PREFERENCE IN EMPLOYMENT
Act 205 of 1897

AN ACT to prefer honorably discharged members of the armed forces of the United States for public employments.

History: 1897, Act 205, Eff. Aug. 30, 1897;—Am. 1944, 1st Ex. Sess., Act 22, Imd. Eff. Feb. 29, 1944.

The People of the State of Michigan enact:

35.401 Veterans; preference for public employment; effect of physical impairment; vacancy in elective office; qualifications; conflict with county civil service provisions.

Sec. 1. In every public department and upon the public works of the state and of every county and municipal corporation of this state, an honorably discharged veteran, as defined by 1965 PA 190, MCL 35.61 to 35.62, shall be preferred for appointment and employment. Age, loss of limb, or other physical impairment that does not, in fact, incapacitate, does not disqualify them. If it is necessary to fill by appointment a vacancy occurring in an elective office, the appointment is within this act. The applicant shall be of good moral character and shall have been a resident of the state for at least 2 years and possess other requisite qualifications, after credit allowed by the provisions of any civil service laws. If there is a conflict between the provisions of this act and 1941 PA 370, MCL 38.401 to 38.428, the provisions of 1941 PA 370, MCL 38.401 to 38.428, shall prevail.

History: 1897, Act 205, Eff. Aug. 30, 1897;—CL 1897, 1690;—Am. 1899, Act 85, Imd. Eff. May 25, 1899;—Am. 1907, Act 329, Eff. Sept. 28, 1907;—CL 1915, 1041;—Am. 1919, Act 224, Eff. Aug. 14, 1919;—Am. 1923, Act 88, Eff. Aug. 30, 1923;—CL 1929, 900 ;—Am. 1931, Act 66, Imd. Eff. May 4, 1931;—Am. 1939, Act 298, Eff. Sept. 29, 1939;—Am. 1944, 1st Ex. Sess., Act 22, Imd. Eff. Feb. 29, 1944;—CL 1948, 35.401;—Am. 1959, Act 179, Eff. Mar. 19, 1960;—Am. 1976, Act 121, Imd. Eff. May 14, 1976;—Am. 2008, Act 28, Imd. Eff. Mar. 13, 2008.

35.402 Veterans; removal, suspension or transfer from public employment; notice, hearing; protest, waiver; reinstatement, compensation.

Sec. 2. No veteran or other soldier, sailor, marine, nurse or member of women's auxiliaries as indicated in the preceding section holding an office or employment in any public department or public works of the state or any county, city or township or village of the state, except heads of departments, members of commissions, and boards and heads of institutions appointed by the governor and officers appointed directly by the mayor of a city under the provisions of a charter, and first deputies of such heads of departments, heads of institutions and officers, shall be removed or suspended, or shall, without his consent, be transferred from such office or employment except for official misconduct, habitual, serious or willful neglect in the performance of duty, extortion, conviction of intoxication, conviction of felony, or incompetency; and such veteran shall not be removed, transferred or suspended for any cause above enumerated from any office or employment, except after a full hearing before the governor of the state if a state employee, or before the prosecuting attorney if a county employee, or before the mayor of any city or the president of any village, or before the commission of any such city or village operating under a commission form of government, if an employee of a city or village, or before the township board if a township employee, and at such hearing the veteran shall have the right to be present and be represented by counsel and defend himself against such charges: Provided further, That as a condition precedent to the removal, transfer, or suspension of such veteran, he shall be entitled to a notice in writing stating the cause or causes of removal, transfer, or suspension at least 15 days prior to the hearing above provided for, and such removal, suspension or transfer shall be made only upon written order of the governor, the prosecuting attorney, the mayor, commission, or the township board: Provided, however, That where such veteran has been removed, transferred, or suspended other than in accordance with the provisions of this act, he shall file a written protest with the officer whose duty under the provisions of this act it is to make the removal, transfer, or suspension, within 30 days from the day such veteran is removed, transferred, or suspended; otherwise the veteran shall be deemed to have waived the benefits and privileges of this act: Provided, however, Said hearing shall be held within 30 days of filing such notice: Provided further, That the mayor of any city or the president of any village or the commission of any such city or village operating under a commission form of government may refer any protest where a veteran is removed, transferred, suspended or discharged, to the legal department of such city or village for a hearing. The legal department shall act as a fact finding body and shall have the power to examine witnesses, administer oaths and do all those things which the mayor could do hereunder: Provided further, That the findings shall be transmitted to the mayor in writing by the legal department, whereupon the mayor shall examine the transcript of the hearing and make a decision based on the transcript thereof: And provided

CAUTION! This document is from an archived site and may contain outdated information.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

further, That where such veteran has been reinstated to his employment upon the written order of the governor of the state if a state employee, the prosecuting attorney if a county employee, the mayor of any city or the president of any village or the commission of any such city or village operating under a commission form of government, or a township board if a township employee, or by an order of any court of competent jurisdiction, then such veteran shall be entitled to receive compensation for the time lost from date of such dismissal or suspension to the date of reinstatement at the same rate of pay received by him at the date of dismissal or suspension.

History: 1897, Act 205, Eff. Aug. 30, 1897;—CL 1897, 1691;—Am. 1899, Act 85, Imd. Eff. May 25, 1899;—Am. 1907, Act 329, Eff. Sept. 28, 1907;—CL 1915, 1042;—Am. 1919, Act 224, Eff. Aug. 14, 1919;—CL 1929, 901;—Am. 1931, Act 67, Imd. Eff. May 5, 1931;—Am. 1939, Act 298, Eff. Sept. 29, 1939;—Am. 1944, 1st Ex. Sess., Act 22, Imd. Eff. Feb. 29, 1944;—CL 1948, 35.402;—Am. 1955, Act 32, Imd. Eff. Apr. 19, 1955.

35.402a Veterans; military service counted as period of employment.

Sec. 2a. In the event that it shall become necessary for reasons of public policy to reduce the number of persons in any public employment mentioned in this act, the status of persons removed from employment shall be determined on the basis of seniority of service and on the basis of quality of service as determined by the employing authority, and those having the least seniority and least quality of service shall be first removed. In the case of an employee mentioned in section 1 of this act, who was in public employment prior to and at the time of entering military service, the time spent in military service shall be added to the period of employment in case he shall return to the same or similar public employment following discharge from military service.

History: Add. 1949, Act 143, Eff. Sept. 23, 1949.

35.403 Violation of act; penalty.

Sec. 3. A violation of any of the provisions of this act, by a person having the power of appointment to a position, under him, in either of the departments mentioned in section 1, shall be deemed a misdemeanor and upon conviction thereof in any court of competent jurisdiction shall be punished by a fine of not less than 50 dollars, and not more than 100 dollars, or by imprisonment in the county jail not to exceed 90 days or by both such fine and imprisonment in the discretion of the court.

History: 1897, Act 205, Eff. Aug. 30, 1897;—CL 1897, 1692;—Am. 1899, Act 85, Imd. Eff. May 25, 1899;—Am. 1907, Act 329, Eff. Sept. 28, 1907;—CL 1915, 1043;—CL 1929, 902;—CL 1948, 35.403.

35.404 Veterans; rejection of application for public employment, remedy.

Sec. 4. In case the application of any such soldier, sailor or marine, shall be rejected by the person having the power of appointment to the position for which he has applied, he shall be entitled to remedy therefor by mandamus to enforce the provisions of this act.

History: Add. 1907, Act 329, Eff. Sept. 28, 1907;—CL 1915, 1044;—CL 1929, 903;—CL 1948, 35.404.

CAUTION! This document is from an archive and may contain outdated information.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov