

1944 Supplement
To
Mason's Minnesota Statutes, 1927
and
Mason's 1940 Supplement

Containing the text of the acts of the 1941 and 1943 Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with Law Review Articles and digest of all common law decisions.

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not affect the determination of, or rights to, benefits with respect to claims filed prior to July 1, 1941. (As amended Act Apr. 28, 1941, c. 554, §21.)

4337-42a. Date effective.—This act shall take effect and be in force from and after its passage, unless otherwise specifically provided therein, except that sections 4337-22, 4337-25, 4337-26, 4337-27, and 4337-28, Mason's Supplement 1940, as amended by Laws 1941, Chapter 554 and as amended by this act shall take effect and be in force from and after July

1, 1943; provided further, that section 4337-22, 4337-25 and 4337-26, Mason's Supplement 1940, as amended by Laws 1941, Chapter 554 and as amended by this act shall not affect the determination of, or rights to, benefits with respect to claims filed prior to July 1, 1943. (Act Apr. 24, 1943, c. 650, §10.)

4337-43. Repealer.—Mason's Supplement 1940, Sections 4337-32a and 4337-32b are hereby repealed. (Act. Apr. 28, 1941, c. 554, §23.)

CHAPTER 24

Soldiers' Home, Relief, Etc.

4344. Soldiers' home—Admission to.—The Minnesota Soldiers' Home shall be maintained at Minneapolis, under the management of seven trustees, one of whom shall be a woman, to be known as the "Soldiers' Home Board," as a home for all honorably discharged persons who served in the Mexican War, the War of the Rebellion, the Spanish-American War, the Philippine Insurrection, the Boxer Rebellion, the war of 1917 and 1918 commonly called the World War, or the War between the United States of America and its allies, and Germany, Japan, Italy and their allies, persons who actually served in any campaign against the Indians in this state in the year 1862, whether as soldiers of the United States or not, for honorably discharged members of the Minnesota National Guard mustered into Federal Service in 1916 who served on the Mexican border, and for all honorably discharged persons who served between September 16, 1940, and December 7, 1941, both dates inclusive. But no person shall be admitted to the Home who has not been a resident of the state for three years next preceding the date of his application, unless he served in a Minnesota regiment, or was credited to the state, or served in the Indian Campaign as aforesaid. Nor shall any person be admitted unless he is without adequate means of support, and is unable, by reason of wounds, disease, old age or infirmity to properly maintain himself. (As amended Act Feb. 20, 1943, c. 54, §1.)

Department of Veterans' Affairs created. Laws 1943, c. 420.

There is no officer or board vested with authority to grant permission for a search for hidden treasure on property of soldiers' home. Op. Atty. Gen. (88A-19), Dec. 29, 1941.

4345. Persons who may be admitted to soldiers' home.

Wife of member of home less than 55 years of age and having mental condition which would bar her from being admitted to the home may be given relief outside home. Op. Atty. Gen. (3941), Sept. 5, 1940.

4349. Trustees of soldiers' home board to receive expenses in addition to per diem compensation.

Per diem cannot be paid to a member of board for attendance at conventions which are not meetings of the board or a committee thereof. Op. Atty. Gen., (394f), May 23, 1940.

Member of board attending veterans' meeting on official business is not attending a board or committee meeting, since board meetings may only be held at the home. Op. Atty. Gen. (394f), Oct. 11, 1940.

4350. Officers of Soldiers' Home—Secretary, etc.

Position of secretary to soldiers' home board is within classified service. Op. Atty. Gen., (644), Dec. 6, 1939.

4351. Meetings—Executive committee.

Board meetings may only be held at the home. Op. Atty. Gen. (394f), Oct. 11, 1940.

4355. Relief fund, how used.

Board has authority to authorize use of federal surplus food stamps within limitations prescribed in federal act. Op. Atty. Gen., June 17, 1941.

MISCELLANEOUS PROVISIONS

4367. License fees not required of honorably discharged soldiers, etc.

Section exempts veteran from payment of state but not city license fee for peddling or hawking. Op. Atty. Gen. (2901-10), Apr. 27, 1943.

