

By Senator Hays

20-01082-12

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1                   A bill to be entitled  
2           An act relating to the Civil Air Patrol, Florida Wing;  
3           amending s. 252.55, F.S.; providing definitions;  
4           requiring certain employers to provide specified  
5           unpaid leave to an employee performing a Civil Air  
6           Patrol mission or engaged in Civil Air Patrol  
7           training; prohibiting specified public and private  
8           employers from discharging, reprimanding, or  
9           penalizing a member of the Florida Wing of the Civil  
10          Air Patrol because of his or her absence by reason of  
11          Civil Air Patrol service or training; providing  
12          procedures for and requirements of employees and  
13          employers with respect to taking Civil Air Patrol  
14          leave and employment following such leave; specifying  
15          rights and entitlements of a member of the Florida  
16          Wing of the Civil Air Patrol who returns to work after  
17          completion of a Civil Air Patrol mission or training;  
18          providing for civil action for violation of the act;  
19          specifying damages; providing for attorney fees and  
20          costs; providing an effective date.

21  
22   Be It Enacted by the Legislature of the State of Florida:

23  
24           Section 1. Section 252.55, Florida Statutes, is amended to  
25   read:

26           252.55 Civil Air Patrol, Florida Wing; requirements for  
27   Civil Air Patrol leave.—

28           (1) The Florida Wing of the Civil Air Patrol, an auxiliary  
29   of the United States Air Force, is ~~shall be~~ recognized as a

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30 nonprofit, educational, and emergency-management-related  
31 organization and is ~~shall be~~ eligible to purchase materials from  
32 the various surplus warehouses of the state.

33 (2) Funds shall be appropriated annually from the Emergency  
34 Management, Preparedness, and Assistance Trust Fund for the  
35 purpose of acquisition, installation, conditioning, and  
36 maintenance of the Florida Wing of the Civil Air Patrol.  
37 However, ~~no part of~~ the annual appropriation or any part thereof  
38 may not shall be expended for the purchase of uniforms or  
39 personal effects of members of the organization or for  
40 compensation or salary to such members.

41 (3) The wing commander of the Florida Wing of the Civil Air  
42 Patrol may employ administrative help and purchase educational  
43 materials for the training of Florida youth for which funds from  
44 the annual appropriation may be used.

45 (4) Purchase of aircraft is ~~shall be~~ limited to not more  
46 than \$15,000 per year, and not more than \$15,000 per year may be  
47 placed in a building reserve fund to be used toward the  
48 acquisition of a permanent state headquarters and operations  
49 facility.

50 (5) The wing commander of the Florida Wing of the Civil Air  
51 Patrol shall biennially furnish the division a 2-year projection  
52 of the goals and objectives of the Civil Air Patrol which shall  
53 be reported in the division's biennial report submitted pursuant  
54 to s. 252.35.

55 (6) As used in this section, the term:

56 (a) "Benefits" means all benefits, other than salary and  
57 wages, provided or made available to employees by an employer  
58 and includes group life insurance, health insurance, disability

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59 insurance, and pensions, regardless of whether benefits are  
60 provided by a policy or practice of an employer.

61 (b) "Civil Air Patrol leave" means leave requested by an  
62 employee who is a member of the Florida Wing of the Civil Air  
63 Patrol.

64 (c) "Employee" means any person who may be permitted,  
65 required, or directed by an employer in consideration of direct  
66 or indirect gain or profit to engage in any employment and who  
67 has been employed by the same employer for at least 90 days  
68 immediately preceding the commencement of Civil Air Patrol  
69 leave. "Employee" does include an independent contractor.

70 (d) "Employer" means a private or public employer, or an  
71 employing or appointing authority of this state, its counties,  
72 school districts, municipalities, political subdivisions, career  
73 centers, community colleges, or universities.

74 (7) (a) An employer that employs 15 or more employees shall  
75 provide up to 15 days of unpaid Civil Air Patrol leave annually  
76 to an employee performing a Civil Air Patrol mission or engaged  
77 in Civil Air Patrol training, subject to the conditions set  
78 forth in this section. Civil Air Patrol leave granted under this  
79 section may consist of unpaid leave.

80 (b) An employer may not require any member of the Florida  
81 Wing of the Civil Air Patrol returning to employment following a  
82 period of Civil Air Patrol service or training to use vacation,  
83 annual, compensatory, or similar leave for the period during  
84 which the member was performing a Civil Air Patrol mission or  
85 engaged in Civil Air Patrol training. However, any such  
86 returning member shall, upon his or her request, be permitted to  
87 use, for the period during which the member was ordered into

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88 Civil Air Patrol service or training, any vacation, annual,  
89 compensatory, or similar leave with pay accrued by the member  
90 prior to the commencement of his or her service or training.

91 (8) If a member of the Florida Wing of the Civil Air Patrol  
92 is ordered into service to perform a Civil Air Patrol mission or  
93 is engaged in Civil Air Patrol training, a private or public  
94 employer, or an employing or appointing authority of this state,  
95 its counties, school districts, municipalities, political  
96 subdivisions, career centers, community colleges, or  
97 universities, may not discharge, reprimand, or in any other way  
98 penalize the member because of his or her absence by reason of  
99 such service or training.

100 (9) (a) Upon the completion of a Civil Air Patrol mission or  
101 training, the member of the Civil Air Patrol shall promptly  
102 notify the employer of his or her intent to return to work.

103 (b) An employer is not required to allow a member of the  
104 Civil Air Patrol to return to work upon the completion of a  
105 Civil Air Patrol mission or training if:

106 1. The employer's circumstances have so changed as to make  
107 employment impossible or unreasonable;

108 2. Employment would impose an undue hardship on the  
109 employer;

110 3. The employment from which the member of the Civil Air  
111 Patrol leaves to perform a Civil Air Patrol mission or engage in  
112 Civil Air Patrol training is for a brief, nonrecurrent period  
113 and there is no reasonable expectation that such employment will  
114 continue indefinitely or for a significant period; or

115 4. The employer had legally sufficient cause to terminate  
116 the member of the Civil Air Patrol at the time he or she left to

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117 perform a Civil Air Patrol mission or engage in Civil Air Patrol  
118 training.

119

120 The employer has the burden of proving any factor set forth in  
121 subparagraphs 1.-4. that served as the employer's basis for not  
122 allowing a member of the Civil Air Patrol to return to work upon  
123 completion of a Civil Air Patrol mission or training as provided  
124 for under this paragraph.

125 (c) A member of the Florida Wing of the Civil Air Patrol  
126 who returns to work after completion of a Civil Air Patrol  
127 mission or training is entitled to:

128 1. The seniority that the member had at his or her place of  
129 employment on the date of the commencement of his or her Civil  
130 Air Patrol mission or training and any other rights and benefits  
131 that inure to the member as a result of such seniority; and

132 2. Any additional seniority that the member would have  
133 attained at his or her place of employment if he or she had  
134 remained continuously employed and the rights and benefits that  
135 inure to the member as a result of such seniority.

136 (d) A member of the Florida Wing of the Civil Air Patrol  
137 who returns to work after completion of a Civil Air Patrol  
138 mission or training may not be discharged from such employment  
139 for a period of 1 year after the date the member returns to  
140 work, except for cause.

141 (10) If the wing commander of the Florida Wing of the Civil  
142 Air Patrol certifies that there is probable cause to believe  
143 there has been a violation of this section, an employee  
144 performing a Civil Air Patrol mission or engaged in Civil Air  
145 Patrol training so injured by a violation of this section may

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146 bring civil action against an employer violating this section in  
147 a court of competent jurisdiction of the county in which the  
148 alleged violator resides or has his or her principal place of  
149 business, or in the county wherein the alleged violation  
150 occurred. Upon adverse adjudication, the defendant is liable for  
151 actual damages or \$500, whichever is greater. The prevailing  
152 party in any litigation proceedings is entitled to recover  
153 reasonable attorney fees and court costs.

154 (11) The certification of probable cause may not be issued  
155 until the wing commander of the Florida Wing of the Civil Air  
156 Patrol, or his or her designee, has investigated the issues. All  
157 employers and other personnel involved with the issues of such  
158 investigation must cooperate with the wing commander of the  
159 Florida Wing of the Civil Air Patrol in the investigation.

160 Section 2. This act shall take effect July 1, 2012.