

CITIZENS LEAGUE REPORT

No. 21

**A Report on state & local  
Veterans' Preference laws**

**April 1954**

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# **VETERANS' PREFERENCE**

A report before the Interim Committee on Civil Service by the  
City and Metropolitan Government Committee of the Citizens League of  
Greater Minneapolis.

April 2, 1954

### Statement of Principle

"The committee adopted as its guiding principle the theorem that civil service preference for veterans is not to be considered as a reward for valor; it is a recompense for time spent in the country's service which would ordinarily have been devoted to pursuing a career and gaining experience, seniority and tenure. Because a disabled veteran has not only to make up for time lost, but has usually become more or less handicapped in earning a living in a competitive world, he is entitled to the greater preference. The community owes this debt, even if it does some violence to the theory of the merit system that 'the best shall serve the state.' The preference given, however, must be equitable as among veterans, must not be so great as to be wholly unfair to other citizens, and must not be such as to lower the efficiency of the public service, on which everyone, veteran and non-veteran, depends."

## WHY THE CITIZENS LEAGUE IS INTERESTED IN VETERANS' PREFERENCE

The primary interest of the Citizens League of Greater Minneapolis is in good government in the Minneapolis area. In general, the League operates within the Minneapolis area but at times must come before the legislature to seek changes in the laws which, though general in nature, directly affect the operation of city government. Such is the case with regard to veterans' preference.

We want to make it very clear that we do not oppose veterans' preference. We believe that a qualified veteran is entitled to job preference. We do oppose some of the provisions which grant excessive preference and which are obstructing efficient government in the city of Minneapolis. The city is not always hiring or promoting the best people available and this is detrimental to all the people, veterans as well as non-veterans.

We believe that if a veteran and a non-veteran are equal or nearly equal in the skills needed for public service the veteran should get the job. We think that is what veterans' preference should assure. We do not believe that any candidate should be selected for a government job when a clearly more qualified candidate is available. This is harmful not only to the civil service but to all of the citizens as well.

## SCOPE OF STUDY

We recognize that many organizations plus the legislative research committee and a legislative commission have studied the problem of veterans' preference in Minnesota and have recommended changes in the present laws. We have used these studies as source material for our study and incorporated many of their recommendations.

We are not going to summarize the history of these proposals. We want to place our emphasis, instead, on the ways in which the state preference laws are

affecting government in the Minneapolis area. This implies, of course, that other local governments are facing similar problems. We would like to give you some specific examples of ways in which our government is poorer than it should be because of the existing veterans' preference laws.

Members of our committee have interviewed Minneapolis department heads and consulted the civil service files to bring you the official opinions and the examples that we will present.

#### WHAT WE SUGGEST

Our committee believes that it is of vital importance to improve the veterans' preference laws in order to improve the public service. The committee believes the laws should be based on the following principles:

1. State and local veterans' preference laws should be uniform.
2. Preference should be granted in terms of points and absolute preference should be abolished.
3. Preference points should be added only after a veteran has attained a passing score on an examination.
4. A disabled veteran should be defined as one with a 10 per cent or higher disability rating from the Veterans Administration.
5. Preference should be used only once, either at the time of original hiring or at the time of a promotion.
6. Veterans and non-veterans should receive the same treatment during a probationary period.
7. The same physical and age qualifications for a job should apply to all candidates for the job, veterans and non-veterans alike.
8. The requirement that veterans must have enlisted from Minnesota or lived in the political subdivision for five years before being entitled to preference is unnecessary.

## WHAT IS VETERANS' PREFERENCE NOW?

There are two Minnesota statutes which grant a preferment to veterans. One extends an advantage to veterans seeking employment or promotion in the state classified (merit) civil service system. The other extends advantages to veterans seeking employment or promotion in the local government civil service systems.

The preference granted to veterans by the statute applying to the state classified service is extended not only to the veteran seeking an initial appointment to a state position but also a promotion. The non-veteran seeking a career in the public service must therefore compete against the advantage extended to veterans, not only in securing an original appointment, but also, if he is successful in securing appointment, he must continue to compete at a disadvantage for any promotional opportunity that might present itself.