4368. Preference to war veterans in public appointments.—Subdivision 1. **Who are veterans.**—The word "veteran" as used in this section and Section 4369 means any man or woman honorably discharged from the army, navy, marine corps, or Women's Auxiliary Army Corps of the United States in the Civil War, Spanish-American War, Philippine Insurrection, China Relief Expedition, or any armed expedition for which Congress has awarded a campaign badge or medal, World War wherein the United States of America and the allied nations of England, France, and others were engaged in war against the Imperial German Government and its allies, and the war between the United States of America and its allies, and Germany, Japan, Italy and their allies, who is a citizen of the United States, and has been a resident of the State of Minnesota and of the county, city, town, village, school district, or political subdivision thereof to which application is made for five years immediately preceding his application, or who enlisted from the State of Minnesota.

Subdivision 2. **Preference to war veterans in public appointments.**—That in every public department and upon all public works in the State of Minnesota and the counties, cities, towns, villages, school districts and all other political subdivisions and agencies thereof, honorably discharged veterans shall be entitled to preference in appointments, employment and promotion over other applicants therefor, and the persons thus preferred shall not be disqualified from holding any position hereinbefore mentioned on account of his age or by reason of any physical disability, provided such age and disability does not render him incompetent to perform properly the duties of the position applied for and when such veteran shall apply for appointment or employment under this act, the officer, board or person whose duty it is, or may be, to appoint or employ such person to fill such position or place, shall before appointing or employing anyone to fill such position or place, except where said veteran has already been qualified under civil service for the position applied for, make an investigation as to the qualifications of said veteran for such place or position, and if he is of good moral character, and can perform the duties of said position applied for by him, as hereinbefore provided, said officer, board or person shall appoint said veteran to such position or place of employment.

In any governmental agency having an established civil service or merit system, no inquiry shall be made of any applicant for examination as to whether or not he is a veteran, nor shall any distinction be made in giving the examination or grading the results thereof on account of the fact that the applicant may be a veteran; provided, that this shall not abridge any

preference to which such veteran is entitled. The veteran must claim preference under this act within 15 days from the date of mailing notice to him by registered mail that he has passed. The proper civil service or merit system authority shall certify his appointment and the appointing authority shall appoint such veteran before any other person is certified or appointed to fill a position for which the veteran has passed the examination.

A refusal to allow the preference provided for in this and the next succeeding section to any such honorably discharged veteran, or a reduction of his compensation intended to bring about his resignation or discharge, shall entitle such honorably discharged veteran to a right of action therefor in any court of competent jurisdiction for damages, and such officer and the persons responsible for such refusal if such refusal was wilful shall be personally liable therefor, and also for a remedy for mandamus for righting the wrong.

Subdivision 3. Widows to have rights and privileges.—The widows of deceased veterans and the spouses of disabled veterans who, because of such disability, are unable to qualify, shall have all the rights and privileges given to a veteran by this section or by section 4369. (As amended Mar. 30, 1943, c. 230, §1.)

State veterans' preference act does not give a veteran a vested right in his employment and such employment may be abolished by legislative act. *State v. Stassen*, 208M523, 294NW647. See *Dun. Dig.* 7986.

Laws 1939, c. 441, §38, civil service law, affects this section only with respect to employment in state service. *Op. Atty. Gen.*, (85a), Jan. 15, 1940.

Janitor in charter city of fourth class is entitled to benefits of this law, and if applicant has degree of fitness stated by statute, his relative efficiency when compared with that of his competitors is unimportant. *Id.*

If an appointing officer or body has actual notice that an applicant is a war veteran, it is immaterial that applicant for employment does not give formal notice that he is a war veteran. *Op. Atty. Gen.*, (85i), Feb. 16, 1940.

City health officer is protected by statutes. *Op. Atty. Gen.*, (2251-1), April 18, 1940.

Employees of the state in the unclassified service are still entitled to soldier's preference, subject to limitations upon its application which have heretofore existed. *Op. Atty. Gen.*, (644), May 10, 1940.

County agricultural agents are employees of the University of Minnesota and do not come under Veterans' Preference Law. *Op. Atty. Gen.*, Aug. 1, 1940.

Civil service provisions of Minneapolis City Charter are subject to this act. *Op. Atty. Gen.*, (85b), May 9, 1941.

