

CHAPTER 43

CIVIL SERVICE

GENERAL. The effect of this act is to establish a new and complete system of civil service for all positions in the classified service. It abolishes civil service rights enjoyed by state officers and employees under statutes and regulations adopted prior to the time it became effective. The legislature may abolish and modify any civil service or preference right it has granted as well as the remedies for enforcing them. *Reed v Trovatten*, 209 M. 348, 296 NW 535.

43.01 DEFINITIONS.

HISTORY. 1939 c. 441 s. 34; M. Supp. s. 254-82; 1945 c. 598 s. 1.

VESTED RIGHT; VETERANS. A war veteran, improperly discharged by state before the effective date of civil service act, granting war veterans employed by state on such date permanent civil service status without probationary period, has accrued right to contest such discharge by applying to state civil service board for declaration of status, though he has no "vested right" in employment. *State ex rel v Elston*, 214 M. 205, 7 NW 2nd 750.

Laws 1939, Chapter 441, by implication repealed the two-year term provided in section 138.38, and in effect all district boiler inspectors were "blanketed in" under the civil service act and classified as permanent state employees. *Tillquist v State Dept. of Labor*, 216 M 206, 12 NW (2d) 512.

INEFFICIENCY. "Inefficiency" of public officers denotes incapability for office so that any evidence tending to show such incapability is relevant to issue of his present inefficiency in proceedings for his removal from office on such ground, though period to which evidence relates was prior term in office, or period during which he held no public office. *State ex rel v State Board*, 213 M. 228, 6 NW 2nd 250.

43.02 COMPOSITION OF DEPARTMENT.

HISTORY. 1939 c. 441 s. 2; M. Supp s. 53-41a.

43.03 CIVIL SERVICE BOARD CREATED.

HISTORY. 1939 c. 441 s. 3; M. Supp. s. 254-51.

43.04 DIRECTOR, HOW SELECTED.

HISTORY. 1939 c. 441 s. 4; M. Supp. s. 254-52.

43.05 DUTIES AND POWERS OF DIRECTOR.

HISTORY. 1939 c. 441 s. 5; M. Supp. s. 254-53.

Rule permitting unused vacation pay to heirs or estate of deceased employee is valid. 1942 OAG 285, Nov. 6, 1941 (644F).

43.06 DUTIES AND POWERS OF BOARD.

HISTORY. 1939 c. 441 s. 6; M. Supp. s. 254-54.

43.07 TESTIMONIAL POWERS; WITNESSES; FEES.

HISTORY. 1939 c. 441 s. 7; M. Supp. s. 254-55.

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43.08 SALARIES; SCHEDULES.

HISTORY. 1939 c. 441 s. 8; M. Supp. s. 254-56.

43.09 DIVISIONS; UNCLASSIFIED SERVICE; CLASSIFIED SERVICE.

HISTORY. 1939 c. 441 s. 9; M. Supp. s. 254-57; 1941 c. 553 s. 1; 1943 c. 543 s. 1; 1943 c. 605 s. 1; 1945 c. 586.

A member of the classified service who had been employed for more than five years in the service of the state could be discharged in June, 1939, without cause although such employee was then a probationer under the state civil service act. *State ex rel v Gravlin*, 208 M 149, 293 NW 257.

CONSTITUTIONAL LAW. Imperfect and inchoate rights are subject to future legislation and may be extinguished. The legislature had constitutional right to qualify, if not entirely to take away, right of State Board of Education to remove state commissioner of education, as by repealing statute expressly granting board such power notwithstanding such officer's fixed statutory term, until filing of board's order of removal. *State ex rel v State Board*, 213 M. 228, 6 NW 2nd 250.

POWER OF BOARD. The repeal of statute expressly granting State Board of Education power to remove state commissioner of education did not transfer such power to civil service board, who has no jurisdiction over administrative heads of departments. *State ex rel v State Board*, 213 M. 228, 6 NW 2nd 250.

The state civil service act applies to all employments of the state service except those expressly excluded therefrom, but it does not apply to hirings under Laws 1941, Chapter 478. *Aslakson v State Dept.*, 217 M 524, 15 NW(2d) 22.

The employees of Minnesota Historical Society are not subject to the civil service act, nor to the employees retirement act. OAG May 26, 1944 (230).

Additional help employed by state treasurer comes within the classified state civil service. OAG July 26, 1944 (644b).

Except for the executive secretary, all employees of the state board of beauty culture examiners are in the classified service. OAG Oct. 16, 1944 (644b).

