

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 836

Introduced by Mello, 5.

Read first time January 08, 2016

Committee: Business and Labor

- 1 A BILL FOR AN ACT relating to public safety officials; to adopt the In
- 2 the Line of Duty Compensation Act; and to provide compensation for
- 3 deaths occurring in the line of duty as prescribed.
- 4 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 5 of this act shall be known and may be
2 cited as the In the Line of Duty Compensation Act.

3 Sec. 2. For purposes of the In the Line of Duty Compensation Act:

4 (1) Compensation administrator means the person responsible for
5 accepting claims and paying compensation pursuant to the act. For
6 firefighters, the compensation administrator shall be the State Fire
7 Marshal. For law enforcement officers, the compensation administrator
8 shall be the Superintendent of Law Enforcement and Public Safety;

9 (2) Firefighter means a member of a paid or volunteer fire
10 department in Nebraska, including a member of a rescue squad associated
11 with a paid or volunteer fire department in Nebraska, and a member of an
12 emergency medical services ambulance squad;

13 (3)(a) Killed in the line of duty means losing one's life as a
14 result of an injury received on or after the effective date of this act
15 in the active performance of duties as a law enforcement officer or
16 firefighter if the death occurs within one year from the date the injury
17 was received and if that injury arose from violence or other accidental
18 cause.

19 (b) Killed in the line of duty excludes death resulting from the
20 willful misconduct or intoxication of the law enforcement officer or
21 firefighter; and

22 (4) Law enforcement officer means (a) any person who is responsible
23 for the prevention or detection of crime or the enforcement of the penal,
24 traffic, or highway laws of the State of Nebraska or any political
25 subdivision of the state for more than one hundred hours per year and who
26 is authorized by law to make arrests, (b) any state correctional
27 employee, or (c) any county correctional employee.

28 Sec. 3. (1) If a law enforcement officer or firefighter is killed
29 in the line of duty, compensation shall be paid as provided in the In the
30 Line of Duty Compensation Act to recognize the ultimate sacrifice made by
31 such law enforcement officer or firefighter.

1 (2) The amount of compensation to be paid under the act shall be as
2 follows:

3 (a) For deaths occurring during calendar year 2016, the amount of
4 such compensation shall be fifty thousand dollars; and

5 (b) For deaths occurring in calendar year 2017 and each calendar
6 year thereafter, the amount of such compensation shall be equal to the
7 compensation amount from the previous calendar year increased by the
8 percentage increase, if any, in the Consumer Price Index for All Urban
9 Consumers, as published by the United States Department of Labor, Bureau
10 of Labor Statistics, for the twelve months ending on June 30 of such
11 previous calendar year.

12 (3) The person entitled to receive such compensation shall be
13 determined as follows:

14 (a) If the law enforcement officer or firefighter designated a
15 person to receive the compensation, the compensation shall be paid to the
16 designated person;

17 (b) If no person is designated by the law enforcement officer or
18 firefighter or if the designated person is not alive at the death of the
19 law enforcement officer or firefighter, the compensation shall be paid in
20 accordance with a legally binding will left by the law enforcement
21 officer or firefighter; or

22 (c) If no person is designated by the law enforcement officer or
23 firefighter or the designated person is not alive at the death of the law
24 enforcement officer or firefighter and the law enforcement officer or
25 firefighter did not leave a legally binding will, the compensation shall
26 be paid as follows:

27 (i) If there is a surviving spouse, the entire sum shall be paid to
28 the surviving spouse;

29 (ii) If there is no surviving spouse but there is a surviving
30 descendant of the decedent, the entire sum shall be paid to the
31 decedent's descendants per stirpes;

1 (iii) If there is neither a surviving spouse nor a surviving
2 descendant of the decedent, the entire sum shall be paid to the surviving
3 parents of the decedent in equal parts or, if there is only one surviving
4 parent, the entire sum shall be paid to such surviving parent; or

5 (iv) If there is no surviving spouse, surviving descendant of the
6 decedent, or surviving parent of the decedent, but there is a surviving
7 brother or sister of the decedent, or a descendant of a brother or
8 sister, who was receiving his or her principal support from the decedent
9 at the decedent's death, the entire sum shall be paid to the dependent
10 brother or sister or dependent descendant of a brother or sister. If
11 multiple persons would qualify under this subdivision, the entire sum
12 shall be paid in equal parts to those that qualify.

13 (4) If there is no person to whom compensation is payable under
14 subsection (3) of this section, no compensation shall be paid under the
15 In the Line of Duty Compensation Act.

16 (5) No part of the compensation may be paid to any person not listed
17 in subsection (3) of this section, regardless of such unlisted person's
18 efforts in securing such compensation.

19 Sec. 4. (1) To receive compensation under the In the Line of Duty
20 Compensation Act, a claim for the compensation must be made by filing an
21 application with the compensation administrator within one year after the
22 date of death of the law enforcement officer or firefighter who was
23 killed in the line of duty. Such application shall be on a form
24 prescribed by the compensation administrator and shall include:

25 (a) The name, address, and title or designation of the position in
26 which the law enforcement officer or firefighter was serving at the time
27 of his or her death;

28 (b) The name and address of the person or persons designated by the
29 law enforcement officer or firefighter to receive the compensation and,
30 if more than one, the percentage or share to be paid to each such person,
31 or if there has been no such designation, the name and address of the

1 personal representative of the estate of the law enforcement officer or
2 firefighter;

3 (c) A full, factual account of the circumstances resulting in or the
4 course of events causing the death of the law enforcement officer or
5 firefighter; and

6 (d) Such other information as the compensation administrator
7 reasonably requires.

8 (2) The compensation administrator shall send written notice to all
9 claimants within two weeks after the initiation of a claim indicating
10 whether or not the application is complete. For purposes of this
11 subsection, an application is complete if a claimant has submitted to the
12 compensation administrator all documents and information required under
13 subsection (1) of this section. If a claimant's application is
14 incomplete, the compensation administrator shall include in the written
15 notice a list of the documents or information which the claimant must
16 submit in order for the application to be complete. If a claimant's
17 application is complete, the compensation administrator shall make an
18 investigation of the matters set forth in the application. Upon
19 completion of such investigation, and no later than forty-five days after
20 receipt of a complete application, the compensation administrator shall
21 send written notice to the claimant stating whether the claim has been
22 approved or denied. If a claim is denied, the notice shall include the
23 reason or reasons for the denial. Such denial may be appealed, and the
24 appeal shall be in accordance with the Administrative Procedure Act. If a
25 claim is approved, the compensation administrator shall pay compensation
26 to the claimants entitled to such compensation in accordance with the In
27 the Line of Duty Compensation Act.

28 Sec. 5. The State Fire Marshal and Superintendent of Law
29 Enforcement and Public Safety may adopt and promulgate rules and
30 regulations to carry out the In the Line of Duty Compensation Act.