Though Soldiers Preference Act probably does not apply to school districts, it does apply to hiring and promotions of janitors in Minneapolis school system, on the theory that they are city employees. *Op. Atty. Gen.*, (85f), May 13, 1941.

Application of veteran's preference to office of city clerk appointed by commission. *Op. Atty. Gen.* (358E), Jan. 6, 1942.

A veteran may have preference in two part-time jobs with different public agencies provided duties do not conflict. *Op. Atty. Gen.*, (85i), Apr. 16, 1942.

Discussion of benefits conferred upon veterans, their widows and wives by social welfare rules as compared with Soldiers Preference Act and the State Civil Service Act. *Op. Atty. Gen.* (125a-64), Sept. 28, 1942.

Appointment of a veteran to a position in fire department where there is a civil service commission. *Op. Atty. Gen.* (688b), May 11, 1943.

Minneapolis civil service commission must first certify all persons who are entitled to veterans preference, and if duties of positions can be performed only by a man, it is its duty to certify all men who are entitled to veterans preference, and if duties of position can only be performed by a woman, it must certify all women who are entitled to veterans preference, and if the duties of a position may reasonably be performed by either a man or woman, it must first certify all persons, whether male or female, who are entitled to veterans preference, and in such case department head may not specify the sex of the employee desired. *Op. Atty. Gen.* (85a), May 14, 1943.

Service in 6th Minnesota National Guard does not entitle persons discharged therefrom to veterans preference. *Op. Atty. Gen.* (85f), June 12, 1943.

Position of attorney for school district is not subject to this act. *Id.*

Merit system rules of division of social welfare remain in full force and effect, notwithstanding passage of Laws 1943, c. 230, so far as they do not conflict with the Veterans' Preference Laws, and if any person entitled to benefits of Veterans' Preference Law obtains a passing mark under grading providing by the merit system rules, such person is entitled to preference in appointment and

to tenure, and the position of executive secretary of a county welfare board does not come within exceptions to the Veteran's Preference Act. *Op. Atty. Gen.* (85g), July 6, 1943.

Applicant who takes a promotional examination required to claim preference within 15 days from date of mailing of notice that he has passed. *Op. Atty. Gen.* (85a), Aug. 17, 1943.

Veteran must claim preference within the 15 days provided, and cannot do so at a later time notwithstanding that he does not receive his discharge until after that time. *Op. Atty. Gen.* (85b), Aug. 17, 1943.

Effect of age or disability as a disqualification for appointment. *Id.*

4369. Removal forbidden—Right of mandamus—Certiorari—Burden of proof.—Any person whose rights may be in any way prejudiced contrary to any of the provisions of this section, shall be entitled to a writ of mandamus to remedy the wrong. No person holding a position by appointment or employment in the State of Minnesota or in the several counties, cities, towns, villages, school districts and all other political subdivisions or agencies thereof, who is an honorably discharged veteran, shall be removed from such position or employment except for incompetency or misconduct shown after a hearing, upon due notice, upon stated charges, in writing. In all governmental subdivisions having an established civil service board or commission, or merit system authority, such hearing for removal or discharge shall be held before such civil service board or commission or merit system authority. Where no such civil service board or commission or merit system authority exists, such hearing shall be held by a Board of three persons appointed as follows: one by the governmental subdivision, one by the veteran, and the third by the two so selected. The veteran may appeal from the decision upon the charges to the district court by causing written notice of appeal, stating the grounds thereof, to be served upon the governmental subdivision or officer making the charges within 15 days after notice of the decision and by filing the original notice of appeal with proof of service thereof in the office of the clerk of the district court within 10 days after service thereof. Issues of fact shall be framed upon motion of either party and the trial thereof shall be by jury unless trial by jury shall be waived. The burden of proving incompetency or misconduct shall rest upon the governmental subdivision alleging the same. Nothing in this act shall be construed to apply to the position of private secretary, teacher, superintendent of schools or one chief deputy of any elected official or head of a department, or to any person holding a strictly confidential relation to the appointing officer. The burden of establishing such relationship shall be upon the appointing officer in all proceedings and actions relating thereto.

