

## LEGISLATIVE BILL 853

Approved by the Governor May 27, 1997

Introduced by Will, 8; Hilgert, 7; Abboud, 12

AN ACT relating to workers' compensation; to amend sections 48-122 and 48-159, Reissue Revised Statutes of Nebraska; to change burial compensation; to change judges' salaries; and to repeal the original sections.  
Be it enacted by the people of the State of Nebraska,

Section 1. Section 48-122, Reissue Revised Statutes of Nebraska, is amended to read:

48-122. (1) If death results from injuries and the deceased employee leaves one or more dependents dependent upon his or her earnings for support at the time of injury, the compensation, subject to section 48-123, shall be not more than the maximum weekly income benefit specified in section 48-121.01 nor less than the minimum weekly income benefit specified in section 48-121.01; PROVIDED, that if at the time of injury the employee receives wages of less than the minimum weekly income benefit specified in section 48-121.01, then the compensation shall be the full amount of such wages per week, payable in the amount and to the persons enumerated in section 48-122.01 subject to the maximum limits specified in this section and section 48-122.03.

(2) When death results from injuries suffered in employment, if immediately prior to the accident the rate of wages was fixed by the day or hour, or by the output of the employee, the weekly wages shall be taken to be computed upon the basis of a workweek of a minimum of five days, if the wages are paid by the day, or upon the basis of a workweek of a minimum of forty hours, if the wages are paid by the hour, or upon the basis of a workweek of a minimum of five days or forty hours, whichever results in the higher weekly wage, if the wages are based on the output of the employee.

(3) Upon the death of an employee, resulting through personal injuries as herein defined, whether or not there be dependents entitled to compensation, the reasonable expenses of burial, not exceeding two thousand six thousand dollars, without deduction of any amount previously paid or to be paid for compensation or for medical expenses, shall be paid to his or her dependents, or if there be no dependents, then to his or her personal representative.

(4) Compensation under the Nebraska Workers' Compensation Act to alien dependents who are not residents of the United States shall be the same in amount as is provided in each case for residents, except that at any time within one year after the death of the injured employee the employer may at his or her option commute all future installments of compensation to be paid to such alien dependents. The amount of the commuted payment shall be determined as provided in section 48-138.

(5) The consul general, consul, vice consul general, or vice consul of the nation of which the employee, whose injury results in death, is a citizen, or the representative of such consul general, consul, vice consul general, or vice consul residing within the State of Nebraska shall be regarded as the sole legal representative of any alien dependents of the employee residing outside of the United States and representing the nationality of the employee. Such consular officer, or his or her representative, residing in the State of Nebraska, shall have in behalf of such nonresident dependents, the exclusive right to adjust and settle all claims for compensation provided by the Nebraska Workers' Compensation Act, and to receive the distribution to such nonresident alien dependents of all compensation arising thereunder.

Sec. 2. Section 48-159, Reissue Revised Statutes of Nebraska, is amended to read:

48-159. (1) As soon as the same may be legally paid under the Constitution of Nebraska, each judge of the Nebraska Workers' Compensation Court shall receive an annual salary of ninety-two and one-half percent of the salary set for the Chief Justice and judges of the Supreme Court, thirty-seven thousand fifty dollars, payable in the same manner as the salaries of other state officers are paid. On January 1, 1981, the salary shall be increased to an amount equal to six percent over the base salary. For the purposes of this section, base salary shall mean the amount derived by increasing thirty-six thousand nine hundred fifty dollars by six percent. On January 6, 1983, and thereafter the salary paid shall be an amount equal to Such salary is an increase from the salary of eighty-five percent of the salary set for the Chief Justice and judges of the Supreme Court which such judges have received

on and after January 6, 1983. The clerk and all other assistants and employees of the compensation court shall receive such salaries as the compensation court shall determine, but not to exceed the amount of the appropriation made by the Legislature for such purpose. Such salaries shall be payable in the same manner as the salaries of other state employees are paid. Such assistants and employees shall not receive any other salary or pay for their services from any other source.

(2) In addition to the salaries, as provided by subsection (1) of this section, the judges of the Nebraska Workers' Compensation Court, the clerk, and other assistants and employees of the compensation court shall be entitled, while traveling on the business of the compensation court, to be reimbursed by the state for their necessary traveling expenses, consisting of transportation, subsistence, lodging, and such other items of expense as are necessary, to be paid as provided in sections 81-1174 to 81-1177, ~~for state employees.~~

Sec. 3. Original sections 48-122 and 48-159, Reissue Revised Statutes of Nebraska, are repealed.