The amount of advantage given veterans in the state classified service is increased if he is disabled. The disabled veteran is granted ten points in addition to his earned score on a civil service examination, whereas a non-disabled veteran is granted five points in addition to his earned score. In both cases the veteran need not secure a passing mark in the examination before receiving his preference but he may use his five or ten points to achieve a passing mark. In other words, it is possible for a veteran with a score of sixty, if disabled, or a score of sixty-five, if not disabled, to use his ten or five points of preference to get a passing mark, which is seventy. Once a passing mark is attained, the disabled veteran is given the additional advantage of having his name placed at the top of the eligible list, ahead of all other applicants, whether it is for original appointment or for promotion, even though some non-disabled veterans or non-veterans may have achieved much higher scores on the examination. The non-disabled veteran is placed on the eligible list in accordance with the rank of his score after the five points are added, but if a non-veteran and a veteran have the same total

score, the veteran is placed above the non-veteran, even though the non-veteran earned a mark on the examination five points higher than that earned by the veteran.

To qualify for the additional advantage extended to disabled veterans, the statute requires that the veteran must be rated as disabled by the Veterans Administration or by a defense department retiring board. The Attorney General has ruled that a disability rating of zero per cent is sufficient to qualify a veteran for the disability preference in the state service, which is ten points plus having the name placed at the top of the list. Therefore, a veteran who has no present disability but who is "rated" as having a zero per cent disability gets the same preference as the veteran who is really disabled and has a rating of ten or more per cent. Ratings of zero per cent are not unusual. They occur most frequently in the case of veterans who have had in the past a disability which has been rated at ten or more per cent but which has since disappeared as a result of treatment. When the disability no longer exists, the rating is changed by the Veterans Administration from the previous percentage to zero per cent, to indicate the present condition of the veteran.

In addition to the advantages noted above, age and physical qualifications are waived for veterans, if the age or physical disability does not render the veteran incompetent to perform the duties of the position. This waiver also has the effect of permitting veterans to continue to work even though they have passed the retirement age prescribed for civil service employees.

The preference extended to veterans by the statute which applies to local government employees is similar to that extended to veterans in the state service in that it grants the preference in promotions as well as in original appointments. It differs, however, in that it requires a passing grade before the preference is granted. The amount of preference given is actually greater in that no points are given, but instead, the veterans, disabled and non-disabled, go to the top of the appointment or promotion list. There is no differentiation between the disabled and

the non-disabled in the amount of preference granted as there is in the state classified service. Some local civil service systems waive age and physical requirements for veterans, while others do not. Minneapolis does waive these requirements.

#### SOME PROBLEMS WE FOUND

In conversations with our committee members, Minneapolis department heads stressed two major defects in the present veterans' preference laws: first, that highly qualified candidates may never receive appointments or promotions, and second, that department morale is very seriously affected.

Here is what has happened, for example, in the Minneapolis fire department:

Albert R. Waterhouse became a Minneapolis fire motor operator in 1939. He ranked fifth out of 18 on the eligible list but was the ninth to be appointed because he was not a veteran. Five veterans who ranked lower than he did were appointed ahead of him. This was before World War II when the percentage of veterans on the lists was far lower than it is today.

In 1942 Waterhouse took a promotional examination for fire captain. He ranked first on a list of 45. By the time the list expired in 1948, 26 men who ranked below Waterhouse had been appointed fire captains. The 26 men were all veterans. Although Waterhouse ranked first, he never was made a fire captain.

In 1943 Waterhouse took a promotional examination for fire signal operator. He ranked second on a list of 41. The veterans who ranked below him received appointments but Waterhouse did not - and neither did the non-veteran who ranked first on that list.

In 1949 Waterhouse took the next promotional examination for fire captain. This time he ranked first on a list of 63. Before the list expired in 1951, 29 men with lower scores than Waterhouse's were promoted to fire captain. The 29 men were all veterans. Waterhouse received no appointment.



Waterhouse is still a fire motor operator and has stopped taking promotional examinations.

Lawrence J. Lagerbauer, a Minneapolis firefighter, has been in line for promotions five times and has received none of those promotions. He is not a veteran.

He ranked 18th out of 57 on a fire motor operator promotional list in effect from July, 1948, to July, 1950. Eighteen men with lower scores received appointments. All 18 were veterans. Lagerbauer received no appointment.

Lagerbauer ranked first on a list of 53 eligible for fire motor operator promotions from November, 1950, to November, 1952. Twenty-six men with lower scores, all veterans, received appointments. Lagerbauer received no appointment.

Lagerbauer is second on the fire motor operator promotional list now in effect. The man who ranked first, a veteran, has been appointed and no other names had been used from this list up to March 1 of this year. But Lagerbauer, although he is second, obviously won't have a chance. Below him on the list are 35 men and 20 of them are veterans.

Lagerbauer tried the fire captain examinations too. On the list in effect from June, 1949, to June, 1951, he ranked seventh out of 63. Twenty-four men who ranked lower - all veterans - received appointments. Lagerbauer did not.