All officers, boards, commissions and employees shall conform to, comply with and aid in all proper ways in carrying into effect the provisions of this act. Any willful violation of this act by officers, officials, or employees is a misdemeanor. (As amended Mar. 30, 1943, c. 230, §2.)

An action against members of state industrial commission to compel reinstatement of a dismissed employe is triable in Ramsey county where commission maintains its office. *State v. District Court of St. Louis County*, 206M54, 287NW601. See *Dun. Dig.* 10113a.

Where a veteran would have been blanketed into civil service on effective date of civil service act if he had not been discharged prior to that date, he is entitled to be placed in same position as he would have been had he not been discharged, if discharge was unlawful. *State v. Stassen*, 208M523, 294NW647. See *Dun. Dig.* 7986.

Where a veteran was discharged prior to passage of civil service act, he could not maintain mandamus for reinstatement after passage of that act, mandamus being only available by statutory grant and such statutes being repealed by the civil service act so far as he was concerned. *Id.*

Whatever rights a veteran has in his employment must be found in civil service act once his status matured under that act. *Id.*

Where city council had knowledge that operator of sewage disposal plant was an honorably discharged veteran when he was employed and where his employment was continuous, he could not be discharged without notice and a hearing, and did not waive right to hearing by filing a new application for appointment each year

thereafter, including year when application was rejected. State v. City of Bemidji, 209M91, 295NW514. See Dun. Dig. 6560.

In mandamus and certiorari by a discharged war veteran, there being no showing to the contrary, assumption is that relator was honorably discharged from army. Id. There being evidence from which city council could find incompetency, its action in discharging veteran cannot be overturned by court, even though motives of triers of facts may be subject to suspicion. Id.

Where police civil service commission qualified an extra policeman, a veteran, as a "regular special policeman" and permitted him to take police civil service examination with regular force, and then erroneously certified him at head of list of eligible appointees for position of "regular" policemen, commission has authority to revise its list and strike his name from it, without formality of notice or hearing, but this would not affect preferential position arising from his status as a veteran if and when a position as regular policeman is open. Op. Atty. Gen., (785E-2), May 17, 1940.

Soldiers' Preference Act is without application to position of city attorney. Op. Atty. Gen. (85a), Dec. 31, 1940.

Position of village attorney is not subject to act. Op. Atty. Gen. (85a), Jan. 10, 1941.

Deputy sheriff does not come under act. Op. Atty. Gen. (85C), Oct. 14, 1941.

Discharge of city employee—Right to notice and hearing—Discontinuance of position—Distinction between two positions as to nature and qualifications—Effect of seniority rights—Waiver or laches. Op. Atty. Gen. (85A), Feb. 3, 1942.

County board has power to subpoena witnesses for hearing through any clerk of a court of records or justice of the peace. Op. Atty. Gen. (85E), Mar. 6, 1942.

Veterans Preference Act, which was in effect as to all state employees prior to Civil Service Act, is applicable to employees appointed prior to time that lists of eligibles were available. Op. Atty. Gen. (644D), Mar. 26, 1942.

Position of attorney for school district is not subject to this act. Op. Atty. Gen. (85f), June 12, 1943.

4369-1. Veterans Preference Act.

Civil service provisions of Minneapolis City Charter are subject to this act. Op. Atty. Gen., (85b), May 9, 1941.

4369-2. Applications of act.

State v. Stassen, 208M523, 294NW647; note under §4369. Repeal of veterans' preference act by civil service act took away statutory remedy of mandamus for a wrongfully discharged state employee, including a pending action in mandamus which was not perfected by final judgment, even though trial had been had before repeal, and a cause of action for damages, as long as it remained inchoate and not merged in final judgment, was equally destroyed by repeal of statute which created it. State v. Railroad and Warehouse Com'n, 209M530, 296NW906. See Dun. Dig. 8923.

Civil Service Act superseded former veterans preference law as to state employees, and gave a veteran employee a civil service status without a probation period if on effective date of act the veteran was a state employee, and civil service board had the power and it was its duty to grant a hearing as to status of a war veteran claiming to have been wrongfully discharged before effective date of act, though he was not on the payroll of the state on the effective date of the act. State v. Elston, 214M 205, 7NW(2d)750. See Dun. Dig. 8846ccc.

