

the village council has by resolution determined to issue and deliver to the vendor of such utilities, to evidence the purchase price thereof, its electric and water certificates payable solely from the earnings of both such utilities, such contracts, resolutions, franchises, election and other proceedings, and the revenue certificates issued or to be issued in accordance therewith, are hereby in all things legalized, and such revenue certificates shall be valid and binding negotiable obligations of the village, but payable solely from the revenues of both such utilities.

Sec. 2. **Act remedial.**—It is hereby expressly found and determined that this act is remedial in nature.

Sec. 3. **Not to apply to pending actions.**—This act shall not apply to any action or proceeding now pending in any court.

Approved April 4, 1941.

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#### CHAPTER 120—H. F. No. 486

*An act relating to leave of absence for and reinstatement of public officers and employees serving in the military or naval forces of the state or the United States, repealing Mason's Supplement 1940, Section 2425.*

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Subdivision 1. **Leave of absence for state officers and employees—pay allowance while on leave.**—Subject to the conditions hereinafter prescribed, any officer or employee of the state or of any political subdivision, municipal corporation, or other public agency of the state who shall be a member of the national guard, the naval militia, or any other component of the militia of the state now or hereafter organized or constituted under state or federal law, or who shall be a member of the officers' reserve corps, the enlisted reserve corps, the naval reserve, the marine corps reserve, or any other reserve component of the military or naval forces of the United States now or hereafter organized or constituted under federal law, shall be entitled to leave of absence from his public office or employment without loss of pay, seniority status, efficiency rating, vacation, sick leave, or other benefits for all the time when he is engaged with such organization or component in training or active service ordered or authorized by proper authority pursuant to law, whether for state or federal purposes, but not exceeding a total of 15 days in any calendar year. Such leave shall be allowed only in case the required military or naval service is satisfactorily performed, which shall be

presumed unless the contrary is established. Such leave shall not be allowed unless the officer or employee (a) returns to his public position immediately on being relieved from such military or naval service and not later than the expiration of the time herein limited for such leave, or (b) is prevented from so returning by physical or mental disability or other cause not due to his own fault, or (c) is required by proper authority to continue in such military or naval service beyond the time herein limited for such leave.

**Subdivision 2. Not to receive pay for additional leave.**—In case any such officer or employee shall be required by proper authority to continue in such military or naval service beyond the time for which leave with pay is allowed, he shall be entitled to leave of absence from his public office or employment without pay for all such additional service, with right of reinstatement thereafter upon the same conditions as hereinafter provided for reinstatement after active service in time of war or other emergency.

**Sec. 2. Subdivision 1. Leave of absence without pay.**—Subject to the conditions hereinafter prescribed, any officer or employee of the state or of any political subdivision, municipal corporation, or other public agency of the state who engages in active service in time of war or other emergency declared by proper authority in any of the military or naval forces of the state or of the United States for which leave is not otherwise allowed by law shall be entitled to leave of absence from his public office or employment without pay during such service, with right of reinstatement as hereinafter provided. This shall not be construed to preclude the allowance of leave with pay for such service to any person entitled thereto under Section 1 of this act.

**Subdivision 2. Reinstatement.**—Except as otherwise hereinafter provided, upon the completion of such service such officer or employee shall be reinstated in the public position which he held at the time of entry into such service at the same salary which he would have received if he had not taken such leave, upon the following conditions: (1) that the position has not been abolished or that the term thereof, if limited, has not expired; (2) that he is not physically or mentally disabled from performing the duties of such position; (3) that he makes written application for reinstatement to the appointing authority within 45 days after termination of such service; (4) that he submits an honorable discharge or other form of release by proper authority indicating that his military or naval service was satisfactory. Upon such reinstatement the

officer or employee shall have the same rights with respect to accrued and future seniority status, efficiency rating, vacation, sick leave, and other benefits as if he had been actually employed during the time of such leave. No officer or employee so reinstated shall be removed or discharged within one year thereafter except for cause, after notice and hearing; but this shall not operate to extend a term of service limited by law.

**Subdivision 3. Shall file certificate.**—Any public officer elected or appointed for a definite term who, before the expiration of such term, returns from military or naval service under leave of absence without pay under this act, in lieu of making written application for reinstatement as hereinbefore provided, shall file in the same office where his official oath is filed within 45 days after termination of such military or naval service a verified certificate that he has complied with the conditions for reinstatement hereinbefore prescribed, and he shall thereupon be deemed to have resumed his office, with all the rights and privileges granted by this act; provided, that any false statement in such certificate shall be ground for his removal.

**Subdivision 4. Persons engaged in active service not disqualified for being candidate for public office.**—No person who is engaged in active service in any of the military or naval forces of the state or of the United States within or without the state shall thereby be disqualified from being a candidate for or from being elected or appointed to any public office within the state if he is otherwise eligible therefor. A person who is elected or appointed to any such office and who at the commencement of the term thereof is engaged in any such active military or naval service shall not thereby be disqualified from assuming and holding such office if he is otherwise eligible therefor and if his military or naval service is not constitutionally or legally incompatible therewith. Such person, if prevented by his military or naval duties from taking office in person, may file his oath of office, also his bond, if required, by mail or other means of transmittal, and shall thereupon be deemed to have assumed office, subject to all the provisions of this act, so far as applicable.

**Sec. 3. Officers and employees to preserve pension and retirement rights.**—Any public officer or employee receiving leave of absence under this act and having rights in any state, municipal, or other public pension, retirement, or relief system shall retain all such rights accrued up to the time of taking such leave, and shall have all rights subsequently accruing under such system as if he had been actually employed during

the time of such leave, provided, that so far as any increase in the amount of money benefits accruing with respect to the time of such leave is dependent upon the payment of any contributions or assessments, the right to such increase shall be conditioned upon the payment of such contributions or assessments within such reasonable time after the termination of such leave and upon such terms as the authorities in charge of such system may prescribe.

**Sec. 4. Vacancies to be filled temporarily.**—In any case where a public officer or employee is absent with leave under the provisions of this act and where it is necessary in the public interest to provide for the performance of the duties of his position during such absence, the authority having power to fill a vacancy in the position may appoint a substitute, to be known as acting incumbent, who shall qualify as required for the regular incumbent, shall receive the same compensation as fixed by law, otherwise such compensation as may be fixed by proper authority, and shall have all the powers and perform all the duties of the position until the return of the regular incumbent; provided, that this shall not preclude the making of any other provision for the discharge of the duties of the position which may be otherwise authorized by law.

**Sec. 5. Act to be supplementary.**—The rights and privileges granted by this act shall be supplementary to and not exclusive of any other rights or privileges conferred by law on public officers or employees, but shall not obtain in any case where the military or naval service is constitutionally or legally incompatible with the public office or employment.

**Sec. 6. Law repealed.**—Mason's Supplement 1940, Section 2425, is hereby repealed.

Approved April 4, 1941.

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#### CHAPTER 121—H. F. No. 561

*An act authorizing conveyance of the site of the present St. Cloud Armory to the City of St. Cloud.*

Be it enacted by the Legislature of the State of Minnesota:

**Section 1. Governor and State Auditor to convey property to the city of St. Cloud.**—The governor and the state auditor are hereby authorized and directed to convey by proper deed in the name of the state to the City of St. Cloud the site of the present armory in said city, such conveyance to be made