

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
 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
 34 Emergency Management, Preparedness, and Assistance Trust Fund
 35 for the 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
 42 Air Patrol may employ administrative help and purchase
 43 educational materials for the training of Florida youth for
 44 which funds from 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
 51 Air Patrol shall biennially furnish the division a 2-year
 52 projection of the goals and objectives of the Civil Air Patrol
 53 which shall be reported in the division's biennial report
 54 submitted pursuant to s. 252.35.

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

HB 1359

2012

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
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
 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
 92 Patrol is ordered into service to perform a Civil Air Patrol
 93 mission or is engaged in Civil Air Patrol training, a private or
 94 public employer, or an employing or appointing authority of this
 95 state, 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
 101 or 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
 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
 129 of employment on the date of the commencement of his or her
 130 Civil Air Patrol mission or training and any other rights and
 131 benefits that inure to the member as a result of such seniority;
 132 and

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

137 (d) A member of the Florida Wing of the Civil Air Patrol
 138 who returns to work after completion of a Civil Air Patrol
 139 mission or training may not be discharged from such employment

HB 1359

2012

140 for a period of 1 year after the date the member returns to
141 work, except for cause.

142 (10) If the wing commander of the Florida Wing of the
143 Civil Air Patrol certifies that there is probable cause to
144 believe there has been a violation of this section, an employee
145 performing a Civil Air Patrol mission or engaged in Civil Air
146 Patrol training so injured by a violation of this section may
147 bring civil action against an employer violating this section in
148 a court of competent jurisdiction of the county in which the
149 alleged violator resides or has his or her principal place of
150 business, or in the county wherein the alleged violation
151 occurred. Upon adverse adjudication, the defendant is liable for
152 actual damages or \$500, whichever is greater. The prevailing
153 party in any litigation proceedings is entitled to recover
154 reasonable attorney fees and court costs.

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

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