4371. Headstones.

Headstones may be furnished where those furnished by federal government are not acceptable to cemetery. Op. Atty. Gen. (2b), Sept. 7, 1943.

4372. Expense.

There can be no liability upon state unless there are funds available for payment of claim for reimbursement made by person in charge of interment. Op. Atty. Gen., (310d), July 23, 1941.

4382. Quarters for meetings of Grand Army and other organizations.

Permitting American Legion to construct a building on land of a village and lease of such building to American Legion Post for a reasonable time would constitute a "public purpose" within deed of land to village for public purposes only with right of reversion. Op. Atty. Gen., (469a-9), March 29, 1940.

Village council may lease part of public building to American Legion as a memorial room, subject to cancellation on 20 days notice, but cannot grant a perpetual lease, at least without approval of voters at election called for purpose. Op. Atty. Gen. (469A-9), Jan. 19, 1942.

4385. Adjutant general—Powers and duties—Preservation of flags.—The flags and colors carried by Minnesota troops in the Civil War, Indian Wars, Spanish-American War, Mexican Border Campaign, the first World War, and subsequent wars shall be preserved in the capitol under the especial care of the adjutant general. They shall be suitably encased and marked, and, so far as the adjutant general may

deem it consistent with their safety, shall at all times be publicly displayed. (As amended Mar. 6, 1943, c. 108, §42.)

4387. Pensions for Indian War veterans.

Indian war pensions earned prior to June 30, 1941, cannot be made out of new appropriation for current fiscal year. Op. Atty. Gen. (335A), Oct. 9, 1941.

Accrued Indian war pension payable to administrator of pensioner's estate. Op. Atty. Gen. (335a), Sept. 7, 1943.

4393. State board of control to secure land for recreation and recuperative camps for disabled veterans.—The state board of control is hereby authorized and directed to secure by lease or purchase from the owners thereof land for the establishment of a recreation and recuperative camp for the use and benefit of disabled veterans of the world war and other wars, resident in the state of Minnesota; said land to contain not less than 50 acres nor more than 100 acres, suitably located with reference to the health and convenience of the beneficiaries hereunder, as may be recommended by the board of governors hereinafter provided. Any funds derived from any appropriations, contributions, unexpended balances or revenues heretofore or hereafter existing to the credit of any such veterans' camp operating under the provisions of this act may be used for the purchase of land for such camp. (As amended Act Apr. 28, 1941, c. 514, §1.)

4397-2. County boards may appropriate money; etc.

Laws 1931, c. 405, referred to. Laws 1943, c. 585. Laws 1943, c. 414, §1, defines resident soldier for purposes of Laws 1931, c. 405.

Soldiers who are deemed bona fide residents of state under Laws 1931, c. 405. Laws 1943, c. 585, §1.

In passing Laws 1931, c. 405, legislature sought to restrict relief granted thereby to persons who were residents of state in commonly accepted meaning of that term, and soldiers at Fort Snelling were not within that meaning of the term, but such a soldier could be a resident. Op. Atty. Gen. (310N), June 14, 1940.

4397-3. Definitions.

Veterans' relief to be administered includes relief to honorably discharged soldiers, sailors or marines, who have rendered service in the present war, and this relief extends to their families and dependents. Op. Atty. Gen. (310M), Mar. 10, 1942.

4397-21. Appropriation for education of certain children.

A person attending a state institution of secondary or college grade is entitled to receive full amount of \$200 for board, room rent, and supplies, in addition to free tuition, if Adjutant General makes an administrative determination that such amount is reasonably necessary. Op. Atty. Gen., (310r), Sept. 23, 1939.

Child is entitled to receive aid until it reaches 23rd birthday. Id.

4397-23. Appropriation.

Phrase "for any one year" refers to school year which may be less than but not more than a twelve months period. Op. Atty. Gen., (310r), Sept. 23, 1939.

