

AMENDMENTS TO LB191

(Amendments to Standing Committee amendments, AM1330)

Introduced by Riepe, 12.

1 1. Insert the following new sections:

2 Sec. 7. Section 48-145, Reissue Revised Statutes of Nebraska, is
3 amended to read:

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

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

19 An employer seeking approval to self-insure shall make application
20 to the compensation court in the form and manner as the compensation
21 court may prescribe, meet such minimum standards as the compensation
22 court shall adopt and promulgate by rule and regulation, and furnish to
23 the compensation court satisfactory proof of financial ability to pay
24 direct the compensation in the amount and manner when due as provided for
25 in the Nebraska Workers' Compensation Act. Approval is valid for the
26 period prescribed by the compensation court unless earlier revoked

1 pursuant to this subdivision or subsection (1) of section 48-146.02.
2 Notwithstanding subdivision (1)(d) of this section, a professional
3 employer organization shall not be eligible to self-insure its workers'
4 compensation liability. The compensation court may by rule and regulation
5 require the deposit of an acceptable security, indemnity, trust, or bond
6 to secure the payment of compensation liabilities as they are incurred.
7 The agreement or document creating a trust for use under this section
8 shall contain a provision that the trust may only be terminated upon the
9 consent and approval of the compensation court. Any beneficial interest
10 in the trust principal shall be only for the benefit of the past or
11 present employees of the self-insurer and any persons to whom the self-
12 insurer has agreed to pay benefits under subdivision (11) of section
13 48-115 and section 48-115.02. Any limitation on the termination of a
14 trust and all other restrictions on the ownership or transfer of
15 beneficial interest in the trust assets contained in such agreement or
16 document creating the trust shall be enforceable, except that any
17 limitation or restriction shall be enforceable only if authorized and
18 approved by the compensation court and specifically delineated in the
19 agreement or document. The trustee of any trust created to satisfy the
20 requirements of this section may invest the trust assets in the same
21 manner authorized under subdivisions (1)(a) through (i) of section
22 30-3209 for corporate trustees holding retirement or pension funds for
23 the benefit of employees or former employees of cities, villages, school
24 districts, or governmental or political subdivisions, except that the
25 trustee shall not invest trust assets into stocks, bonds, or other
26 obligations of the trustor. If, as a result of such investments, the
27 value of the trust assets is reduced below the acceptable trust amount
28 required by the compensation court, then the trustor shall deposit
29 additional trust assets to account for the shortfall.

30 Notwithstanding any other provision of the Nebraska Workers'
31 Compensation Act, a three-judge panel of the compensation court may,

1 after notice and hearing, revoke approval as a self-insurer if it finds
2 that the financial condition of the self-insurer or the failure of the
3 self-insurer to comply with an obligation under the act poses a serious
4 threat to the public health, safety, or welfare. The Attorney General,
5 when requested by the administrator of the compensation court, may file a
6 motion pursuant to section 48-162.03 for an order directing a self-
7 insurer to appear before a three-judge panel of the compensation court
8 and show cause as to why the panel should not revoke approval as a self-
9 insurer pursuant to this subdivision. The Attorney General shall be
10 considered a party for purposes of such motion. The Attorney General may
11 appear before the three-judge panel and present evidence that the
12 financial condition of the self-insurer or the failure of the self-
13 insurer to comply with an obligation under the act poses a serious threat
14 to the public health, safety, or welfare. The presiding judge shall rule
15 on a motion of the Attorney General pursuant to this subdivision and, if
16 applicable, shall appoint judges of the compensation court to serve on
17 the three-judge panel. The presiding judge shall not serve on such panel.
18 Appeal from a revocation pursuant to this subdivision shall be in
19 accordance with section 48-185. No such appeal shall operate as a
20 supersedeas unless the self-insurer executes to the compensation court a
21 bond with one or more sureties authorized to do business within the State
22 of Nebraska in an amount determined by the three-judge panel to be
23 sufficient to satisfy the obligations of the self-insurer under the act;

24 (2) An approved self-insurer shall furnish to the State Treasurer an
25 annual amount equal to two and one-half percent of the prospective loss
26 costs for like employment but in no event less than twenty-five dollars.
27 Prospective loss costs is defined in section 48-151. The compensation
28 court is the sole judge as to the prospective loss costs that shall be
29 used. All money which a self-insurer is required to pay to the State
30 Treasurer, under this subdivision, shall be computed and tabulated under
31 oath as of January 1 and paid to the State Treasurer immediately

1 thereafter. The compensation court or designee of the compensation court
2 may audit the payroll of a self-insurer at the compensation court's
3 discretion. All money paid by a self-insurer under this subdivision shall
4 be credited to the Compensation Court Cash ~~General~~ Fund;

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

10 (4) Any security, indemnity, trust, or bond provided by a self-
11 insurer pursuant to subdivision (1) of this section shall be deemed a
12 surety for the purposes of the payment of valid claims of the self-
13 insurer's employees and the persons to whom the self-insurer has agreed
14 to pay benefits under the Nebraska Workers' Compensation Act pursuant to
15 subdivision (11) of section 48-115 and section 48-115.02 as generally
16 provided in the act.

17 Sec. 22. Sections 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15,
18 16, 17, 18, 19, 20, 21, and 25 of this act become operative three
19 calendar months after the adjournment of this legislative session. The
20 other sections of this act become operative on their effective date.

21 Sec. 23. If any section in this act or any part of any section is
22 declared invalid or unconstitutional, the declaration shall not affect
23 the validity or constitutionality of the remaining portions.

24 Sec. 24. Original section 48-145, Reissue Revised Statutes of
25 Nebraska, is repealed.

26 Sec. 26. Since an emergency exists, this act takes effect when
27 passed and approved according to law.

28 2. On page 14, lines 5 and 8, strike "effective date of this act"
29 and insert "operative date of this section".

30 3. Renumber the remaining sections accordingly.