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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 3416

03/21/2016 Authored by Howe
The bill was read for the first time and referred to the Veterans Affairs Division

1.1 A bill for an act
1.2 relating to military veterans; modifying Veterans Preference Act removal hearing
1.3 procedures; amending Minnesota Statutes 2015 Supplement, section 197.46.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. Minnesota Statutes 2015 Supplement, section 197.46, is amended to read:

1.6 **197.46 VETERANS PREFERENCE ACT; REMOVAL FORBIDDEN; RIGHT**
1.7 **OF MANDAMUS.**

1.8 (a) Any person whose rights may be in any way prejudiced contrary to any of the
1.9 provisions of this section, ~~shall be~~ is entitled to a writ of mandamus to remedy the wrong.
1.10 No person holding a position by appointment or employment in ~~the several counties~~ any
1.11 county, cities city, towns town, school districts and all district, or any other political
1.12 subdivisions subdivision in the state; who is a veteran separated from the military service
1.13 under honorable conditions, shall be removed from ~~such~~ the position or employment
1.14 except for incompetency or misconduct shown after a hearing, upon due notice, upon
1.15 stated charges, in writing.

1.16 (b) Any veteran who has been notified of the intent to discharge the veteran from an
1.17 appointed position or employment pursuant to this section shall be notified in writing of
1.18 ~~such~~ the intent to discharge and of the veteran's right to request a hearing within 60 days
1.19 of receipt of the notice of intent to discharge. The failure of a veteran to request a hearing
1.20 within the provided 60-day period ~~shall constitute~~ constitutes a waiver of the right to a
1.21 hearing. ~~Such~~ The failure ~~shall~~ waive waives all other available legal remedies for
1.22 reinstatement.

1.23 Request for a hearing concerning such a discharge shall be made in writing and
1.24 submitted by mail or personal service to the employment office of the concerned employer

2.1 or other appropriate office or person. If the veteran requests a hearing under this section,
 2.2 ~~such~~ the written request must also contain the veteran's election to be heard by a civil
 2.3 service board or commission, a merit authority, or a ~~three-person panel~~ board of three
 2.4 persons as defined in paragraph (c). If the veteran fails to identify the veteran's election,
 2.5 the governmental subdivision may select the hearing body.

2.6 (c) In all governmental subdivisions having an established civil service board or
 2.7 commission, or merit system authority, ~~such~~ the veteran may elect to have the hearing for
 2.8 removal or discharge ~~shall be held~~ before ~~such~~ the civil service board or commission or
 2.9 merit system authority, or before a board of three persons as specified in this paragraph.
 2.10 Where no ~~such~~ civil service board or commission or merit system authority exists, ~~such~~
 2.11 the hearing shall be held by a board of three persons appointed as follows: one by the
 2.12 governmental subdivision, one by the veteran, and the third by the two so selected. In the
 2.13 event that the hearing is authorized to be held before a ~~three-person~~ board of three persons,
 2.14 the governmental subdivision's notice of intent to discharge shall state that the veteran must
 2.15 respond within 60 days of receipt of the notice of intent to discharge, and provide in writing
 2.16 to the governmental subdivision the name, United States mailing address, and telephone
 2.17 number of the veteran's selected representative for the ~~three-person~~ board of three persons.
 2.18 The failure of a veteran to submit the name, address, and telephone number of the veteran's
 2.19 selected representative to the governmental subdivision by mail or by personal service
 2.20 within the provided notice's 60-day period, ~~shall constitute~~ constitutes a waiver of the
 2.21 veteran's right to the hearing and all other legal remedies available for reinstatement of the
 2.22 veteran's employment position. In the event the ~~two persons~~ person selected by the veteran
 2.23 and the person selected by the governmental subdivision do not appoint the third person
 2.24 within ten days after the appointment of the last of the two, then the judge of the district
 2.25 court of the county ~~wherein~~ where the proceeding is pending, or if there ~~be~~ is more than one
 2.26 judge in ~~said~~ the county then any judge in chambers, ~~shall have~~ has jurisdiction to appoint,
 2.27 ~~and the third person.~~ Upon application ~~of either or both of the two so selected~~ by the
 2.28 person selected by the governmental subdivision or by the person selected by the veteran,
 2.29 or upon application by both, the judge shall appoint; the third person to the board and the
 2.30 ~~person so appointed by the judge who~~ with the two first selected shall constitute the board.

2.31 (d) Either the veteran or the governmental subdivision may appeal from the decision
 2.32 of the ~~board~~ hearing body upon the charges to the district court by causing written notice
 2.33 of appeal, stating the grounds ~~thereof~~ of the appeal, to be served upon the other party
 2.34 within 15 days after notice of the decision and by filing the original notice of appeal
 2.35 with proof of service ~~thereof~~ in the office of the court administrator of the district court
 2.36 within ten days after service thereof. Nothing in section 197.455 or this section shall be

3.1 construed to apply to the position of private secretary, superintendent of schools, or one
3.2 chief deputy of any elected official or head of a department, or to any person holding a
3.3 strictly confidential relation to the appointing officer. Nothing in this section shall be
3.4 construed to apply to the position of teacher. The burden of establishing such relationship
3.5 shall be upon the appointing officer in all proceedings and actions relating thereto.

3.6 (e) For disputes heard by a civil service board, commission or merit system authority,
3.7 or by a board of three persons, the ~~political~~ governmental subdivisions shall bear all costs
3.8 associated with the hearing but not including attorney fees for attorneys representing the
3.9 veteran. ~~For disputes heard by a three-person panel, all parties shall bear equally all costs~~
3.10 ~~associated with the hearing, but not including attorney fees for attorneys representing the~~
3.11 ~~veteran.~~ If the veteran prevails in a dispute heard by a civil service board ~~or a three-person~~
3.12 ~~panel,~~ commission or merit system authority, or by a board of three persons and the hearing
3.13 ~~reverses all aspects of the level of the alleged incompetency or misconduct requiring~~
3.14 discharge, the governmental subdivision shall pay the veteran's reasonable attorney fees.

3.15 (f) All officers, boards, commissions, and employees shall conform to, comply with,
3.16 and aid in all proper ways in carrying into effect the provisions of section 197.455 and this
3.17 section notwithstanding any laws, charter provisions, ordinances or rules to the contrary.
3.18 Any willful violation of such sections by officers, officials, or employees is a misdemeanor.