

1.1 ..... moves to amend H.F. No. 2117 as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "Section 1. Minnesota Statutes 2012, section 197.46, is amended to read:

1.4 **197.46 VETERANS PREFERENCE ACT; REMOVAL FORBIDDEN; RIGHT**  
1.5 **OF MANDAMUS.**

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

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

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

1.22 ~~In all governmental subdivisions having an established civil service board or~~  
1.23 ~~commission, or merit system authority, such hearing for removal or discharge shall be~~  
1.24 ~~held before such civil service board or commission or merit system authority. Where no~~  
1.25 ~~such civil service board or commission or merit system authority exists, such hearing (c)~~  
1.26 Hearings conducted under this section shall be held by a board of three persons appointed

2.1 as follows: one by the governmental subdivision, one by the veteran, and the third ~~by the~~  
2.2 ~~two so selected. In the event that the hearing is authorized to be held before a three-person~~  
2.3 ~~board, shall be an individual from the Bureau of Mediation Services' roster of arbitrators.~~  
2.4 The parties shall make a request to the bureau for a list of seven arbitrators. The parties shall  
2.5 alternately strike names from the list of arbitrators until only a single arbitrator remains. If  
2.6 the parties are unable to agree on who shall strike the first name, the question must be  
2.7 decided by the flip of a coin. The governmental subdivision's notice of intent to discharge  
2.8 shall state that the veteran must respond within 60 days of receipt of the notice of intent to  
2.9 discharge, and provide in writing to the governmental subdivision the name, United States  
2.10 mailing address, and telephone number of the veteran's selected representative for the  
2.11 three-person board. The failure of a veteran to submit the name, address, and telephone  
2.12 number of the veteran's selected representative to the governmental subdivision by mail or  
2.13 by personal service within the provided notice's 60-day period, shall constitute a waiver of  
2.14 the veteran's right to the hearing and all other legal remedies available for reinstatement of  
2.15 the veteran's employment position. ~~In the event the two persons selected by the veteran~~  
2.16 ~~and governmental subdivision do not appoint the third person within ten days after the~~  
2.17 ~~appointment of the last of the two, then the judge of the district court of the county wherein~~  
2.18 ~~the proceeding is pending, or if there be more than one judge in said county then any judge~~  
2.19 ~~in chambers, shall have jurisdiction to appoint, and upon application of either or both of~~  
2.20 ~~the two so selected shall appoint, the third person to the board and the person so appointed~~  
2.21 ~~by the judge with the two first selected shall constitute the board.~~ The government  
2.22 subdivision must appoint a representative to the hearing panel within 60 days of receiving  
2.23 the veterans hearing request and hearing board appointee. Failure of the governmental  
2.24 subdivision to appoint an individual within 60 days results in the veteran being reinstated  
2.25 and the government subdivision being liable for any costs incurred by the veteran.

2.26 (d) Either the veteran or the governmental subdivision may appeal from the decision  
2.27 of the board upon the charges to the district court by causing written notice of appeal,  
2.28 stating the grounds thereof, to be served upon the other party within 15 days after notice of  
2.29 the decision and by filing the original notice of appeal with proof of service thereof in the  
2.30 office of the court administrator of the district court within ten days after service thereof.  
2.31 Nothing in section 197.455 or this section shall be construed to apply to the position of  
2.32 private secretary, superintendent of schools, or one chief deputy of any elected official  
2.33 or head of a department, or to any person holding a strictly confidential relation to the  
2.34 appointing officer. Nothing in this section shall be construed to apply to the position of  
2.35 teacher. The burden of establishing such relationship shall be upon the appointing officer  
2.36 in all proceedings and actions relating thereto.

3.1 (e) The governmental subdivision shall bear all costs associated with the hearing.

3.2 (f) All officers, boards, commissions, and employees shall conform to, comply with,  
3.3 and aid in all proper ways in carrying into effect the provisions of section 197.455 and this  
3.4 section notwithstanding any laws, charter provisions, ordinances or rules to the contrary.

3.5 Any willful violation of such sections by officers, officials, or employees is a misdemeanor.

3.6 (g) The three-person board must issue a decision within six months of the veteran's  
3.7 receipt of a termination notice. The veteran is entitled to all pay and benefits from the time  
3.8 a termination notice is issued to the time a decision is issued.

3.9 (h) The three-person board must determine if the employer acted with intentional  
3.10 disregard for the protections contained in this section. If the three-person board, based  
3.11 on a majority vote, determines that the employer did act with intentional disregard for  
3.12 these protections, the veteran is entitled to three times the actual damages sustained.  
3.13 Intentional disregard includes the issuance of a termination notice without any factual  
3.14 evidence of incompetency or misconduct.

3.15 **EFFECTIVE DATE.** This section applies to termination notices issued on or after  
3.16 the day following final enactment."

3.17 Delete the title and insert:

3.18 "A bill for an act  
3.19 relating to veterans; veterans preference; modifying hearing procedures;  
3.20 assigning costs; establishing deadlines; creating damages; amending Minnesota  
3.21 Statutes 2012, section 197.46."