasurer may receive and credit to the
7 fund any sum or sums which may at any time be contributed to the
8 state or the fund by the United States of America or any agency
9 thereof to which the state may be or become entitled under any act
10 of Congress or otherwise by reason of any payment made from the
11 fund.

12 (10) When the fund equals or exceeds two million three
13 hundred thousand dollars, no further contributions thereto shall be
14 required by employers, risk management pools, or insurance
15 companies. Thereafter whenever the amount of the fund is reduced
16 below one million two hundred thousand dollars by reason of
17 transfers or payments made pursuant to this section or otherwise or
18 whenever the presiding judge of the Nebraska Workers' Compensation
19 Court determines that payments likely to be made from the fund in
20 the next succeeding year will probably cause the fund to be reduced
21 below one million two hundred thousand dollars, the presiding judge
22 of the compensation court shall notify all self-insurers and the
23 Director of Insurance, who shall notify all workers' compensation
24 insurance companies and risk management pools, that such
25 contributions are to be resumed as of the date set in such notice
26 and such contributions shall continue as provided in this section
27 after the effective date of such notice. Such contributions shall
28 continue until the fund again equals two million three hundred

1 thousand dollars. Payments from the fund shall be made by the
 2 compensation court in accordance with section 48-162.01 in the same
 3 manner as for claims against the state. Payments from the fund
 4 shall be made by the compensation court in accordance with section
 5 48-128 once each month in the same manner as the salaries of the
 6 employees of the compensation court are paid.

7 (11) Any expenses necessarily incurred by the Workers'
 8 Compensation Trust Fund or by the Attorney General on behalf of the
 9 fund may be paid out of the fund. Such expenses may be taxed as
 10 costs and recovered by the fund in any case in which the fund
 11 prevails.

12 ~~(12) Any money in the Vocational Rehabilitation Fund on~~
 13 ~~July 1, 2000, shall be transferred to the Workers' Compensation~~
 14 ~~Trust Fund.~~

15 Sec. 9. Section 48-1,110, Reissue Revised Statutes of
 16 Nebraska, is amended to read:

17 48-1,110. ~~(1)~~ Sections 48-101 to 48-1,117 and sections 1
 18 to 5 of this act shall be known and may be cited as the Nebraska
 19 Workers' Compensation Act.

20 ~~(2) It is the intent of the Legislature that the changes~~
 21 ~~made in Laws 1986, LB 811, shall not affect or alter any rights,~~
 22 ~~privileges, or obligations existing immediately prior to July 17,~~
 23 ~~1986.~~

24 Sec. 10. Section 48-1,116, Revised Statutes Supplement,
 25 2002, is amended to read:

26 48-1,116. The Compensation Court Cash Fund is hereby
 27 created. The fund shall be used to aid in providing for the
 28 expense of administering the Nebraska Workers' Compensation Act and

1 the payment of the salaries and expenses ~~of the personnel~~ of the
2 offices of the Nebraska Workers' Compensation Court and any
3 administrative costs of the State Court Administrator's office, as
4 appropriated by the Legislature.

5 All fees received pursuant to sections 48-120, 48-120.02,
6 48-138, 48-139, 48-145.04, 48-157, 48-162, and 48-165 shall be
7 remitted to the State Treasurer for credit to the Compensation
8 Court Cash Fund. The fund shall also consist of amounts credited
9 to the fund pursuant to sections 48-1,113, 48-1,114, and 77-912.
10 The State Treasurer may receive and credit to the fund any money
11 which may at any time be contributed to the state or the fund by
12 the federal government or any agency thereof to which the state may
13 be or become entitled under any act of Congress or otherwise by
14 reason of any payment made from the fund.

15 Any money in the fund available for investment shall be
16 invested by the state investment officer pursuant to the Nebraska
17 Capital Expansion Act and the Nebraska State Funds Investment Act.

18 ~~The State Treasurer shall transfer four million dollars~~
19 ~~from the Compensation Court Cash Fund to the General Fund within~~
20 ~~fifteen days after July 1, 2002.~~

21 Sec. 11. Commencing July 1, 2003, all appropriations and
22 salary limits made by the Ninety-eighth Legislature, First Session,
23 for every budget program in the Nebraska Workers' Compensation
24 Court for FY2003-04 and FY2004-05 are hereby reduced from Agency 37
25 and all such appropriations and salary limits are correspondingly
26 increased by similar amounts for Agency 5 for FY2003-04 and
27 FY2004-05. The State Court Administrator shall certify in writing
28 to the budget division of the Department of Administrative Services

1 by fund type and program the amount of appropriations and salary
2 limits to be manually added in FY2003-04, for June 30, 2003,
3 certified encumbrances, but not to exceed the unexpended
4 appropriation or salary limit balances by fund type or program
5 remaining as of June 30, 2003.

6 Sec. 12. This act becomes operative on July 1, 2003.

7 Sec. 13. Original sections 48-152, 48-159, and 48-1,110,
8 Reissue Revised Statutes of Nebraska, and sections 48-162.02 and
9 48-1,116, Revised Statutes Supplement, 2002, are repealed.

10 Sec. 14. Since an emergency exists, this act takes
11 effect when passed and approved according to law.