On the next eligible list for fire captain, he was second out of 57. Before the list expired six men with lower scores - all veterans - received appointments.

Lagerbauer, for some reason, continues to study each time a new examination is announced and takes the examination. He continues to rank high. He is still a firefighter.

Some good non-veterans, like Lagerbauer, will continue to try for promotions that seem, in all fairness, to be due them. But other good non-veterans watch the repeated defeats and figure they won't even bother to try. It doesn't take a personnel expert to see what a devastating effect this has on department morale.

And it doesn't take a government administrator to see that the best public interest is not being served.

Appendix I is a civil service list which illustrates this problem further.

Fire Chief R. C. Malmquist stated that he would be willing to appear before any legislative committee to discuss the effects of veterans' preference in his department.

#### Police Department

A member of our committee interviewed T. R. Jones, Minneapolis chief of police. Chief Jones said one of the real problems in his department is the demoralization and inefficiency within his too-small staff caused by the inequities created by the veterans' preference law.

One of the main difficulties is the provision for absolute preference for any veteran with a passing mark, thus bypassing men with talent on the list. Another difficulty lies in the application of veterans' preference to the probationary period. In civil service theory the probationary period is of extreme importance. It allows the supervisor to rate his new employe on many characteristics that cannot be brought forth in a written examination - such things as courage and loyalty and good judgment and ability to deal with the public. When a man goes on the police force or is promoted, he is subject to six months probation. If he does not do well, he can be dropped - but only if he is a non-veteran.

Veterans' preference puts the veteran in an entirely different position. It exempts the veteran from this important probationary period and provides that he cannot be dropped at any time without a complete hearing before the civil service commission in which the department head must prove incompetence or misconduct.

Another difficulty under the present law is the age requirement for admission to the force. A non-veteran must be between 23 and 30. A veteran may be between 21 and 44.

Summarizing, Chief Jones said that at least a dozen non-veteran patrolmen who have been on the force ten years or more would be sergeants or higher in rank if it were not for the veterans' preference law. He cited the example of a patrolman who he rates as one of the three or four outstanding men on the force. This man has been on the force for over ten years. He is taking law courses to improve his work. The man is a non-veteran and to date has been unable to secure promotion because of the veterans' preference law.

Chief Jones outlined other cases for our committee but asked that names not be made public. The names are in our file.

Chief Jones stated in a letter to our committee:

"I have always been opposed to total preference for veterans, feeling that the best interests of the department as a whole and the citizens of the community are defeated because the primary purpose of the Civil Service Examination is nullified by the Act's provisions.

"The primary purpose of Civil Service examinations is to determine the individual best fitted for employment or promotion, by means of competitive examinations. In order to obtain this result the individual with the best over-all grades in the examination should be placed at the top of the eligibility list. The present Veterans' Preference Act provides that any veteran with a passing grade shall be placed ahead of any non-veteran on the list. It is obvious that the entire purpose of the examination is defeated when it is possible for a veteran with a mark of 70 to be placed ahead of a non-veteran with a mark of 95, for example.

"There have been numerous occasions when the department and the city have lost the services of persons with higher qualifications, as indicated by the examinations, than persons who were certified to positions because of this procedure. Other provisions of the Act, such as waiver of age requirements, and probationary period regulations do not work to the best interests of good administrative practices and are discriminatory against non-veterans.

"It is the writer's opinion that veterans' preference should be uniform on Federal, State and Local levels. It is also my opinion that the present procedures used on the Federal level are much more acceptable in every phase and to all concerned."

#### Engineering Department

Our committee found a different kind of problem in the city engineer's department. Because of the many specialized jobs performed by the department and the rather rigid job specifications for the positions, the eligibility lists are considerably shorter than those in the fire and police departments. The department employees know which of the possible eligible men are veterans and know, of course, that these veterans will have absolute preference, so qualified non-veterans are discouraged from taking the examinations.

Hugo Erickson, city engineer, made this statement:

"It is my opinion that the present Veterans' Preference Laws in the city of Minneapolis are not in the best interest of efficient government

"They not only present the possibility of the best man not obtaining the position, but they affect the morale of the people in the government who are non-veterans as they feel they have virtually no opportunity to be promoted."

#### City Civil Service Commission

In discussions with members of the commission and their staff, we have come across further ramifications of the problem. We found, for example, that veterans themselves do not always benefit from excessive preference. Some jobs are not filled when application of preference requires appointment of a candidate with considerably poorer qualifications than other candidates. In other cases the veteran may be "urged" to withdraw his name. Neither the elimination of a job nor the use of social pressure to prevent the veteran from filling a job can be considered as advantageous to any veteran.

