

CHAPTER 197

VETERANS REWARDS AND PRIVILEGES

197.01 FUNDS COLLECTED FROM UNITED STATES.

While in service a resident of New York married a Minneapolis girl, and on being discharged made Minneapolis his home. He is entitled to relief from state soldiers' welfare fund and soldiers' welfare emergency fund. OAG April 26, 1945 (310-s).

197.02 FUNDS USED FOR CARE AND MAINTENANCE OF DISABLED SOLDIERS.

In awaiting state aid to a needy veteran the fact that he will in the future receive disability compensation from the federal government may be considered as to amount of aid, but does not prohibit the commissioner from extending the aid necessary. OAG Oct. 31, 1945 (310-S).

197.05 ADJUTANT GENERAL TO EXPEND FUND.

Only war veterans are entitled to the benefits provided by L. 1923, c. 436, as amended, and that construction applies to L. 1943, c. 420, s. 5, subd. 8. 1944 OAG 164, Aug. 14, 1944 (310-S).

If a veteran is qualified under section 197.05 and is a resident and is in need, he may receive aid from the state soldiers welfare fund, or out of moneys appropriated for soldiers welfare emergency relief fund. OAG April 26, 1945 (310-S).

197.09 EDUCATION OF CHILDREN OF SOLDIERS KILLED IN WORLD WAR; APPROPRIATION.

Amended by L. 1947 c. 176 s. 4.

197.11 LIMITATION ON PAYMENTS.

Amended by L. 1947 c. 176 s. 5.

197.13 LAND SECURED FOR RECREATION CAMPS FOR DISABLED SOLDIERS.

Amended by L. 1947 c. 72 s. 1.

197.14 BOARD OF GOVERNORS OF RECREATION AND RECOVERY CAMPS CREATED; MEMBERSHIP.

Amended by L. 1947 c. 72 s. 2.

197.15 POWERS AND DUTIES OF BOARD OF GOVERNORS.

Amended by L. 1947 c. 72 s. 3.

197.16 COMMISSIONER TO MANAGE APPROPRIATIONS.

Amended by L. 1947 c. 72 s. 4.

197.21 HEADSTONES.

Amended by L. 1947 c. 171 s. 1.

MINNESOTA STATUTES 1947 ANNOTATIONS

197.31 VETERANS REWARDS AND PRIVILEGES

488

After a headstone is once set, there is no authority permitting the state to repair or re-set the stone. OAG June 7, 1945 (310-d).

No statutory authority exists permitting payment by the state of the cost of reconditioning a veteran's grave, or of paying the cost of more than one headstone. OAG June 7, 1945 (310-D).

197.31 DEFINITIONS.

The bonus law enacted Ex. L. 1919, c. 49, amended by L. 1921, c. 471, does not authorize payment of a bonus to a resident of this state who served in the army of an associate power during World War I, and who did not serve with the armed forces of the United States. In re Syck, 152 M 55, 187 NW 709.

The bonus act Ex. L. 1919, c. 49, amended by L. 1921, c. 471, denies additional compensation to any who sought to avoid service upon the ground of alienage even though he was inducted and served in the armed forces and performed honorable service. One who was an alien of a neutral country was not affected by the act. In re Rydiger, 152 M 255, 188 NW 557.

197.32 SOLDIER'S BONUS.

Ex. L. 1919, c. 49, amended by L. 1921, c. 471, was constitutional and the debt created was a direct obligation of the state. Gustafson v Rhinow, 144 M 415, 175 NW 903.

Persons deemed within the benefits of the bonus act. State v Bonus Board, 156 M 138, 194 NW 325; State v Bonus Board 156 M 142, 194 NW 320.

197.42 PENSIONS FOR INDIAN WAR VETERANS.

Pension allowable under section 197.42 is payable to the administrator of decedent's estate as at the death of the decedent. OAG Sept. 7, 1943 (2-B).

Distribution of funds should be distributed or pro rated in strict compliance with the provisions of the statute. OAG February 2, 1945 (310-S).