43.10 TENURE; FIVE-YEAR PROVISION; DISCHARGE; QUALIFYING; REMOVALS.

HISTORY. 1939 c. 441 s. 10; M. Supp. s. 254-58; 1941 C. 533 ss. 2, 3; 1943 c. 640 s. 1.

Subd. 3. Since the legislature clearly possessed the power to incorporate this subdivision, it is the duty of the court to follow the apparent and definite mandate of the statute without considering its views on requiring cause to be shown as a condition precedent. *State ex rel v Gravlin*, 208 M. 148, 293 NW 257.

By the civil service act probationers are subject to dismissal or demotion without "just cause" required in case of permanent employees. *State ex rel v Debel*, 212 M 52, 2 NW(2d) 432.

The status of an accused person is that of an employee until the effective date of the discharge, while he continues in that status he may answer the charges, thus securing a hearing before he loses the economic security which is guaranteed by the civil service law. *State ex rel v Elston*, 214 M 206, 7 NW (2d) 750.

Relator, having been certified to the position of state director of vocational education, after expiration of the probationary period, acquired a permanent classified civil service status in such position and could not thereafter be separated from it except in accordance with the provisions of the act. *State ex rel v Civil Service Board*, 215 M 523, 10 NW (2d) 422.

Subd. 4. Service of any employee in the classified service for a fixed term is incompatible with the recognized principles of civil service. The enactment of the civil service act was an implied repeal of the provisions of section 5474 specifying a two-year term of office for district boiler inspectors. OAG May 23, 1939, *Dist. Boiler Inspector, Classified Service*.

Subd. 5. This subdivision applies only where employees are laid off because reductions are necessary and does not apply when employees are dismissed by the appointing authority for other reasons. OAG June 5, 1939; *Civil Service Act*.

43.11 TEMPORARY EMPLOYMENT.

HISTORY. 1939 c. 441 s. 11; M. Supp. s. 254-59.

43.12 DIRECTOR TO CLASSIFY EMPLOYEES.

HISTORY. 1939 c. 441 s. 12; M. Supp. s. 254-60; 1943 c. 639 s. 1; 1945 c. 598 s. 2.

43.121 CLASSES OF EMPLOYMENT ASSIGNED TO PROPER SALARY RANGE.

HISTORY. 1945 c. 598 s. 3.

43.122 ECONOMIC ADJUSTMENT INCREASE.

HISTORY. 1945 c. 598 s. 4.

43.123 INVESTIGATION.

HISTORY. 1945 c. 598 s. 5.

43.124 DEFINITION FOR SECTION; BASIC SALARY ADJUSTMENTS.

HISTORY. 1945 c. 598 s. 6.

Mandamus does not lie to interfere with the discretion of public officers, but it will be granted to compel the performance of a public duty which the law clearly imposes upon them. It sets in motion the exercise of discretion, but does not attempt to control the particular manner in which a duty is to be performed. Regulator's right to classification and allocation under the civil service act is clear and mandatory. State ex rel v Pennebaker, 215 M 80, 9 NW(2d) 259.

Basis for classification. State ex rel v Civil Service Board, 215 M 517, 10 NW(2d) 422.

43.13. EXAMINATIONS REASONABLE.

HISTORY. 1939 c. 441 s. 13; M. Supp. s. 254-61.

43.14 EXAMINATION REFUSED; APPEAL; BOND.

HISTORY. 1939 c. 441 s. 14; M. Supp. s. 254-62.

43.15 POLITICAL OR RELIGIOUS DISCRIMINATION FORBIDDEN.

HISTORY. 1939 c. 441 s. 15; M. Supp. s. 254-63.

43.16 OATH.

HISTORY. 1939 c. 441 s. 16; M. Supp. s. 254-64.

43.17 APPOINTMENTS; TERM OF ELIGIBILITY; CERTIFIED LISTS.

HISTORY. 1939 c. 441 s. 17; M. Supp. s. 254-65.

43.18 VACANCY, NOTICE OF.

HISTORY. 1939 c. 441 s. 18; M. Supp. s. 254-66.

43.19 VACANCIES, HOW FILLED; PROMOTIONS; SALARY INCREASES; DISMISSAL.

HISTORY. 1939 c. 441 s. 19; M. Supp. s. 254-67.

43.20 POSITIONS FILLED WITHOUT COMPETITION.

HISTORY. 1939 c. 441 s. 20; M. Supp. s. 254-68.

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43.21 PROBATIONARY PERIOD.

HISTORY. 1939 c. 441, s. 21; M. Supp. s. 254-69.