4397-27a. Soldiers of all wars defined.—Soldiers, sailors and marines, who were disabled in military service during all wars and their dependents, are entitled to the same privileges as are now enjoyed by all other veterans. (Act Apr. 24, 1941, c. 425, §1, as amended Apr. 24, 1943, c. 618, §1.) [196.17]

4397-27b. Appropriation.—There is hereby appropriated from the general revenue fund of the state of Minnesota, the sum of \$7,500 for each of the fiscal years ending June 30, 1942 and June 30, 1943 to be expended by The Disabled American Veterans, Department of Minnesota for the purpose of assisting war veterans and their dependents in the preparation and presentation of their claims to the United States government for compensation and other benefits to which they are entitled as a result of disabilities incurred in military service. (Act Apr. 24, 1941, c. 425, §2; as amended Apr. 24, 1943, c. 618, §2.)

4397-27c. Purpose of act.—This act is hereby declared to be in the interest of the preservation of the public peace, health and safety, the support of the state government and the existing public institutions,

and for the purpose of assisting veterans and their dependents who are entitled to compensation and other benefits from the United States government but have been unable to obtain it and in many instances have had to rely upon local assistance and charity, and shall take effect and be in force from and after its passage. (Act Apr. 24, 1941, c. 425, §3, as amended Apr. 24, 1943, c. 618, §3.)

4397-27d. The word "soldier" as used in this act means any man or woman who shall have been engaged in active service as a part of the military or naval forces of the United States in the war between the United States and Germany, Japan, Italy, and their Allies, and who was a resident of the State of Minnesota at the time he was commissioned, enlisted, inducted, appointed, or mustered into the military or naval service, and who has been or may be given an honorable or ordinary discharge from such service; provided that such service shall have been given wholly or in part between December 7, 1941, and the cessation of hostilities as declared by proper federal authority and shall have continued for not less than ninety days unless terminated sooner by disability due to service in the military or naval forces. (Act Apr. 24, 1943, c. 663, §1.)

[360.011]

The following is the Preamble to Laws Apr. 24, 1943, c. 663:

Whereas, a state of war exists between the United States of America and Germany, Japan, Italy, and their Allies, and

Whereas, the State of Minnesota is engaged with the United States of America in the defense of the nation and the state, and

Whereas, the State of Minnesota is giving freely of its sons and daughters in that defense, and

Whereas, it is for the public good to encourage the spirit of the sons and daughters so engaged in the defense of the state and nation by assuring them at this time of the interest and assistance of the state in their re-entering the pursuits of civilian life when the war is over,

4397-27e. War Veteran's Fund created.—Subdivision 1. There is hereby created a special fund to be known as the War Veterans Fund to be used for the purposes hereinafter specified. To provide money for said fund, the state auditor is hereby authorized and directed to set aside on July 1, 1943, out of the surplus remaining in the general revenue fund unencumbered, after first deducting the sum of \$1,000,000 for a reserve balance in said fund, and the further sum of \$2,000,000 for prepayment of state debt, a sum not to exceed \$2,500,000. When so set aside, the money shall be credited to the War Veterans Fund and until needed for the purpose for which it was appropriated, such money shall be used only as provided in Subdivision 2 of this section.

Subdivision 2. Whenever there shall be money in the War Veterans Fund which is not currently needed, the Commissioner of Veterans' Affairs shall certify to the state board of investment the amount thereof and when it will be needed for the purposes of this act. Upon receipt of the certification, the state board of investment may invest the amount so certified in bonds or securities of the United States of America, so conditioned as to be convertible into cash without discount through federal government agencies at the option of the state on or before the time when the proceeds will be needed as certified by the Commissioner of Veterans' Affairs. At or before the time so certified, except as the Commissioner of Veterans' Affairs may certify that there is no current need therefor, the board shall proceed to cash such bonds or securities and shall deposit the proceeds in the War Veterans Fund. All interest and profit accruing from the bonds or securities shall be credited to and be a part of the general revenue fund. (Act Apr. 24, 1943, c. 663, §2.)

[360.012]

4397-27f. Appropriation for War Veteran's Fund.—There is hereby appropriated out of the War Veterans Fund to the Commissioner of Veterans' Affairs

for the purposes of this act the sum of \$2,500,000. The money so appropriated shall be available for expenditure by the Commissioner of Veterans' Affairs on and after July 1, 1943, in such amounts and at such times as may be determined by the Governor after he has consulted with the legislative advisory committee and secured its recommendation, which shall be advisory only. Failure or refusal of the committee to make such recommendation shall be deemed a negative recommendation. (Act Apr. 24, 1943, c. 663, §3.)

