

ONE HUNDRED FIFTH LEGISLATURE - SECOND SESSION - 2018

COMMITTEE STATEMENT

LB957

Hearing Date: Monday February 05, 2018
Committee On: Business and Labor
Introducer: Lowe
One Liner: Provide procedures for choosing a method of payment for payments under the Nebraska Workers' Compensation Act

Roll Call Vote - Final Committee Action:

Advanced to General File with amendment(s)

Vote Results:

Aye: 7 Senators Albrecht, Chambers, Crawford, Halloran, Hansen, Howard, Lowe

Nay:

Absent:

Present Not Voting:

Verbal Testimony:

Proponents:

Senator John Lowe
Megan Howell
Robert J. Hallstrom

Representing:

Introducer
First Data Corporation, Washington DC
Nebraskans for Workers Compensation Equity & Fairness (NWCEF); National Federation of Independent Businesses (NFIB); Nebraska Chamber of Commerce & Industry (NCCI)

Opponents:

John Corrigan
Rod Rehm
Pat Heyden

Representing:

Nebraska State AFL-CIO
NATA
Friedman Law Offices PC LLO

Neutral:

Korby Gilbertson

Representing:

Property Casualty Insurers Association of America (PCI)

Summary of purpose and/or changes:

Section 1

Neb. Rev. Stat. 48-125 currently provides that payments in workers' compensation cases shall be made in the same method as the employee's wages were paid when the employee was injured or died. LB 957 amends this statute to specifically allow the method of payment to be by direct deposit, prepaid card, or similar electronic payment system if the employer, workers' compensation insurer, or risk management pool and the employee agree that payment may be made by these methods.

Section 1 allows an employer, workers' compensation insurer, or risk management pool to offer the employee a choice between direct deposit, prepaid card, or similar electronic payment if the employer, insurer, or pool offers a choice of

methods. The employer, insurer, pool may do this when they receive the claim. As written, LB 957 would not allow the employer to request a choice of method of payment if the employee requested payment by check. The bill does not say that payment shall be made by check in the event of this request.

If an employee does not choose a method of payment, the employer, insurer, or pool may choose to pay the employee by direct deposit, prepaid card, or similar electronic payment system. The employee can change the method chosen by the employer, insurer, or pool, but the employer, insurer, or pool does not have to rescind payments already made to the employee.

Section 1 also provides that any fee associated with these payment methods shall be disclosed to the employee or other person entitled to compensation.

LB 957 prohibits unfair, deceptive, or abusive practices in relation to the method of payment of benefits. Discriminating against, discharging, or penalizing an employee who does not choose direct deposit, prepaid card, or similar electronic payment system is also prohibited.

The employer, workers' compensation insurer, or risk management pool must also comply with 12 C.F.R. part 1005 as such part existed on April 1, 2018.

Direct deposit and prepaid card are defined for the purposes of this section. These definitions are found on page 5, lines 6 through 13.

Section 2

Section 2 repeals the original Neb. Rev. Stat. 48-125.

Explanation of amendments:

AM 1952 replaces LB 957.

The amendment eliminates LB 957's ambiguity in the procedure for selecting a method of payment.

AM 1952 permits payment to be paid by check in addition to direct deposit, prepaid card, or similar electronic payment system. Payment by a method other than the method in which the employee was paid his or her wages can only be done upon agreement between the employee and the employer, workers' compensation insurer, or risk management pool.

AM 1952 requires notice in the agreement that payment by direct deposit or similar electronic payment system is subject to attachment or garnishment pursuant to section 48-149. The amendment also specifically states that compensation may be transferred electronically to the attorney representing the employee or other person entitled to compensation.

The amendment clarifies in LB 957 that if the employer, workers' compensation insurer, or risk management pool charges any fees related to payment by direct deposit, prepaid card, or similar electronic payment system, these fees must be disclosed to the employee or other person entitled to compensation.

Prepaid cards for payment of workers' compensation benefits shall allow the employee or other person entitled to compensation to apply, initiate, transfer, and load payments with no charge by the employer, insurer, or pool. There also shall be no charge for the initial prepaid card and the employee shall be entitled to at least one method of accessing the full payment without fees.

AM 1952 clarifies that an employee or other person entitled to compensation may change their method of payment by

rescinding the agreement. If the employee rescinds the agreement and a new agreement is not reached between the employee and the employer, workers' compensation insurer, or risk management pool, then the employee shall be paid by a method in which their wages were paid at the time of injury or death. If the employee elects to rescind the agreement, the change in method should be made as soon as practicable and in a way that allows the employer to comply with 48-125(3), which is the penalty provision for late payments. As in LB 957, if the chosen method of payment is changed or rescinded, the employer, insurer, or pool is not required to rescind payment transactions already made.

Language regarding the prohibition of engaging in unfair, deceptive, or abusive practices or penalizing, discharging, or discriminating against the employee based on the chosen method is retained. AM 1952 also retains language regarding compliance with 12 C.F.R. part 1005 and the definitions of direct deposit and prepaid card.

Joni Albrecht, Chairperson