

# MINNESOTA STATUTES 1953 ANNOTATIONS

## 420.07 FIREMEN'S CIVIL SERVICE COMMISSION

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By abolishment of the office of assistant chief, the person holding that office is not thereby dismissed. OAG Jan. 23, 1948 (688-B).

### 420.07 RULES FOR FIRE DEPARTMENT SERVICE

The civil service commission had no authority to promote a fireman in the classified service from one classification to another and higher classification without a competitive examination. OAG Sept. 18, 1950 (120).

A disabled veteran applying for a position as a fireman cannot be disqualified by reason of any physical disability unless it renders him incompetent to perform properly the duties of the position applied for. OAG Sept. 8, 1952 (120).

Commission may establish retirement age; determine by resolution whether retirement is compulsory when reaching that age; abolish the office of assistant chief. By abolishment of the office of assistant chief, the person holding that office is not thereby dismissed. OAG Jan. 23, 1948 (688-B).

### 420.08 REMOVAL OR DISCHARGE

Commission may establish retirement age; determine by resolution whether retirement is compulsory when reaching that age; abolish the office of assistant chief. By abolishment of the office of assistant chief, the person holding that office is not thereby dismissed. OAG Jan. 23, 1948 (688-B).

### 420.10 EXAMINATIONS; EXAMINERS

In order to limit the time for issuance of a writ of certiorari under MSA, Section 606.01, due notice requires written notice to be served upon the party applying for the writ.

Actual knowledge of results of a civil service examination does not preclude review by writ of certiorari on the ground of laches where it was within power of civil service commission, by compliance with its own rules, to limit time by service of written notice on testee.

Mere fact that others may be affected will not make legal an examination which did not substantially comply with law and with rules for holding examination. *State v Webster*, 231 M 309, 43 NW(2d) 116.

### 420.14 COMMISSION, WHEN ABOLISHED

The voters of the city of Brainerd are without authority to abolish the present firemen's commission which has been continuously in operation for eight years. OAG Dec. 21, 1949 (785-E-1).

### 420.16 CERTAIN ACTS MISDEMEANORS

Constitutionality of provision prohibiting active participation in political management of political campaigns by federal employees. 32 MLR 176, 179.

## CHAPTER 421

### CIVIL SERVICE COMMISSIONS

#### 421.01 INJURED FIREMEN OR POLICEMEN REINSTATED

HISTORY. 1931 c 320 s 1.

Under the city charter of the city of Minneapolis there is no deputy to the city attorney or confidential appointee. When an appointment of a first assistant is to

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be made, the city attorney must certify the existence of the vacancy to the civil service commission. It is their duty to certify "the name standing highest on the appropriate list". Generally statutes take precedence and control over charter provisions. The provisions or sections 197.45 and 197.46 control and create in a veteran applicant for the position, a veteran's right and preference. OAG Feb. 3, 1948 (85-A) (120).

### 421.02 CIVIL SERVICE RULES FOR UNSKILLED LABOR

Under the facts and circumstances the classification of plaintiff under the civil service of the city of Minneapolis was that of a laborer. For a period of more than nine years the plaintiff accepted with knowledge the wages of a watchman, receipted in full therefor, and made no protest or attempt to collect overtime pay until seventeen months after his retirement. His acquiescence and conduct constituted a waiver and estoppel. *Ostrum v City of Minneapolis*, 236 M 378, 53 NW(2d) 119.

### 421.13 CLERK TO CERTIFY LIST

Under the facts and circumstances the classification of plaintiff under the civil service of the city of Minneapolis was that of a laborer. For a period of more than nine years the plaintiff accepted with knowledge the wages of a watchman, receipted in full therefor, and made no protest or attempt to collect overtime pay until seventeen months after his retirement. His acquiescence and conduct constituted a waiver and estoppel. *Ostrum v City of Minneapolis*, 236 M 378, 53 NW(2d) 119.

421.15 to 421.28 Repealed, 1949 c 296 s 1.

## PENSIONS, RELIEF

### CHAPTER 422

## RETIREMENT ALLOWANCE, CITIES FIRST CLASS

### 422.01 DEFINITIONS

HISTORY. 1919 c 522 s 3; MS 1927 s 1442-13; 1933 c 328 s 1; 1945 c 181 s 2; 1947 c 84 s 1.

Subdivision 24, renumbered 422.063, subdivision 1.

Subdivision 25, renumbered 422.063, subdivision 2.

Subdivision 26, renumbered 422.063, subdivision 3.

Subdivision 27, renumbered 422.063, subdivision 4.

Subdivision 28, renumbered 422.063, subdivision 5.

Subdivision 29, renumbered 422.063, subdivision 6.

Subdivision 31, renumbered 422.063, subdivision 7.

Subdivision 32, renumbered 422.063, subdivision 8.

Pensions and retirement allowances to municipal employees are not gratuities to those who rendered service to the city after the enactment of the law creating such grants. *State ex rel v City of Minneapolis*, 174 M 594, 219 NW 924.

The Pension Act is applicable to the city of Minneapolis, insofar as it requires compulsory retirement of certain city employees at the age of 65, is subject to the terms and conditions of the veterans preference law, and veterans can only be