4397-27g. How expended.—Of the amount appropriated by Section 3 hereof, not more than the sum of \$1,250,000 shall be expended by the Commissioner of Veterans' Affairs for the purpose of providing the necessities of life, on the basis of need as determined by the Commissioner of Veterans' Affairs, to soldiers who are not receiving or have received payment of any benefits therefor from the United States, provided that not more than \$250 shall be expended for the benefit of any individual soldier, and said benefits shall not continue for longer than six months after discharge from service. (Act Apr. 24, 1943, c. 663, §4.)

[360.014]

4397-27h. Limitation of expenditures.—Subdivision 1. Of the amount appropriated by Section 3 hereof, not more than the sum of \$1,250,000 shall be expended by the Commissioner of Veterans' Affairs for tuition of soldiers, or the children of soldiers who have died as a result of their service in the military or naval forces of the United States as determined by the United States Veterans' Administration or other instrumentality of the United States, in the University of Minnesota, a state teacher's college, a junior college, or any other college of higher learning within the state accredited by the North Central Association of Colleges and Secondary Schools, or in a trade school in the state which may be approved by the State Department of Education, for any course which such soldier or child may elect, provided that not more than \$250 shall be expended for the benefit of any individual soldier or child under this section, and that need therefor shall be established, and determined by the Commissioner of Veterans' Affairs. Payments of tuition as provided for herein shall be made by the Commissioner of Veterans' Affairs directly to the institution in which the course of instruction is given upon such conditions as shall be imposed by the Commissioner of Veterans' Affairs.

Subd. 2. None of the provisions of Section 5, Subdivision 1, shall be made available to any soldier who is entitled to the same or similar benefits under any law of the United States, rule or regulation of any Department thereof, now in force or hereafter created; nor shall any soldier or child be entitled to benefits under both said section and Section 4 of this act.

Subd. 3. Each such institution shall certify to the Commissioner of Veterans' Affairs of the state the names of all applicants for benefits under this section who have presented to such institution an honorable discharge from the armed forces of the United States or proof of the service of the parent of such applicant.

Subd. 4. Each such institution shall make triplicate lists of such applicants, showing the name of each applicant, the unit of such armed forces in which the applicant or the parent of the applicant served, the course selected, and the charge for tuition for such course which shall be not more than the regular charge, and file the same with the Commissioner of Veterans' Affairs, who shall check such lists with such records as are on file in his office or as can be procured from reliable sources; the Commissioner of Veterans' Affairs shall thereupon certify to such institution the names of the applicants on such lists

who are eligible for the benefits provided for in this act. At the end of each semester or term, each institution shall certify one of such lists certified to such institution by the Commissioner Veterans' Affairs, showing the period each student listed thereon has attended and the proportion and amount of tuition applicable to such semester or term, and file the same with the Commissioner of Veterans' Affairs, who shall check such lists and, if correct, authorize payment of the amounts due thereon in the manner provided by law. (Act Apr. 24, 1943, c. 663, §5.) [360.015]

4397-27i. Commissioner of Veterans' Affairs to employ assistants.—Subdivision 1. The Commissioner of Veterans' Affairs is hereby empowered to employ such assistance and to incur such other expense as may be necessary for the administration and the carrying out of the provisions of this act. The funds necessary for the administration and carrying out of the provisions of this act including the subsistence of the members of the advisory committee and their traveling expenses at the rate of 15 cents per mile, shall be expended from the War Veterans Fund.

Subd. 2. The state department of civil service shall establish a special register in the classified service of the state from which may be certified the employees engaged in the administration of this act.

No person, other than technically trained or highly skilled persons shall be placed on the special register, unless he is a soldier as defined in this act or a veteran as defined by Section 254-79, Mason's Minnesota Supplement 1940. The Commissioner of Veterans' Affairs, whenever he deems it practicable, shall employ in the administration of this act persons certified from the special register provided for herein. Pending the establishment of the special register, the Commissioner of Veterans' Affairs may employ temporary employees, but he shall so far as practicable employ a soldier as defined in this act. (Act Apr. 24, 1943, c. 663, §6.) [360.016]

4397-27j. How expended.—Subdivision 1. Except as provided in Subdivision 2 hereof, all money expended hereunder shall be subject to laws 1939, Chapter 431, as amended.

