

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 184**

Introduced by Smith, 14; Schilz, 47.

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 section 48-125, Reissue Revised Statutes of  
3 Nebraska; to change interest rate provisions on certain  
4 compensation court awards; to repeal the original  
5 section; and to declare an emergency.  
6 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 48-125, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           48-125 (1)(a) Except as hereinafter provided, all amounts  
4 of compensation payable under the Nebraska Workers' Compensation Act  
5 shall be payable periodically in accordance with the methods of  
6 payment of wages of the employee at the time of the injury or death.  
7 Such payments shall be sent directly to the person entitled to  
8 compensation or his or her designated representative except as  
9 otherwise provided in section 48-149.

10           (b) Fifty percent shall be added for waiting time for all  
11 delinquent payments after thirty days' notice has been given of  
12 disability or after thirty days from the entry of a final order,  
13 award, or judgment of the compensation court, except that for any  
14 award or judgment against the state in excess of one hundred thousand  
15 dollars which must be reviewed by the Legislature as provided in  
16 section 48-1,102, fifty percent shall be added for waiting time for  
17 delinquent payments thirty days after the effective date of the  
18 legislative bill appropriating any funds necessary to pay the portion  
19 of the award or judgment in excess of one hundred thousand dollars.

20           (2) Whenever the employer refuses payment of compensation  
21 or medical payments subject to section 48-120, or when the employer  
22 neglects to pay compensation for thirty days after injury or neglects  
23 to pay medical payments subject to such section after thirty days'  
24 notice has been given of the obligation for medical payments, and  
25 proceedings are held before the Nebraska Workers' Compensation Court,

1 a reasonable attorney's fee shall be allowed the employee by the  
2 compensation court in all cases when the employee receives an award.  
3 Attorney's fees allowed shall not be deducted from the amounts  
4 ordered to be paid for medical services nor shall attorney's fees be  
5 charged to the medical providers. If the employer files an  
6 application for review before the compensation court from an award of  
7 a judge of the compensation court and fails to obtain any reduction  
8 in the amount of such award, the compensation court shall allow the  
9 employee a reasonable attorney's fee to be taxed as costs against the  
10 employer for such review, and the Court of Appeals or Supreme Court  
11 shall in like manner allow the employee a reasonable sum as  
12 attorney's fees for the proceedings in the Court of Appeals or  
13 Supreme Court. If the employee files an application for a review  
14 before the compensation court from an order of a judge of the  
15 compensation court denying an award and obtains an award or if the  
16 employee files an application for a review before the compensation  
17 court from an award of a judge of the compensation court when the  
18 amount of compensation due is disputed and obtains an increase in the  
19 amount of such award, the compensation court may allow the employee a  
20 reasonable attorney's fee to be taxed as costs against the employer  
21 for such review, and the Court of Appeals or Supreme Court may in  
22 like manner allow the employee a reasonable sum as attorney's fees  
23 for the proceedings in the Court of Appeals or Supreme Court. A  
24 reasonable attorney's fee allowed pursuant to this section shall not  
25 affect or diminish the amount of the award.

1                   (3) When an attorney's fee is allowed pursuant to this  
2 section, there shall further be assessed against the employer an  
3 amount of interest on the final award obtained, computed from the  
4 date compensation was payable, as provided in section 48-119, until  
5 the date payment is made by the employer, at a rate equal to the rate  
6 of interest ~~allowed per annum under section 45-104.01, as provided in~~  
7 section 45-103, as such rate may from time to time be adjusted by the  
8 Legislature. Interest shall apply only to those weekly compensation  
9 benefits awarded which have accrued as of the date payment is made by  
10 the employer. If the employer pays or tenders payment of  
11 compensation, the amount of compensation due is disputed, and the  
12 award obtained is greater than the amount paid or tendered by the  
13 employer, the assessment of interest shall be determined solely upon  
14 the difference between the amount awarded and the amount tendered or  
15 paid.

16                   Sec. 2. Original section 48-125, Reissue Revised Statutes  
17 of Nebraska, is repealed.

18                   Sec. 3. Since an emergency exists, this act takes effect  
19 when passed and approved according to law.