

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 255

Introduced by Hansen, M., 26; Blood, 3; Bostar, 29; Brandt, 32;
Cavanaugh, J., 9; Cavanaugh, M., 6; Day, 49; McDonnell, 5;
Morfeld, 46; Pahls, 31; Slama, 1; Wishart, 27.

Read first time January 11, 2021

Committee:

- 1 A BILL FOR AN ACT relating to first responders; to amend sections
- 2 81-8,297, 81-8,299, 81-8,300.01, and 81-8,301, Reissue Revised
- 3 Statutes of Nebraska; to adopt the In the Line of Duty Compensation
- 4 Act; to change the State Miscellaneous Claims Act as prescribed; to
- 5 provide an operative date; and to repeal the original sections.
- 6 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) Firefighter means a member of a paid or volunteer fire
5 department in Nebraska, including a member of a rescue squad associated
6 with a paid or volunteer fire department in Nebraska;

7 (2) First responder means:

8 (a) A firefighter;

9 (b) A law enforcement officer; or

10 (c) A member of an emergency medical services ambulance squad,
11 excluding any employee of a private, for-profit ambulance service;

12 (3)(a) Killed in the line of duty means losing one's life as a
13 result of an injury or illness arising on or after the operative date of
14 this act in connection with the active performance of duties as a first
15 responder if the death occurs within five years from the date the injury
16 was received or illness was diagnosed and if that injury or illness arose
17 from violence or other accidental cause.

18 (b) Killed in the line of duty excludes death resulting from the
19 willful misconduct or intoxication of the first responder;

20 (4) Law enforcement officer means any person who is responsible for
21 the prevention or detection of crime or the enforcement of the penal,
22 traffic, or highway laws of the State of Nebraska or any political
23 subdivision of the state for more than one hundred hours per year and who
24 is authorized by law to make arrests;

25 (5) Risk Manager means the Risk Manager appointed under section
26 81-8,239.01; and

27 (6) State Claims Board means the board created under section
28 81-8,220.

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

1 responder.

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

4 (a) For deaths occurring during calendar year 2022, the amount of
5 such compensation shall be fifty thousand dollars; and

6 (b) For deaths occurring in calendar year 2023 and each calendar
7 year thereafter, the amount of such compensation shall be equal to the
8 compensation amount from the previous calendar year increased by the
9 percentage increase, if any, in the Consumer Price Index for All Urban
10 Consumers, as published by the United States Department of Labor, Bureau
11 of Labor Statistics, for the twelve months ending on June 30 of such
12 previous calendar year.

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

15 (a) If the first responder designated a person to receive the
16 compensation, the compensation shall be paid to the designated person;

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

21 (c) If neither subdivision (3)(a) nor (3)(b) of this section
22 applies, the compensation shall be paid as follows:

23 (i) If there is a surviving spouse of the first responder, the
24 entire sum shall be paid to the surviving spouse;

25 (ii) If there is no surviving spouse but there is a surviving
26 descendant of the first responder, the entire sum shall be paid to the
27 first responder's descendants per stirpes;

28 (iii) If there is neither a surviving spouse nor a surviving
29 descendant but there is a surviving parent of the first responder, the
30 entire sum shall be paid to the first responder's surviving parents in
31 equal parts. If there is only one surviving parent, the entire sum shall

1 be paid to such surviving parent; or

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

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

13 (5) No part of the compensation may be paid to any person not listed
14 in subsection (3) of this section.

15 (6) Amounts paid under the In the Line of Duty Compensation Act
16 shall not be considered:

17 (a) Compensation under the County Employees Retirement Act, the
18 Judges Retirement Act, the Nebraska State Patrol Retirement Act, the
19 School Employees Retirement Act, the State Employees Retirement Act, or
20 any other retirement plan administered by the Public Employees Retirement
21 Board and shall not be eligible for deferral under any deferred
22 compensation plan administered by the Public Employees Retirement Board;
23 or

24 (b) Regular pay or salary under the Police Officers Retirement Act
25 or sections 16-1020 to 16-1042.

26 (7) An employer of the first responder shall not have any right of
27 subrogation under section 48-118 with respect to compensation paid under
28 the In the Line of Duty Compensation Act.

29 Sec. 4. (1) To receive compensation under the In the Line of Duty
30 Compensation Act, a claim for the compensation must be filed with the
31 Risk Manager within one year after the date of death of the first

1 responder who was killed in the line of duty. Such claim shall be on a
2 form prescribed by the Risk Manager and shall include:

3 (a) The name, address, and title or position of the first responder
4 who was killed in the line of duty;

5 (b) The name and address of the person or persons designated by the
6 first responder to receive the compensation and, if more than one, the
7 percentage or share to be paid to each such person. If there has been no
8 such designation, the application shall include the name and address of
9 the person or persons to whom compensation is payable under section 3 of
10 this act;

11 (c) A full, factual account of the circumstances resulting in or the
12 course of events causing the death of the first responder; and

13 (d) Such other information as the Risk Manager reasonably requires.

