

## CHAPTER 420

## FIREMEN'S CIVIL SERVICE COMMISSION

**420.02 COUNCIL TO ADOPT RESOLUTION.**

Laws 1929, c. 57, is a general law and has a uniform application to all cities and villages within the class covered thereby. It in no way violates the provisions of the state Constitution, art. 4, ss. 33, 34 or 36. State ex rel v Peterson, 180 M 366, 230 NW 830.

**420.05 MEMBERS TO SERVE WITHOUT PAY.**

The charter provisions of the city of St. Cloud are broad enough to authorize the city to employ such clerical assistance as may be necessary to properly handle the affairs of the city. This applies to the provisions of sections 420.01 to 420.16. 1944 OAG 171, May 24, 1944 (785-E).

**420.06 POWERS AND DUTIES OF COMMISSION.**

See as relates to veterans' preference. State ex rel v MacDonald, 185 M 194, 240 NW 361; 188 M 157, 246 NW 900.

Upon election by a city to come under the provisions of chapter 420, inconsistent sections of the city charter are suspended; and in the instant case, the fire chief is appointed by the commission and not under the provisions of the charter. OAG April 25, 1944 (59-A-21).

Members of a volunteer fire department who receive pay in any way are under the jurisdiction of the commission. OAG June 4, 1945 (688-B).

The commission may make, amend, and modify its rules and regulations, but cannot delegate its powers to others, as might be the case if it entered into contracts with labor unions. OAG Aug. 1, 1946 (270-D).

**420.07 RULES FOR FIRE DEPARTMENT SERVICE.**

Since the cities of International Falls and Brainerd elected to come under the provisions of L. 1929, c. 57, the chief of the fire department is appointed by the commission, and not as provided in the city charters. 1944 OAG 172, April 25, 1944 (688-B); 1944 OAG 173, May 11, 1943 (688-B).

Eveleth fireman's civil service commission may adopt rules providing for leaves of absence of more than 60 days. OAG Oct. 21, 1946 (688-B).

**420.08 REMOVAL OR DISCHARGE; HEARINGS.**

In the absence of a statute so declaring, in the commencement of proceedings under civil service regulations for the removal of a public officer does not of itself operate as a suspension pending the proceedings, nor deprive him of the right to continue in the office and receive the compensation incident thereto. Markus v City of Duluth, 138 M 225, 164 NW 906.

**420.11 NOTICE OF EXAMINATIONS.**

The requirements of section 420.11 as to notice and publication must be strictly complied with. OAG May 11, 1943 (59-A-21).

**420.12 CHARGES TO BE FILED; TRIAL.**

Where the law authorizes an officer to remove an appointee, if in his judgment a cause for such removal exists, and prescribes the procedure, the only questions

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before the court are whether the prescribed procedure has been followed, and whether the reasons assigned for the removal are sufficient to justify it. State ex rel v Wunderlich, 144 M 368, 175 NW 677.

Charges against chief of the fire department must be filed by "a superior officer," which in Rochester would be the city council. OAG July 22, 1946 (688-b).

### 420.13 SUSPENSION OR REMOVAL

Upon review by certiorari of the action of the common council of Duluth in removing relators from the office of fire commissioners, the power to remove not being discretionary, but only for cause, the proceedings are judicial in nature and reviewable by certiorari. State ex rel v Common Council, 53 M'238, 55 NW 118.

Where an employee within the civil service provisions of the city charter is wrongfully separated from his employment for more than 30 days, mandamus affords a proper remedy. State ex rel v Warren, 195 M 180, 261 NW 857.

Reinstatement of illegally discharged civil service employees. 18 MLR 837.