



STATE OF MINNESOTA DEPARTMENT OF VETERANS AFFAIRS
OFFICE OF THE COMMISSIONER, LARRY HERKE



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May 7, 2021

Senator Mary Kiffmeyer
Chair, State Government Finance and Policy
and Elections Committee
3103 Minnesota Senate Building
St. Paul, MN 55155

Representative Michael V. Nelson
Chair, State Government Finance and
Elections Committee
585 State Office Building
St. Paul, MN 55155

Re: HF1952 Omnibus State Government bill - Office of Administrative Hearings contested case language

Chairs and Conferees:

The Senate Version of the State Government Omnibus Bill contains a provision regarding contested case hearing disposition before the Office of Administrative Hearings that would drastically alter the way Veterans Preference Enforcement Cases are handled by the Minnesota Department of Veterans Affairs (MDVA).

Currently, a Veteran who has been denied their Veterans preference rights in public employment may submit a Petition for Relief to the Commissioner of MDVA under Minn. Stat. §197.481. A Contested Case Hearing is held before an Administrative Law Judge (ALJ), who makes a recommendation to the Commissioner, who is the final decision maker.

Language in HF1952, Article 2, Section 28 (*see UEH1952-1, starting at line 35.28*) would eliminate the key role of the Commissioner of MDVA, rendering the ALJ's Recommendation the final decision.

It is important to emphasize that the Commissioner of MDVA is not a party to these Contested Cases; they are between an individual Veteran and a public employer, such as a City, County, School District, or a State Agency. In those rare cases where a MDVA Employee is the individual submitting a Petition for Relief, the Commissioner delegates the decision to the Deputy Commissioner in another MDVA Division, who has no conflict of interest in the outcome of the case.

State agencies are expected to be subject matter experts in their respective areas - that has been a major reason for their establishment. The Commissioner of the Minnesota Department of

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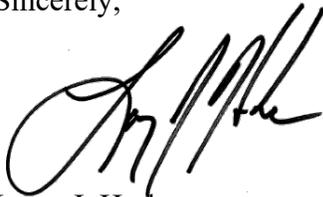
This document will be made available upon request in an alternative format by contacting the MDVA Office for Diversity, Equity and Inclusion at 612-548-5961 or at diversity.mdva@state.mn.us.

Veterans Affairs embodies the expertise of the agency and understands the challenges and difficulties that Veterans experience when transitioning from military to civilian life. This is especially true regarding employment issues.

While an Administrative Law Judge is fully capable of ascertaining the facts and determining the applicable law, the Commissioner of MDVA brings additional perspective in light of their experience as a Veteran, and their work with Veterans. MDVA Commissioners have very rarely reversed ALJ recommendations. However, in those cases that were reversed, it was due to the Commissioner's deeper understanding of a Veteran's situation.

We oppose the inclusion of language that would make the ALJ's Report the Final Decision while removing the Commissioner from the Veterans Preference Enforcement Cases process.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Herke", written in a cursive style.

Larry J. Herke
Commissioner

cc: Senator Andrew Lang
Senator Mark Koran
Senator Jeff Howe
Senator Jim Carlson
Representative Tou Xiong
Representative Sandra Masin
Representative Emma Greenman
Representative Jim Nash