

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 363

Introduced by Hansen, M., 26.

Read first time January 16, 2019

Committee:

1 A BILL FOR AN ACT relating to benefits for individuals providing public
2 safety services; to amend sections 81-8,297, 81-8,299, 81-8,300.01,
3 and 81-8,301, Reissue Revised Statutes of Nebraska; to adopt the In
4 the Line of Duty Compensation Act; to change the State Miscellaneous
5 Claims Act as prescribed; to provide an operative date; and to
6 repeal the original sections.

7 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, and a member of an
7 emergency medical services ambulance squad;

8 (2)(a) Killed in the line of duty means losing one's life as a
9 result of an injury received on or after the operative date of this act
10 in the active performance of duties as a law enforcement officer or
11 firefighter if the death occurs within one year from the date the injury
12 was received and if that injury arose from violence or other accidental
13 cause.

14 (b) Killed in the line of duty excludes death resulting from the
15 willful misconduct or intoxication of the law enforcement officer or
16 firefighter;

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

22 (4) Risk Manager means the Risk Manager appointed under section
23 81-8,239.01; and

24 (5) State Claims Board means the board created by section 81-8,220.

25 Sec. 3. (1) If a law enforcement officer or firefighter is killed
26 in the line of duty, compensation shall be paid as provided in the In the
27 Line of Duty Compensation Act to recognize the ultimate sacrifice made by
28 such law enforcement officer or firefighter.

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

31 (a) For deaths occurring during calendar year 2020, the amount of

1 such compensation shall be fifty thousand dollars; and

2 (b) For deaths occurring in calendar year 2021 and each calendar
3 year thereafter, the amount of such compensation shall be equal to the
4 compensation amount from the previous calendar year increased by the
5 percentage increase, if any, in the Consumer Price Index for All Urban
6 Consumers, as published by the United States Department of Labor, Bureau
7 of Labor Statistics, for the twelve months ending on June 30 of such
8 previous calendar year.

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

11 (a) If the law enforcement officer or firefighter designated a
12 person to receive the compensation, the compensation shall be paid to the
13 designated person;

14 (b) If no person is designated by the law enforcement officer or
15 firefighter or if the designated person is not alive at the death of the
16 law enforcement officer or firefighter, the compensation shall be paid in
17 accordance with a legally binding will left by the law enforcement
18 officer or firefighter; or

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

21 (i) If there is a surviving spouse of the law enforcement officer or
22 firefighter, the entire sum shall be paid to the surviving spouse;

23 (ii) If there is no surviving spouse but there is a surviving
24 descendant of the law enforcement officer or firefighter, the entire sum
25 shall be paid to the law enforcement officer's or firefighter's
26 descendants per stirpes;

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

1 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 law
4 enforcement officer or firefighter or a descendant of a brother or sister
5 who was receiving his or her principal support from the law enforcement
6 officer or firefighter at the law enforcement officer's or firefighter's
7 death, the entire sum shall be paid to the dependent brother or sister or
8 dependent descendant of a brother or sister. If multiple persons would
9 qualify under this subdivision, the entire sum shall be paid in equal
10 parts to those who qualify.

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

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

16 Sec. 4. (1) To receive compensation under the In the Line of Duty
17 Compensation Act, a claim for the compensation must be filed with the
18 Risk Manager within one year after the date of death of the law
19 enforcement officer or firefighter who was killed in the line of duty.
20 Such claim shall be on a form prescribed by the Risk Manager and shall
21 include:

22 (a) The name, address, and title or position of the law enforcement
23 officer or firefighter who was killed in the line of duty;

24 (b) The name and address of the person or persons designated by the
25 law enforcement officer or firefighter to receive the compensation and,
26 if more than one, the percentage or share to be paid to each such person.
27 If there has been no such designation, the application shall include the
28 name and address of the person or persons to whom compensation is payable
29 under section 3 of this act;

30 (c) A full, factual account of the circumstances resulting in or the
31 course of events causing the death of the law enforcement officer or