OTHER PROVISIONS RELATING TO VETERANS

197.45 PREFERENCE TO WAR VETERANS IN PUBLIC APPOINTMENTS.

The veterans preference law does not prevent a village council from in good faith abolishing an office or position it has the power to create. State ex rel v Thomas, 223 M 435, 27 NW(2d) 156.

The position of attorney of a school district is not within the provisions of the act. 1944 OAG 163, June 12, 1943 (85-F).

The widow of a deceased veteran, or the spouse of a veteran who, because of a physical disability, cannot qualify for a position, may take the civil service examination, and if a passing mark is attained such spouse has the same preference rights as her husband would have had, had he not, by reason of death or physical position, been incapable of performing duties of the position for which the examination was held. 1944 OAG 160, Aug. 17, 1943 (85-A).

A veteran appointed from an eligible register established by the Minnesota county welfare system is not subject to a probationary period. He is a permanent employee from the date of his employment. 1944 OAG 162, Nov. 16, 1944 (85-C).

Instances defining soldiers preference rights. OAG April 27, 1945 (310); OAG May 9, 1945 (85); OAG May 10, 1945 (310); OAG July 12, 1945 (644g).

The veterans preference act applies to employees under sections 471.15 to 471.19. OAG Feb. 11, 1946 (85-9a).

The veterans preference law as amended by L. 1943, c. 230, gives preference to a veteran applicant for the position of school garage foreman. OAG July 22, 1946 (85-F).

MINNESOTA STATUTES 1947 ANNOTATIONS

489

VETERANS REWARDS AND PRIVILEGES 197.47

If the contract for the transportation of school children under section 125.06 creates the relationship of employer and employee, section 197.45 applies; but if the contract is between the school board and an independent contractor, section 197.45 does not apply. OAG Sept. 25, 1946 (85-F).

Soldiers preference law does not apply to position of teacher. OAG Oct. 3, 1946 (85-F).

The burden of establishing relationships of the employee which exempt from the preference to veterans in appointment to public employment rests upon the appointing officer. The office of school physician apparently does not come within the list of offices exempt from the veterans preference act. OAG Nov. 25, 1946 (85-F).

If the fire chief of the city of Albert Lea is deemed the "head of the department" the appointment to that office is not affected by section 197.45 et seq, but is so affected if he is not the head of his department. The same rule applies to fire captain. OAG Dec. 3, 1946 (85a-).

A veteran has preference in employment by a school district of a chief engineer and head custodian of building and grounds over other applicants provided the veteran has qualifications to enable him to capably perform the duties of the position in an efficient manner. He has the preference although someone else might exceed him. OAG March 17, 1947 (85-f).

Authority to make permanent appointments based on examinations given during suspension period prescribed by L. 1945, c. 585, is subject to the preference to veterans in employment, appointments, and promotion. OAG July 10, 1947 (120).

Veterans' employment rights. 31 MLR 190.

197.46 REMOVAL FORBIDDEN; RIGHT OF MANDAMUS; CERTIORARI; BURDEN OF PROOF.

See notes under section 197.45.

The civil service act, L. 1939, c. 441, which superseded the former veterans preference law, gave a veteran employee a civil service status without a probation period if on the effective date of the act he was a state employee. *Butters v Elston*, 214 M 205, 7 NW(2d) 750.

Under veterans preference act, a sprinkler's helper employed on a five-day-week basis has no preferential rights over other veterans employed in the same position on a two-day-week basis. *State ex rel v Village of Hibbing*, 217 M 342, 14 NW(2d) 343.

Specific cases relating to application of this section. OAG March 3, 1945 (308a); OAG May 24, 1945 (85a).

Where veteran servant of a school district was suspended pending hearing, and the complaint was not sustained, the maximum damage recoverable by him would be the payment of wages that would have accrued to him had he remained in the employment of the district. OAG Jan. 28, 1946 (161-B-4).

Repair crews, bus drivers, janitors and similar employed by school board, and qualified as veterans may claim the preference allowed under sections 197.45 and 197.46. OAG July 22, 1946 (85-F).