14 (2) The Risk Manager shall send written notice to all claimants
15 within two weeks after the initiation of a claim indicating whether or
16 not the claim is complete. For purposes of this subsection, a claim is
17 complete if a claimant has submitted to the Risk Manager all documents
18 and information required under subsection (1) of this section. If a claim
19 is incomplete, the Risk Manager shall include in the written notice a
20 list of the documents or information which the claimant must submit in
21 order for the claim to be complete. If a claim is complete, the State
22 Claims Board shall make an investigation of the claim in the manner
23 provided in the State Miscellaneous Claims Act. Upon completion of such
24 investigation, and no later than forty-five days after receipt of a
25 complete claim, the State Claims Board shall approve or deny such claim
26 in accordance with section 81-8,300 and the Risk Manager shall send
27 written notice to the claimant stating whether the claim has been
28 approved or denied. If a claim is denied, the notice shall include the
29 reason or reasons for the denial. If a claimant is dissatisfied with a
30 denial, he or she may file an application for review with the Risk
31 Manager in accordance with subsection (2) of section 81-8,300. If a claim

1 is approved, compensation shall be paid to the claimants entitled to such
2 compensation in accordance with subsection (3) of section 81-8,300.

3 Sec. 5. The State Claims Board may adopt and promulgate rules and
4 regulations to carry out the In the Line of Duty Compensation Act.

5 Sec. 6. Section 81-8,297, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 81-8,297 The State Claims Board shall have the power and authority
8 to receive, investigate, and otherwise carry out its duties with regard
9 to (1) all claims under the State Miscellaneous Claims Act, (2) all
10 claims under sections 25-1802 to 25-1807, (3) all claims under the State
11 Contract Claims Act, (4) all claims under the In the Line of Duty
12 Compensation Act, (5) all requests on behalf of any department, board, or
13 commission of the state for waiver or cancellation of money or charges
14 when necessary for fiscal or accounting procedures, and (6) ~~(5)~~ all
15 claims filed under section 66-1531. All such claims or requests and
16 supporting documents shall be filed with the Risk Manager and shall be
17 designated by number, name of claimant as requester, and short title.
18 Nothing in this section shall be construed to be a waiver of the
19 sovereign immunity of the state beyond what is otherwise provided by law.

20 The board shall adopt and promulgate such rules and regulations as
21 are necessary to carry out the powers granted in this section. The
22 Attorney General shall be the legal advisor to the board for purposes of
23 this section and may authorize the assistant attorney general in charge
24 of the Claims Division to perform any of his or her duties under this
25 section.

26 Sec. 7. Section 81-8,299, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 81-8,299 The State Claims Board shall, for the purposes contemplated
29 by the State Contract Claims Act, the State Miscellaneous Claims Act, the
30 In the Line of Duty Compensation Act, and sections 25-1802 to 25-1807 and
31 66-1531, have the right, power, and duty to (1) administer oaths, (2)

1 compel the attendance of witnesses and the production of books, papers,
2 and documents and issue subpoenas for such purposes, and (3) punish the
3 disobedience of such a subpoena or subpoenas, the refusal of a witness to
4 be sworn or testify, or the failure to produce books, papers, and
5 documents, as required by such subpoena or subpoenas so issued, as
6 contempt, in the same manner as are officers who are authorized to take
7 depositions.

8 Sec. 8. Section 81-8,300.01, Reissue Revised Statutes of Nebraska,
9 is amended to read:

10 81-8,300.01 Claims described in subdivision (4) of section 81-8,297
11 shall be forever barred unless the claim is filed with the Risk Manager
12 within the time period prescribed in section 4 of this act. Claims
13 described in subdivisions ~~(5)~~ (4) and ~~(6)~~ (5) of section 81-8,297 and
14 claims relating to expiration of state warrants shall have no time bar to
15 recovery. Except as provided in section 25-213, all other claims
16 permitted under the State Miscellaneous Claims Act shall be forever
17 barred unless the claim is filed with the Risk Manager within two years
18 after the time the claim accrued.

19 Sec. 9. Section 81-8,301, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 81-8,301 Any award made under the State Contract Claims Act, the
22 State Miscellaneous Claims Act, the In the Line of Duty Compensation Act,
23 or section 25-1806 or 66-1531 and accepted by the claimant shall be final
24 and conclusive on all officers of the State of Nebraska except when
25 procured by means of fraud. The acceptance by the claimant of such award
26 shall be final and conclusive on the claimant and shall constitute a
27 complete release by the claimant of any claim against the state and
28 against the employee of the state whose act or omission gave rise to the
29 claim by reason of the same subject matter.

30 Sec. 10. This act becomes operative on January 1, 2022.

31 Sec. 11. Original sections 81-8,297, 81-8,299, 81-8,300.01, and

1 81-8,301, Reissue Revised Statutes of Nebraska, are repealed.