1 firefighter; and

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

3 (2) The Risk Manager shall send written notice to all claimants
4 within two weeks after the initiation of a claim indicating whether or
5 not the claim is complete. For purposes of this subsection, a claim is
6 complete if a claimant has submitted to the Risk Manager all documents
7 and information required under subsection (1) of this section. If a claim
8 is incomplete, the Risk Manager shall include in the written notice a
9 list of the documents or information which the claimant must submit in
10 order for the claim to be complete. If a claim is complete, the State
11 Claims Board shall make an investigation of the claim in the manner
12 provided in the State Miscellaneous Claims Act. Upon completion of such
13 investigation, and no later than forty-five days after receipt of a
14 complete claim, the State Claims Board shall approve or deny such claim
15 in accordance with section 81-8,300 and the Risk Manager shall send
16 written notice to the claimant stating whether the claim has been
17 approved or denied. If a claim is denied, the notice shall include the
18 reason or reasons for the denial. If a claimant is dissatisfied with a
19 denial, he or she may file an application for review with the Risk
20 Manager in accordance with subsection (2) of section 81-8,300. If a claim
21 is approved, compensation shall be paid to the claimants entitled to such
22 compensation in accordance with subsection (3) of section 81-8,300.

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

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

27 81-8,297 The State Claims Board shall have the power and authority
28 to receive, investigate, and otherwise carry out its duties with regard
29 to (1) all claims under the State Miscellaneous Claims Act, (2) all
30 claims under sections 25-1802 to 25-1807, (3) all claims under the State
31 Contract Claims Act, (4) all claims under the In the Line of Duty

1 Compensation Act, (5) all requests on behalf of any department, board, or
2 commission of the state for waiver or cancellation of money or charges
3 when necessary for fiscal or accounting procedures, and (6) ~~(5)~~ all
4 claims filed under section 66-1531. All such claims or requests and
5 supporting documents shall be filed with the Risk Manager and shall be
6 designated by number, name of claimant as requester, and short title.
7 Nothing in this section shall be construed to be a waiver of the
8 sovereign immunity of the state beyond what is otherwise provided by law.

9 The board shall adopt and promulgate such rules and regulations as
10 are necessary to carry out the powers granted in this section. The
11 Attorney General shall be the legal advisor to the board for purposes of
12 this section and may authorize the assistant attorney general in charge
13 of the Claims Division to perform any of his or her duties under this
14 section.

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

17 81-8,299 The State Claims Board shall, for the purposes contemplated
18 by the In the Line of Duty Compensation Act, State Contract Claims Act,
19 the State Miscellaneous Claims Act, and sections 25-1802 to 25-1807 and
20 66-1531, have the right, power, and duty to (1) administer oaths, (2)
21 compel the attendance of witnesses and the production of books, papers,
22 and documents and issue subpoenas for such purposes, and (3) punish the
23 disobedience of such a subpoena or subpoenas, the refusal of a witness to
24 be sworn or testify, or the failure to produce books, papers, and
25 documents, as required by such subpoena or subpoenas so issued, as
26 contempt, in the same manner as are officers who are authorized to take
27 depositions.

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

30 81-8,300.01 Claims described in subdivision (4) of section 81-8,297
31 shall be forever barred unless the claim is filed with the Risk Manager

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

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

10 81-8,301 Any award made under the In the Line of Duty Compensation
11 Act, the State Contract Claims Act, the State Miscellaneous Claims Act,
12 or section 25-1806 or 66-1531 and accepted by the claimant shall be final
13 and conclusive on all officers of the State of Nebraska except when
14 procured by means of fraud. The acceptance by the claimant of such award
15 shall be final and conclusive on the claimant and shall constitute a
16 complete release by the claimant of any claim against the state and
17 against the employee of the state whose act or omission gave rise to the
18 claim by reason of the same subject matter.

19 Sec. 10. This act becomes operative on January 1, 2020.

20 Sec. 11. Original sections 81-8,297, 81-8,299, 81-8,300.01, and
21 81-8,301, Reissue Revised Statutes of Nebraska, are repealed.