The provisions of L. 1945, c. 585, are not rendered inoperative by the return of all employees of the police department who were on military leave. OAG Aug. 26, 1946 (120).

197.47 VETERANS' PREFERENCE ACT.

Justification for discharge. *State ex rel v Twigg*, 203 M 74, 279 NW 828.

Effect of civil service act upon veterans employed under veterans service act. *State ex rel v Stassen*, 208 M 523, 294 NW 647.

A rubbish hauler who hauled rubbish from defendants' three stores at an agreed price in his own truck, although defendants furnished certain equipment for

the removal of the rubbish and at times directed doing of the work, was not an "independent contractor," but held a "position" with defendants within the re-employment provisions of the federal selective service act. *Karas v Klein*, 70 F. Supp. 469.

197.48 APPLICATION.

One effect of the enactment of the civil service act was to take away from one claiming rights under the veterans preference act the remedy of mandamus. *State ex rel v Railroad & Warehouse Commission*, 209 M 530, 296 NW 906.

A veteran appointed from an eligible register established by the Minnesota county welfare system is not subject to a probationary period. He is a permanent employee from the date of his appointment. 1944 OAG 162, Nov. 16, 1944 (85-C).

197.55 QUARTERS FOR MEETINGS OF GRAND ARMY AND OTHER ORGANIZATIONS.

Section 197.55 relates to buildings owned by the state and counties and municipalities generally, but a municipality has no power to rent a building for the use of a veterans organization. OAG Nov. 19, 1945 (310-S); OAG Dec. 7, 1945 (469C-7).

197.59 EXEMPTION FROM LICENSE FEE; VETERANS; REGULATIONS.

Amended by L. 1947 c. 170 s. 1.

Although a veteran may receive a hawker's license without payment therefor he must observe the provisions of section 329.11, and of any ordinance regulating the business of transient merchants. OAG Aug. 21, 1946 (290-J-10).

197.60 VETERANS SERVICE OFFICERS; APPOINTMENT; COMPENSATION.

Subd. 1. Amended by L. 1947 c. 408 s. 1.

The municipal service officer, paid wholly by the municipality, is under the supervision of the county service officer. OAG June 3, 1946 (104-B-15).

Counties have only such powers as are expressly granted or may be fairly implied from express grants of power. No authority has been granted which would authorize the payment of mileage to veterans service officers. OAG March 6, 1947 (104-b-15).

L. 1947, c. 408, authorizes county boards to reimburse veterans service officers for mileage and traveling expense incurred in the performance of their duties. OAG April 22, 1947 (104-B-15).

197.604 UNLAWFUL TO PAY FEE.

Veteran's service officer must be paid on basis of annual salary and semi-monthly. He may not be paid on a fee basis. OAG October 5, 1945 (104-B-15).

197.607 TEMPORARY EMPLOYEE.

Limitation on employment of a temporary service officer. OAG April 25, 1945 (310-S).

197.63 CERTIFIED COPIES OF VITAL STATISTICS RECORDS.

Amended by L. 1947 c. 169 s. 1.

Under the canon of construction, unless such a construction is inconsistent with the manifest intent of the legislature, it is recognized that the singular includes the plural, so L. 1947, c. 169, providing that a veteran may have "a certified copy" of his discharge furnished him free permits a plural number of requests. OAG May 20, 1947 (310).

MINNESOTA STATUTES 1947 ANNOTATIONS

491

VETERANS REWARDS AND PRIVILEGES 197.75

197.74 FUND, HOW EXPENDED.

Amended by L. 1947 c. 176 s. 1.

Effect of receipt of mustering out pay as to application of this section. OAG May 17, 1945 (310-s).

One entitled to benefits under L. 1943, c. 663, need not reside in Minnesota at the time of the payment. OAG Feb. 11, 1946 (310-S).

Student activity fees may be paid to state teachers colleges in accordance with provisions of section 136.11. OAG Dec. 13, 1946 (310-S).

197.75 LIMITATION OF EXPENDITURES.

Subd. 1, amended by L. 1947 c. 176 s. 2.

Subd. 2, amended by L. 1947 c. 176 s. 3.