Subd. 2. Money appropriated by this act shall not be cancelled into the general revenue fund until the purposes of this act shall have been fully and completely accomplished. When the purposes of this act have been fully and completely accomplished, the Commissioner of Veterans' Affairs shall certify that fact to the state auditor. (Act Apr. 24, 1943, c. 663, §7.) [360.017]

CHAPTER 25

Board of Control and Charities Under Its Exclusive Management

THE BOARD

4401-11. Direct relief, veteran relief, work and employment relief, etc.

Veteran's relief may be handled on a cash grant basis instead of the prevailing relief order base, in a discretion of the commissioner of veteran's affairs. Op. Atty. Gen. (310s), June 29, 1943.

4406-1. New employees of state institutions, etc. [Repealed.]

Repealed. Laws 1941, c. 479.

4406-2. Same—Infected employees to be treated. [Repealed.]

Repealed. Laws 1941, c. 479. Employee may use accumulated sick leave prior to application for hospitalization and application need not be made immediately upon evidence of necessity thereof. Op. Atty. Gen. (644), June 4, 1940.

Hospitalization may be provided by state under Laws 1939, c. 116, during same period of time that employee is receiving salary or sick leave allowance under a rule of the civil service director. Id.

Employee of state hospital contracting tuberculosis in line of duty need not use his accumulated sick leave as a classified employee before hospitalization is used under Laws 1939, c. 116, but must use his accumulated sick leave before continued payment for sick leave and a full or partial rate permitted under civil service rule. Id.

Where an employee has contracted tuberculosis in line of his employment and is being hospitalized at expense of his department and is carried on department's pay-roll on a leave of absence with pay, deductions for retirement fund should be based only on amount of salary employee is actually receiving, and money paid for hospitalization is no part of salary. Op. Atty. Gen. (331a-12), Jan. 15, 1941.

4406-3. Same—Who are eligible for treatment. [Repealed.]

Repealed. Laws 1941, c. 479.

4406-4. Examination of new employees for tuberculosis.—After the effective date of this act no new employee shall be given employment in any state institution under the direction of the Division of Public Institutions, Department of Social Security, whether certified for such employment by the State Civil Service Department or otherwise selected, unless such person presents to the appointing officer of such institution a

certificate showing that he or she has undergone the physical examination hereinafter provided for and has been found to be free of tuberculosis. (Act Apr. 26, 1941, c. 479, §1.) [246.27]

Those who are presently well but who have had tuberculosis are not disqualified. Op. Atty. Gen. (611a-3), Oct. 30, 1941.

Whether an arrested tuberculosis case is one "free from tuberculosis" is a medical question. Op. Atty. Gen. (88a-19), Apr. 1, 1942.

4406-5. Same—Report by examining physician.—Such physical examination shall include an X-ray examination of the lungs and such additional special diagnostic tests for the detection of the presence of tuberculosis as shall be set up in regulations of the State Board of Health in cooperation with said Division of Public Institutions. Such examination shall be made by a licensed physician and surgeon, who shall report in writing to the superintendent of the institution in which the employment is contemplated on a form set up by said Division of Public Institutions in cooperation with the State Board of Health showing the presence or absence of tuberculous infection and disease based upon such examination. (Act Apr. 26, 1941, c. 479, §2.) [246.28]

4406-6. Employee contracting tuberculosis—Claim with Industrial Commission.—Whenever the superintendent of any state institution under the direction of the Division of Public Institutions learns that any employee of such institution whose duties brought such employee in direct contact with inmates therein who were known to be afflicted with tuberculosis has contracted and become ill from tuberculosis while employed in such institution, he shall report such illness to the director of the Division of Public Institutions, who shall, in turn, report the same to the Industrial Commission. The Industrial Commission, upon receiving such report, shall mail to the superintendent of such institution blank forms for a petition to be filled out by such employee claiming the medical and