

HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. 2495

02/27/2012 Authored by Anderson, B., and Dettmer

The bill was read for the first time and referred to the Veterans Services Division

03/07/2012 Adoption of Report: Pass as Amended and Read Second Time

1.1 A bill for an act
1.2 relating to veterans; veterans preference; modifying appointment procedure for
1.3 removal hearing board; amending Minnesota Statutes 2010, section 197.46.

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

1.5 Section 1. Minnesota Statutes 2010, section 197.46, is amended to read:

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

1.8 Any person whose rights may be in any way prejudiced contrary to any of the
1.9 provisions of this section, shall be 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,
1.11 cities, towns, school districts and all other political subdivisions in the state, who is a
1.12 veteran separated from the military service under honorable conditions, shall be removed
1.13 from such position or employment except for incompetency or misconduct shown after a
1.14 hearing, upon due notice, upon stated charges, in writing.

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

1.21 Request for a hearing concerning such a discharge shall be made in writing and
1.22 submitted by mail or personal service to the employment office of the concerned employer
1.23 or other appropriate office or person.

2.1 In all governmental subdivisions having an established civil service board or
2.2 commission, or merit system authority, such hearing for removal or discharge shall be
2.3 held before such civil service board or commission or merit system authority. Where no
2.4 such civil service board or commission or merit system authority exists, such hearing
2.5 shall be held by a board of three persons appointed as follows: one by the governmental
2.6 subdivision, one by the veteran, and the third by the two so selected. In the event that
2.7 the hearing is authorized to be held before a three-person board, the governmental
2.8 subdivision's notice of intent to discharge shall state that the veteran must respond within
2.9 60 days of receipt of the notice of intent to discharge, and provide in writing to the
2.10 governmental subdivision the name, United States mailing address, and telephone number
2.11 of the veteran's selected representative for the three-person board. The failure of a veteran
2.12 to submit the name, address, and telephone number of the veteran's selected representative
2.13 to the governmental subdivision by mail or by personal service within the provided
2.14 notice's 60-day period, shall constitute a waiver of the veteran's right to the hearing and all
2.15 other legal remedies available for reinstatement of the veteran's employment position. In
2.16 the event the two persons so selected by the veteran and governmental subdivision do not
2.17 appoint the third person within ten days after the appointment of the last of the two, then
2.18 the judge of the district court of the county wherein the proceeding is pending, or if there
2.19 be more than one judge in said county then any judge in chambers, shall have jurisdiction
2.20 to appoint, and upon application of either or both of the two so selected shall appoint, the
2.21 third person to the board and the person so appointed by the judge with the two first
2.22 selected shall constitute the board. The veteran Either the veteran or the governmental
2.23 subdivision may appeal from the decision of the board upon the charges to the district
2.24 court by causing written notice of appeal, stating the grounds thereof, to be served upon
2.25 the governmental subdivision or officer making the charges other party within 15 days
2.26 after notice of the decision and by filing the original notice of appeal with proof of service
2.27 thereof in the office of the court administrator of the district court within ten days after
2.28 service thereof. Nothing in section 197.455 or this section shall be construed to apply to
2.29 the position of private secretary, superintendent of schools, or one chief deputy of any
2.30 elected official or head of a department, or to any person holding a strictly confidential
2.31 relation to the appointing officer. Nothing in this section shall be construed to apply to
2.32 the position of teacher. The burden of establishing such relationship shall be upon the
2.33 appointing officer in all proceedings and actions relating thereto.

2.34 All officers, boards, commissions, and employees shall conform to, comply with,
2.35 and aid in all proper ways in carrying into effect the provisions of section 197.455 and this

- 3.1 section notwithstanding any laws, charter provisions, ordinances or rules to the contrary.
- 3.2 Any willful violation of such sections by officers, officials, or employees is a misdemeanor.