Relator can apply to civil service board for a declaration of status. While relator did not possess a vested right in his employment, on his discharge a right accrued to contest it. It was not lost by the adoption of the civil service law. State ex rel v Stassen, 208 M 523, 294 NW 647.

A veteran appointed from an eligibility register becomes a permanent employee. He need not serve a probationary period. OAG Nov. 16, 1944 (125a-64).

43.22 TRANSFERS WITHIN CLASSIFIED SERVICE; LEAVES OF ABSENCE; REINSTATEMENT.

HISTORY. 1939 c. 441 s. 22; M. Supp. s. 254-70; 1941 c. 533 s. 4; 1943 c. 640 ss. 2, 3.

A permanent employee in classified service may reinstate within one year from the running of the 45-day period following termination of military service. OAG March 15, 1944 (644d).

43.23 SENIORITY RIGHTS; POSITIONS ABOLISHED; PREFERENCE.

HISTORY. 1939 c. 441 s. 23; M. Supp. s. 254-71.

PRECEDENCE. An employee having a permanent civil service status takes precedence over one having only a civil service status in the matter of seniority. OAG Dec. 1, 1939, Civil service-layoff.

43.24 REMOVALS; REASONS FOR IN WRITING; HEARINGS; DECISION.

HISTORY. 1939 c. 441 s. 24; M. Supp. s. 254-72; 1943 c. 607 s. 1.

43.25 DIRECTOR NOTIFIED OF ANY DISCHARGE OR EMPLOYMENT.

HISTORY. 1939 c. 441 s. 25; M. Supp. s. 254-73.

43.26 DIRECTOR TO CERTIFY PAY-ROLLS.

HISTORY. 1939 c. 441 s. 26; M. Supp. s. 254-74; 1941 c. 533 s. 5.

43.27 COMPLIANCE WITH LAW.

HISTORY. 1939 c. 441 s. 27; M. Supp. s. 254-75.

43.28 POLITICAL CONTRIBUTIONS AND ACTIVITIES PROHIBITED.

HISTORY. 1939 c. 441 s. 29; M. Supp. s. 254-77.

CONTRIBUTIONS. This section only prohibits a state employee from soliciting or receiving financial or monetary assistance. It does not prevent employees in the classified service from making voluntary contributions for political purposes. 1940 OAG 286.

FILING FOR OFFICE. This section is not self-executing. The state must take the action required by section 43.24. OAG Oct. 18, 1939, Civil Service.

Member of classified service upon filing as a candidate for public office must resign from state service. OAG April 20, 1944 (644e).

43.29 ACCOMMODATIONS FURNISHED EXAMINERS.

HISTORY. 1939 c. 441 s. 30; M. Supp. s. 254-78; 1943 c. 157 s. 1.

43.30 VETERANS' PREFERENCE.

HISTORY. 1939 c. 441 s. 31; M. Supp. s. 254-79; 1943 c. 157 s. 1.

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CONSTRUCTION. This section supersedes section 4368 which gave relator a civil service status and the remedy of mandamus to enforce his rights thereunder. Remedies are not vested rights and therefor revocation of it by the present section is not cause for complaint. State ex rel v Stassen, 208 M 523, 294 NW 647.

A veteran may have a preference in two or more part-time jobs provided the duties do not conflict. OAG April 16, 1942 (85-1).

The spouse of a disabled veteran or the widow of a deceased veteran has the same preference rights as the spouse would have had in applying for employment in state service. A "disabled veteran" is one whose disability has been determined and declared by the federal veterans administration. OAG Oct. 18, 1944 (644g).

43.31 SERVICE AVAILABLE TO STATE POLITICAL SUBDIVISIONS.

HISTORY. 1939 c. 441 s. 32; M. Supp. s. 254-80.

43.32 TRAINING PROGRAM.

HISTORY. 1939 c. 441 s. 33; M. Supp. s. 254-81.

43.33 CITATION.

HISTORY. 1939 c. 441 s. 35; M. Supp. s. 254-83.

43.34 LAWS SUPERSEDED.

HISTORY. 1939 c. 441 s. 38; M. Supp. s. 254-86.

The civil service act 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 civil service act the veteran was a state employee. State ex rel v Elston, 214 M 206, 7 NW(2d) 750; State ex rel v Pennebaker, 215 M 80, 9 NW(2d) 259.

43.35 VIOLATIONS; PENALTIES.

HISTORY. 1939 c. 441 s. 28; M. Supp. s. 254-76.

43.36 LAWS CONTINUED IN FORCE.

HISTORY. 1939 c. 441 s. 45; M. Supp. s. 254-87.