

LEGISLATURE OF NEBRASKA  
ONE HUNDRED THIRD LEGISLATURE  
SECOND SESSION  
**LEGISLATIVE BILL 951**

Introduced by Lautenbaugh, 18.

Read first time January 16, 2014

Committee: Business and Labor

A BILL

- 1 FOR AN ACT relating to the Nebraska Workers' Compensation Act; to
- 2 amend section 48-139, Reissue Revised Statutes of
- 3 Nebraska; to change provisions relating to lump-sum
- 4 settlements; and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1                   Section 1. Section 48-139, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   48-139 (1)(a) Whenever an injured employee or his or her  
4 dependents and the employer agree that the amounts of compensation  
5 due as periodic payments for death, permanent disability, or claimed  
6 permanent disability under the Nebraska Workers' Compensation Act  
7 shall be commuted to one or more lump-sum payments, such settlement  
8 shall be submitted to the Nebraska Workers' Compensation Court for  
9 approval as provided in subsection (2) of this section if:

10                   (i) The employee is not represented by counsel;

11                   (ii) The employee, at the time the settlement is  
12 executed, is eligible for medicare, is a medicare beneficiary, or has  
13 a reasonable expectation of becoming eligible for medicare within  
14 thirty months after the date the settlement is executed;

15                   (iii) Medical, surgical, or hospital expenses incurred  
16 for treatment of the injury have been paid by medicaid and medicaid  
17 will not be reimbursed as part of the settlement;

18                   (iv) Medical, surgical, or hospital expenses incurred for  
19 treatment of the injury will not be fully paid as part of the  
20 settlement; or

21                   (v) The settlement seeks to commute amounts of  
22 compensation due to dependents of the employee.

23                   (b) If such lump-sum settlement is not required to be  
24 submitted for approval by the compensation court, a release shall be  
25 filed with the compensation court as provided in subsection (3) of

1 this section. Nothing in this section shall be construed to increase  
2 the compensation court's duties or authority with respect to the  
3 approval of lump-sum settlements under the act.

4 (2)(a) An application for an order approving a lump-sum  
5 settlement, signed and verified by both parties, shall be filed with  
6 the clerk of the compensation court and shall be entitled the same as  
7 an action by such employee or dependents against such employer. The  
8 application shall contain a concise statement of the terms of the  
9 settlement or agreement sought to be approved with a brief statement  
10 of the facts concerning the injury, the nature thereof, the wages  
11 received by the injured employee prior thereto, the nature of the  
12 employment, and such other matters as may be required by the  
13 compensation court. The application may provide for payment of future  
14 medical, surgical, or hospital expenses incurred by the employee. The  
15 compensation court may hold a hearing on the application at a time  
16 and place selected by the compensation court, and proof may be  
17 adduced and witnesses subpoenaed and examined the same as in an  
18 action in equity.

19 (b) If the compensation court finds such lump-sum  
20 settlement is made in conformity with the compensation schedule and  
21 for the best interests of the employee or his or her dependents under  
22 all the circumstances, the compensation court shall make an order  
23 approving the same. If such settlement is not approved, the  
24 compensation court may dismiss the application at the cost of the  
25 employer or continue the hearing, in the discretion of the

1 compensation court.

2 (c) Every such lump-sum settlement approved by order of  
3 the compensation court shall be final and conclusive unless procured  
4 by fraud. Upon paying the amount approved by the compensation court,  
5 the employer (i) shall be discharged from further liability on  
6 account of the injury or death, other than liability for the payment  
7 of future medical, surgical, or hospital expenses if such liability  
8 is approved by the compensation court on the application of the  
9 parties, and (ii) shall be entitled to a duly executed release. Upon  
10 filing the release, the liability of the employer under any  
11 agreement, award, finding, or decree shall be discharged of record.

12 (3) If such lump-sum settlement is not required to be  
13 submitted for approval by the compensation court, a release shall be  
14 filed with the compensation court in accordance with this subsection  
15 that is signed and verified by the employee and the employee's  
16 attorney. ~~Such release shall be a full and complete discharge from~~  
17 ~~further liability for the employer on account of the injury,~~  
18 ~~including future medical, surgical, or hospital expenses, unless such~~  
19 ~~expenses are specifically excluded from the release.~~ The release  
20 shall be made on a form approved by the compensation court and shall  
21 contain a statement signed and verified by the employee that:

22 (a) The employee understands and waives all rights under  
23 the Nebraska Workers' Compensation Act, including, but not limited  
24 to:

25 (i) The right to receive weekly disability benefits, both

1 temporary and permanent;

2 (ii) The right to receive vocational rehabilitation  
3 services;

4 (iii) The right to receive future medical, surgical, and  
5 hospital services as provided in section 48-120, unless such services  
6 are specifically excluded from the release; and

7 (iv) The right to ask a judge of the compensation court  
8 to decide the parties' rights and obligations;

9 (b) The employee is not eligible for medicare, is not a  
10 current medicare beneficiary, and does not have a reasonable  
11 expectation of becoming eligible for medicare within thirty months  
12 after the date the settlement is executed;

13 (c) There are no medical, surgical, or hospital expenses  
14 incurred for treatment of the injury which have been paid by medicaid  
15 and not reimbursed to medicaid by the employer as part of the  
16 settlement; and

17 (d) There are no medical, surgical, or hospital expenses  
18 incurred for treatment of the injury that will remain unpaid after  
19 the settlement.

20 (4) A release filed with the compensation court in  
21 accordance with subsection (3) of this section shall be final and  
22 conclusive unless procured by fraud. Amounts to be paid by the  
23 employer to the employee pursuant to such release shall be paid  
24 within thirty days of filing the release with the compensation court.  
25 Fifty percent shall be added for payments owed to the employee if

1 made after thirty days after the date the release is filed with the  
2 compensation court. Upon making payment owed by the employer as set  
3 forth in the release (i) such release shall be a full and complete  
4 discharge from further liability for the employer on account of the  
5 injury, including future medical, surgical, or hospital expenses,  
6 unless such expenses are specifically excluded from the release and  
7 (ii) the court shall enter an order dismissing the action with  
8 prejudice.

9           ~~(4)~~-(5) The fees of the clerk of the compensation court  
10 for filing, docketing, and indexing an application for an order  
11 approving a lump-sum settlement or filing a release as provided in  
12 this section shall be fifteen dollars. The fees shall be remitted by  
13 the clerk to the State Treasurer for credit to the Compensation Court  
14 Cash Fund.

15           Sec. 2. Original section 48-139, Reissue Revised Statutes  
16 of Nebraska, is repealed.