In still other cases, non-veterans, with particularly high qualifications, are working out of grade, literally filling a job without the title or the pay or the security attached to that job. Probably the best-known example was the case of Pat Walling, who, for three years, headed the morals squad in Minneapolis although he had only the rank of patrolman. From our discussions we gathered that this is not a rare situation.

The commission expressed grave concern over waiver of retirement age requirements and over a recent ruling of the Attorney General that veterans retired from the civil service are entitled to return to their former jobs if they want to. The commission feels that observing this ruling will create chaos.

#### RECOMMENDATIONS

We believe the veterans' preference laws should be based on these principles:

##### 1. UNIFORMITY OF VETERANS' PREFERENCE LAWS AT STATE AND LOCAL LEVELS.

The civil service at any level of government should operate under the best rules known and there seems to be no justifiable reason for the present confusing differences.

This proposal was made by the Veterans' Preference in Public Employment Commission in 1951.

##### 2. SUBSTITUTION OF POINT PREFERENCE FOR THE PRESENT ABSOLUTE PREFERENCE IN LOCAL GOVERNMENT UNITS, WITH TEN POINTS BEING ADDED TO THE SCORES OF DISABLED VETERANS, FIVE POINTS FOR NON-DISABLED VETERANS, AND A CREDIT FOR WIDOWS OF VETERANS WHO REMAIN UNMARRIED AND SPOUSES OF DISABLED VETERANS UNABLE TO CLAIM THEIR PREFERENCE EQUAL TO WHAT THE VETERAN COULD HAVE CLAIMED.

While the League fully subscribes to the principle of granting a reasonable advantage in securing public employment to those who have served their country

in time of war, it believes, in the public interest, that preference should not be extended to the point of practically excluding well-qualified non-veteran applicants from original and promotional opportunities and thereby unreasonably impede the selection of personnel on the basis of merit and fitness.

The absolute preference interferes with the proper operation of the civil service system by jumping any veteran who passes the examination over all non-veterans regardless of score. City department heads indicated that this frequently results in men with relatively low grades on the examination receiving appointments where men who scored high are available and cannot be appointed. Even though the examinations are designed to separate the qualified from the unqualified, it unduly handicaps public administration if any one group is singled out for absolute preferred treatment regardless of placement on the examination list. The League is of the opinion that ten points for disabled veterans and five points for non-disabled veterans and a credit for widows of veterans who remain unmarried and spouses of disabled veterans unable to claim their preference represents a fair preference system. Such preferences are granted in the federal civil service and in the state system, except that in the state system disabled veterans who receive a passing grade with or without augmentation by the ten points go to the top of the list and the provision whereby widows lose the preference on remarriage is not present in either federal or state statute.

3. CONTINUATION AT THE LOCAL LEVEL AND INTRODUCTION AT THE STATE LEVEL OF THE REQUIREMENT THAT VETERANS' PREFERENCE IS AVAILABLE ONLY TO THOSE VETERANS WHO GET A PASSING GRADE ON THE EXAMINATION BEFORE PREFERENCE IS APPLIED.

It is not in the best interests of the public service to employ a candidate who has failed an examination designed to determine his fitness for employment. The fact that the candidate is a veteran surely makes him no more fit for the job if he has failed the examination. The veteran's right to assistance in gaining public

employment is adequately served if his preference is applied only after he passes the examination.

This recommendation also has been made by the Civil Service Assembly, the Little Hoover Commission, the 1951 Minnesota Veterans' Preference in Public Employment Commission and the League of Minnesota Municipalities.

4. DEFINING DISABLED VETERANS AS THOSE VETERANS WHO ARE RECEIVING A TEN PER CENT OR HIGHER DISABILITY RATING FROM THE VETERANS ADMINISTRATION.

At present, veterans, who at one time have had a disability rating by the Veterans Administration but whose disability has been overcome to the point where the Veterans Administration rates them as zero per cent disabled, are entitled to get the veterans' preference for disabled veterans under state and federal preference laws. The committee is of the opinion that this is too lenient and those veterans who are not rated as ten per cent or higher in their disability by the Veterans Administration should be treated as non-disabled veterans as far as veterans' preference is concerned.

This recommendation conforms with that of the Civil Service Assembly, the 1951 Minnesota Veterans' Preference in Public Employment Commission and the League of Minnesota Municipalities.

