

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 178

Introduced by Hilgers, 21.

Read first time January 11, 2019

Committee:

1 A BILL FOR AN ACT relating to state government; to amend sections 48-193,
2 48-194, 48-195, 48-196, 48-197, 48-1,108, 81-8,224, 81-8,239.02, and
3 81-1021, Reissue Revised Statutes of Nebraska; to change provisions
4 relating to workers' compensation claims and tort claims against the
5 state, the State Self-Insured Liability Fund, and state vehicles; to
6 harmonize provisions; and to repeal the original sections.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 48-193, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 48-193 For purposes of sections 48-192 to 48-1,109, unless the
4 context otherwise requires:

5 (1) State agency shall include all departments, agencies, boards,
6 courts, bureaus, and commissions of the State of Nebraska and
7 corporations the primary function of which is to act as, and while acting
8 as, instrumentalities or agencies of the State of Nebraska, including the
9 University of Nebraska and the state colleges, but shall not include
10 corporations that are essentially private corporations or entities
11 created pursuant to the Interlocal Cooperation Act or the Joint Public
12 Agency Act. State agency shall not be construed to include any contractor
13 with the State of Nebraska except and unless such contractor comes within
14 the provisions of section 48-116;

15 ~~(2) State Claims Board shall mean the board created by section~~
16 ~~81-8,220;~~

17 ~~(2)~~ (3) Employee of the state shall mean any one or more officers or
18 employees of the state or any state agency and shall include duly
19 appointed members of boards or commissions when they are acting in their
20 official capacity. State employee shall not be construed to include any
21 employee of an entity created pursuant to the Interlocal Cooperation Act
22 or the Joint Public Agency Act or any contractor with the State of
23 Nebraska unless such contractor comes within the provisions of section
24 48-116;

25 ~~(3)~~ (4) Workers' compensation claim shall mean any claim against the
26 State of Nebraska arising under the Nebraska Workers' Compensation Act;
27 and

28 ~~(4)~~ (5) Award shall mean any amount determined by the Risk Manager
29 and the Attorney General ~~State Claims Board~~ to be payable to a claimant
30 under sections 48-192 to 48-1,109 or the amount of any compromise or
31 settlement under such sections.

1 Sec. 2. Section 48-194, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 48-194 The Risk Manager, ~~on behalf of the State Claims Board and~~
4 with the advice of the Attorney General, shall have the authority to pay
5 claims of all workers' compensation benefits when liability is
6 undisputed. In any claims when liability or the amount of liability is
7 disputed by the Attorney General, authority is hereby conferred upon the
8 Attorney General to consider, ascertain, adjust, determine, and allow any
9 workers' compensation claim. If any such claim is compromised or settled,
10 the approval of the claimant, the Risk Manager ~~State Claims Board~~, and
11 the Attorney General shall be required and such settlements also shall be
12 approved by the Nebraska Workers' Compensation Court following the
13 procedure in the Nebraska Workers' Compensation Act.

14 Sec. 3. Section 48-195, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 48-195 The risk management and state claims division of the
17 Department of Administrative Services ~~may State Claims Board~~ shall,
18 pursuant to the Administrative Procedure Act, adopt and promulgate such
19 rules and regulations as are necessary to carry out sections 48-192 to
20 48-1,109.

21 Sec. 4. Section 48-196, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 48-196 The Risk Manager ~~State Claims Board~~ may delegate to a state
24 agency the handling of workers' compensation claims of employees of that
25 agency, under the supervision and direction of the Attorney General.

26 Sec. 5. Section 48-197, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 48-197 All claims under sections 48-192 to 48-1,109 shall be filed
29 with the Risk Manager. The Risk Manager shall immediately advise the
30 Attorney General of the filing of any claim. It shall be the duty of the
31 Attorney General to cause a complete investigation to be made of all such

1 claims. Whenever any state agency receives notice or has knowledge of any
2 alleged injury under the Nebraska Workers' Compensation Act, such state
3 agency shall immediately file a first report of such alleged injury with
4 the Nebraska Workers' Compensation Court and the Risk Manager and shall
5 file such other forms as may be required by such court or the Risk
6 Manager board.

7 Sec. 6. Section 48-1,108, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 48-1,108 Whenever a claim or suit against the state is covered by
10 workers' compensation insurance, the provisions of the insurance policy
11 on defense and settlement shall be applicable notwithstanding any
12 inconsistent provisions of sections 48-192 to 48-1,109. The Attorney
13 General and the Risk Manager State Claims Board shall cooperate with the
14 insurance company.

15 Sec. 7. Section 81-8,224, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 81-8,224 (1) Any award to a claimant and any judgment in favor of a
18 claimant under the State Tort Claims Act shall be certified by the Risk
19 Manager or State Claims Board to the Director of Administrative Services
20 who shall promptly issue a warrant for payment of such award or judgment
21 out of the Tort Claims Fund or State Insurance Fund, as appropriate, if
22 sufficient money is available in the fund, except that no portion in
23 excess of fifty thousand dollars of any award or judgment shall be paid
24 until such award or judgment has been reviewed by the Legislature and
25 specific appropriation made therefor. All awards and judgments which
26 arise out of the same facts and circumstances shall be reported to the
27 Legislature if the aggregated amount exceeds fifty thousand dollars
28 ~~aggregated for the purpose of determining whether such awards and~~
29 ~~judgments shall be reviewed by the Legislature and specific appropriation~~
30 ~~made therefor.~~

31 (2) Any award, judgment, or associated costs on a claim which is

1 covered by liability insurance or by group self-insurance, the amount of
2 which falls within the applicable policy's self-insured retention, shall
3 be paid from the State Insurance Fund.

