

SENATE

STATE OF MINNESOTA

EIGHTY-NINTH SESSION

S.F. No. 1076

(SENATE AUTHORS: CARLSON and Saxhaug)

DATE	D-PG	OFFICIAL STATUS
02/23/2015	399	Introduction and first reading Referred to State and Local Government See SF888, Art. 3, Sec. 6

A bill for an act  
relating to veterans preference; modifying certain procedures and rights related  
to veterans preference; amending Minnesota Statutes 2014, section 197.46.  
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2014, section 197.46, is amended to read:

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

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

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

Request for a hearing concerning such a discharge shall be made in writing and  
submitted by mail or personal service to the employment office of the concerned employer  
or other appropriate office or person. If the veteran requests a hearing under this section,  
such written request must also contain the veteran's election to be heard by a civil service

board or commission, a merit authority, or a three-person panel as defined in paragraph (c). If the veteran fails to identify the veteran's election, the governmental subdivision may select the hearing body.

~~In all governmental subdivisions having an established civil service board or commission, or merit system authority, such hearing for removal or discharge shall be held before such civil service board or commission or merit system authority. Where no such civil service board or commission or merit system authority exists, such hearing shall be held by~~ (c) Hearings under this section shall be held by a civil service board or commission, a merit system authority, or a board of three persons appointed as follows: one by the governmental subdivision, one by the veteran, and the third by the two so selected. In the event that all governmental subdivisions having an established civil service board or commission or merit system authority, the veteran shall elect which body will hold the hearing. If the hearing is authorized to be veteran chooses to have the hearing held before a three-person board, ~~the governmental subdivision's notice of intent to discharge shall state that~~ the veteran must respond within 60 days of receipt of the notice of intent to discharge, and provide in writing to the governmental subdivision the name, United States mailing address, and telephone number of the veteran's selected representative for the three-person board. The failure of a veteran to submit the name, address, and telephone number of the veteran's selected representative to the governmental subdivision by mail or by personal service within the provided notice's 60-day period, shall constitute a waiver of the veteran's right to the hearing and all other legal remedies available for reinstatement of the veteran's employment position. In the event the two persons selected by the veteran and governmental subdivision do not appoint the third person within ten days after the appointment of the last of the two, then the judge of the district court of the county wherein the proceeding is pending, or if there be more than one judge in said county then any judge in chambers, shall have jurisdiction to appoint, and upon application of either or both of the two so selected shall appoint, the third person to the board and the person so appointed by the judge with the two first selected shall constitute the board.

(d) Either the veteran or the governmental subdivision may appeal from the decision of the board upon the charges to the district court by causing written notice of appeal, stating the grounds thereof, to be served upon the other party within 15 days after notice of the decision and by filing the original notice of appeal with proof of service thereof in the office of the court administrator of the district court within ten days after service thereof. Nothing in section 197.455 or this section shall be construed to apply to the position of private secretary, superintendent of schools, or one chief deputy of any elected official or head of a department, or to any person holding a strictly confidential relation to the

3.1 appointing officer. ~~Nothing in this section shall be construed to apply to the position of~~  
3.2 ~~teacher.~~ The burden of establishing such relationship shall be upon the appointing officer  
3.3 in all proceedings and actions relating thereto.

3.4 (e) The governmental subdivision shall bear all costs associated with the hearing,  
3.5 including the veteran's reasonable attorney fees.

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

3.10 **EFFECTIVE DATE.** This section is effective the day following final enactment  
3.11 and applies to all notices of intent to discharge issued on or after that day.