5. PROVIDING THAT A VETERAN CAN USE HIS PREFERENCE ONLY ONE TIME, EITHER AT THE TIME OF ORIGINAL HIRING OR AT THE TIME OF A PROMOTION.

The committee feels that the aim of veterans' preference should be to assist a qualified veteran in obtaining a suitable government job, but that it should not be used to protect him forever from fair competition with other qualified employees in obtaining promotions. It seems important to include a veteran's right to preference in obtaining one promotion in order to provide fair treatment to the veteran who entered military service from a government job.

6. ELIMINATION OF ANY DIFFERENCE IN THE TREATMENT OF VETERANS AND NON-VETERANS DURING THE PROBATIONARY PERIOD.

Serving of a probationary period is essential to the proper operation of a civil service system and the provisions for discharge during the probationary period should be uniformly applied to veterans and non-veterans. Under the present system, the difficulties of discharging a veteran during the probationary period are so great that it is almost never attempted, even though the veteran already appears to be unsuited for the work.

7. PROVISION THAT VETERANS SHALL BE GOVERNED BY THE SAME PHYSICAL AND AGE QUALIFICATIONS FOR A JOB AS NON-VETERANS AND SHALL BE SUBJECT TO THE SAME RETIREMENT AGE PRACTICES.

It seems apparent that if it is possible to waive qualifications without hurting the service, then the qualifications are too rigid. But if the qualifications are essential, then the service is damaged by the admission of unqualified persons.

8. ELIMINATION OF THE PRESENT REQUIREMENT THAT VETERANS MUST HAVE ENLISTED FROM MINNESOTA OR LIVED IN THE POLITICAL SUBDIVISION FOR FIVE YEARS BEFORE THEY ARE ENTITLED TO VETERANS' PREFERENCE.

The committee suggests that the normal residence requirements for applicants, which in the case of state jobs is two years prior to the date of application and in the case of Minneapolis jobs is one year prior to the date of application, is adequate protection against itinerant veterans who might attempt to take examinations in many states.



# APPENDIX I

## FIRE CAPTAINS ELIGIBLE LIST Expired 6-28-51

1. Waterhouse, A. R.	NON-vet.	NOT appointed
2. Kees, Burton J.	"	" "
3. Hall, Kenneth W.	Veteran	Appointed 8-16-49
4. Lindgren, Fritz	"	" 11-16-49
5. Rivers, Sid J.	"	" 2-10-50
6. Brix, William	"	" 3-1-50
7. Lagerbauer, L. J.	NON-vet.	NOT appointed
8. Connors, James M.	Veteran	Appointed 3-1-50
9. Mulheran, John	"	" 4-10-50
10. Palmer, Robert T.	"	" 5-16-50
11. Johnson, Harold G.	"	" 5-16-50
12. Rosso, Raymond	"	" 5-16-50
13. Toren, John A.	"	" 5-16-50
14. Derus, John E.	"	" 5-16-50
15. Desmond, W. W.	NON-vet.	NOT appointed
16. Skeldon, H. J.	Veteran	Appointed 5-16-50
17. Welch, Kenneth E.	"	" 5-16-50
18. Conklin, L. C.	"	" 5-16-50
19. Anderson, Carl J.	"	" 5-16-50
20. Rossman, Donald	"	" 5-16-50
21. Martin, Lloyd	NON-vet.	NOT appointed
22. Stone, Howard	Veteran	Appointed 9-1-50
23. Anne, George J.	"	" 9-1-50
24. Hersom, Lucian C.	NON-vet.	NOT appointed
25. Campion, Gregory	Veteran	Appointed 10-1-50
26. Longman, Benjamin F.	"	" 11-1-50
27. Mulheran, George	"	" 3-16-51
28. Mueller, Robert	NON-vet.	NOT appointed
29. Leight, Stanley	"	" "
30. Swanson, Vernon G.	Veteran	Appointed 4-1-51
31. Williams, Woodrow	"	" 4-16-51
32. O'Hearn, Claude F.	"	Resigned before name reached
33. Fredine, Carmel	NON-vet.	NOT appointed
34. Reinert, L. L.	Veteran	Appointed 5-16-51
35. Hegdahl, H. J.	"	" 5-16-51
36. Knight, Theo R.	NON-vet.	NOT appointed
37. Campion, Robert E.	Veteran	Appointed 5-21-51
38. Miller, Stanley	"	" 6-22-51
39. Jones, Robert R.	NON-vet.	NOT appointed
40. Robinson, Lyle C.	"	" "
41. Brodahl, Donald	Veteran	Appointed 6-28-51

22 more names on this list but Brodahl last man appointed.