4 (3) Delivery of any warrant in satisfaction of an award or judgment
5 shall be made only upon receipt of a written release by the claimant in a
6 form approved by the State Claims Board.

7 Sec. 8. Section 81-8,239.02, Reissue Revised Statutes of Nebraska,
8 is amended to read:

9 81-8,239.02 The following separate permanent revolving funds are
10 established in the state treasury for use under the Risk Management
11 Program according to the purposes for which each fund is established:

12 (1) The State Insurance Fund is hereby created for the purpose of
13 purchasing insurance to cover property, fidelity, and liability risks of
14 the state and workers' compensation claims against the state and other
15 risks to which the state or its agencies, officials, or employees are
16 exposed and for paying related expenses, including the costs of
17 administering the Risk Management Program. The fund may receive deposits
18 from assessments against state agencies to provide insurance coverage as
19 directed by the Risk Manager. The Risk Manager may retain in the fund
20 sufficient money to pay for any deductibles, self-insured retentions, or
21 copayments as may be required by such insurance policies and Risk
22 Management Program expenses;

23 (2) The State Self-Insured Property Fund is hereby created for the
24 purpose of replacing, repairing, or rebuilding state property which has
25 incurred damage or is suffering other loss not fully covered by insurance
26 and for paying related expenses. The fund may receive deposits from
27 assessments against state agencies to provide property coverage as
28 directed by the Risk Manager. The Risk Manager may assess state agencies
29 to provide self-insured property coverage;

30 (3) The State Self-Insured Indemnification Fund is hereby created
31 for the purpose of paying indemnification claims under section

1 81-8,239.05. Indemnification claims shall include payments for awards,
2 settlements, and associated costs, including appeal bonds and reasonable
3 costs associated with a required appearance before any tribunal. The fund
4 may receive deposits from assessments against state agencies to pay for
5 the costs associated with providing and supporting indemnification
6 claims. The creation of this fund shall not be interpreted as expanding
7 the liability exposure of the state or its agencies, officials, or
8 employees; and

9 (4) The State Self-Insured Liability Fund is hereby created for the
10 purpose of paying compensable liability and fidelity claims against the
11 state or its agencies, officials, or employees which are not fully
12 covered by insurance and for which there is insufficient agency funding
13 and for which a legislative appropriation is made under ~~the provisions of~~
14 section 81-8,239.11. The fund may be used to pay claims against the state
15 or its agencies, officials, or employees for which there is a specific
16 provision of law for the resolution of such claim but which are not
17 otherwise payable from the State Insurance Fund, State Self-Insured
18 Property Fund, State Self-Insured Indemnification Fund, Workers'
19 Compensation Claims Revolving Fund, or Tort Claims Fund. Such claims
20 shall include payments for awards, settlements, and associated costs,
21 including appeal bonds and reasonable costs associated with a required
22 appearance before any tribunal. The creation of this fund shall not be
23 interpreted as expanding the liability exposure of the state or its
24 agencies, officials, or employees. The Risk Manager shall report
25 electronically all claims and judgments paid from the State Self-Insured
26 Liability Fund to the Clerk of the Legislature annually. The report shall
27 include the name of the claimant, the amount claimed and paid, and a
28 brief description of the claim, including any agency, program, and
29 activity under which the claim arose. Any member of the Legislature may
30 receive an electronic copy of the report by making a request to the Risk
31 Manager.

1 Sec. 9. Section 81-1021, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 81-1021 (1) All motor vehicles acquired by the State of Nebraska
4 except any vehicle rented as a bureau fleet vehicle shall be indelibly
5 and conspicuously lettered, in plain letters of a contrasting color or
6 reflective material:

7 (a) On each side thereof with the words State of Nebraska and
8 following such words the name of whatever board, department, bureau,
9 division, institution, including the University of Nebraska or state
10 college, office, or other state expending agency of the state to which
11 the motor vehicle belongs; and

12 (b) On the back thereof with the words State of Nebraska.

13 (2) This section shall not apply to motor vehicles used or
14 controlled by:

15 (a) The Nebraska State Patrol, the Public Service Commission, the
16 Game and Parks Commission, deputy state sheriffs employed by the Nebraska
17 Brand Committee and State Fire Marshal for state law enforcement
18 purposes, inspectors employed by the Nebraska Liquor Control Commission,
19 and persons employed by the Tax Commissioner for state revenue
20 enforcement purposes, the exemption for state law enforcement purposes
21 and state revenue enforcement purposes being confined strictly to the
22 seven agencies specifically named;

23 (b) The Department of Health and Human Services or the Department of
24 Correctional Services for the purpose of apprehending and returning
25 escaped offenders or parole violators to facilities in the Department of
26 Correctional Services and transporting offenders and personnel of the
27 Department of Correctional Services and patients and personnel of the
28 Department of Health and Human Services who are engaged in off-campus
29 program activities;

30 (c) The Military Department;

31 (d) Vocational rehabilitation counselors and the Department of

1 Health and Human Services for the purposes of communicable disease
2 control, for the prevention and control of those communicable diseases
3 which endanger the public health, or used by the Department of Health and
4 Human Services in the enforcement of drug control laws or for other
5 investigation purposes;

6 (e) The Department of Agriculture for special investigative
7 purposes;

8 (f) The Nebraska Motor Vehicle Industry Licensing Board for
9 investigative purposes;~~and~~

10 (g) The Insurance Fraud Prevention Division of the Department of
11 Insurance for investigative purposes; and -

12 (h) The Department of Justice.

13 Sec. 10. Original sections 48-193, 48-194, 48-195, 48-196, 48-197,
14 48-1,108, 81-8,224, 81-8,239.02, and 81-1021, Reissue Revised Statutes of
15 Nebraska, are repealed.