

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 600

Introduced by Ebke, 32; Stinner, 48.

Read first time January 21, 2015

Committee: Business and Labor

- 1 A BILL FOR AN ACT relating to the Nebraska Workers' Compensation Act; to
- 2 amend section 48-145, Reissue Revised Statutes of Nebraska; to
- 3 change provisions relating to the investment of trust funds for
- 4 self-insurers; and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 48-145, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 48-145 To secure the payment of compensation under the Nebraska
4 Workers' Compensation Act:

5 (1) Every employer in the occupations described in section 48-106,
6 except the State of Nebraska and any governmental agency created by the
7 state, shall either (a) insure and keep insured its liability under such
8 act in some corporation, association, or organization authorized and
9 licensed to transact the business of workers' compensation insurance in
10 this state, (b) in the case of an employer who is a lessor of one or more
11 commercial vehicles leased to a self-insured motor carrier, be a party to
12 an effective agreement with the self-insured motor carrier under section
13 48-115.02, (c) be a member of a risk management pool authorized and
14 providing group self-insurance of workers' compensation liability
15 pursuant to the Intergovernmental Risk Management Act, or (d) with
16 approval of the Nebraska Workers' Compensation Court, self-insure its
17 workers' compensation liability.

18 An employer seeking approval to self-insure shall make application
19 to the compensation court in the form and manner as the compensation
20 court may prescribe, meet such minimum standards as the compensation
21 court shall adopt and promulgate by rule and regulation, and furnish to
22 the compensation court satisfactory proof of financial ability to pay
23 direct the compensation in the amount and manner when due as provided for
24 in the Nebraska Workers' Compensation Act. Approval is valid for the
25 period prescribed by the compensation court unless earlier revoked
26 pursuant to this subdivision or subsection (1) of section 48-146.02.
27 Notwithstanding subdivision (1)(d) of this section, a professional
28 employer organization shall not be eligible to self-insure its workers'
29 compensation liability. The compensation court may by rule and regulation
30 require the deposit of an acceptable security, indemnity, trust, or bond
31 to secure the payment of compensation liabilities as they are incurred.

1 The agreement or document creating a trust for use under this section
2 shall contain a provision that the trust may only be terminated upon the
3 consent and approval of the compensation court. Any beneficial interest
4 in the trust principal shall be only for the benefit of the past or
5 present employees of the self-insurer and any persons to whom the self-
6 insurer has agreed to pay benefits under subdivision (11) of section
7 48-115 and section 48-115.02. Any limitation on the termination of a
8 trust and all other restrictions on the ownership or transfer of
9 beneficial interest in the trust assets contained in such agreement or
10 document creating the trust shall be enforceable, except that any
11 limitation or restriction shall be enforceable only if authorized and
12 approved by the compensation court and specifically delineated in the
13 agreement or document. The trustee of any trust created to satisfy the
14 requirements of this section may invest funds held in trust in the same
15 manner authorized for insurers under the Insurers Investment Act.

16 Notwithstanding any other provision of the Nebraska Workers'
17 Compensation Act, a three-judge panel of the compensation court may,
18 after notice and hearing, revoke approval as a self-insurer if it finds
19 that the financial condition of the self-insurer or the failure of the
20 self-insurer to comply with an obligation under the act poses a serious
21 threat to the public health, safety, or welfare. The Attorney General,
22 when requested by the administrator of the compensation court, may file a
23 motion pursuant to section 48-162.03 for an order directing a self-
24 insurer to appear before a three-judge panel of the compensation court
25 and show cause as to why the panel should not revoke approval as a self-
26 insurer pursuant to this subdivision. The Attorney General shall be
27 considered a party for purposes of such motion. The Attorney General may
28 appear before the three-judge panel and present evidence that the
29 financial condition of the self-insurer or the failure of the self-
30 insurer to comply with an obligation under the act poses a serious threat
31 to the public health, safety, or welfare. The presiding judge shall rule

1 on a motion of the Attorney General pursuant to this subdivision and, if
2 applicable, shall appoint judges of the compensation court to serve on
3 the three-judge panel. The presiding judge shall not serve on such panel.
4 Appeal from a revocation pursuant to this subdivision shall be in
5 accordance with section 48-185. No such appeal shall operate as a
6 supersedeas unless the self-insurer executes to the compensation court a
7 bond with one or more sureties authorized to do business within the State
8 of Nebraska in an amount determined by the three-judge panel to be
9 sufficient to satisfy the obligations of the self-insurer under the act;

10 (2) An approved self-insurer shall furnish to the State Treasurer an
11 annual amount equal to two and one-half percent of the prospective loss
12 costs for like employment but in no event less than twenty-five dollars.
13 Prospective loss costs is defined in section 48-151. The compensation
14 court is the sole judge as to the prospective loss costs that shall be
15 used. All money which a self-insurer is required to pay to the State
16 Treasurer, under this subdivision, shall be computed and tabulated under
17 oath as of January 1 and paid to the State Treasurer immediately
18 thereafter. The compensation court or designee of the compensation court
19 may audit the payroll of a self-insurer at the compensation court's
20 discretion. All money paid by a self-insurer under this subdivision shall
21 be credited to the General Fund;

22 (3) Every employer who fails, neglects, or refuses to comply with
23 the conditions set forth in subdivision (1) or (2) of this section shall
24 be required to respond in damages to an employee for personal injuries,
25 or when personal injuries result in the death of an employee, then to his
26 or her dependents; and

27 (4) Any security, indemnity, trust, or bond provided by a self-
28 insurer pursuant to subdivision (1) of this section shall be deemed a
29 surety for the purposes of the payment of valid claims of the self-
30 insurer's employees and the persons to whom the self-insurer has agreed
31 to pay benefits under the Nebraska Workers' Compensation Act pursuant to

1 subdivision (11) of section 48-115 and section 48-115.02 as generally
2 provided in the act.

3 Sec. 2. Original section 48-145, Reissue Revised Statutes of
4 Nebraska, is repealed.