

By Senator Stargel

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

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

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

27 252.55 Civil Air Patrol, Florida Wing.—

28 (1) As used in this section, the term:

29 (a) "Benefits" means all benefits, other than salary and
 30 wages, provided or made available to employees by an employer
 31 and includes group life insurance, health insurance, disability
 32 insurance, and pensions, regardless of whether such benefits are

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33 provided by a policy or practice of the employer.

34 (b) "Civil Air Patrol leave" means leave requested by an
35 employee who is a member of the Florida Wing of the Civil Air
36 Patrol.

37 (c) "Employee" means any person who may be permitted,
38 required, or directed by an employer in consideration of direct
39 or indirect gain or profit to engage in any employment and who
40 has been employed by the same employer for at least 90 days
41 immediately preceding the commencement of Civil Air Patrol
42 leave. The term does include an independent contractor.

43 (d) "Employer" means a private or public employer, or an
44 employing or appointing authority of this state, its counties,
45 school districts, municipalities, political subdivisions, career
46 centers, Florida College System institutions, or state
47 universities.

48 (2)~~(1)~~ The Florida Wing of the Civil Air Patrol, an
49 auxiliary of the United States Air Force, is ~~shall be~~ recognized
50 as a nonprofit, educational, and emergency-management-related
51 organization and is ~~shall be~~ eligible to purchase materials from
52 the various surplus warehouses of the state.

53 (3)~~(2)~~ Funds shall be appropriated annually from the
54 Emergency Management, Preparedness, and Assistance Trust Fund
55 for the purpose of acquisition, installation, conditioning, and
56 maintenance of the Florida Wing of the Civil Air Patrol.
57 However, ~~no part of~~ the annual appropriation or any part thereof
58 ~~may not~~ shall be expended for the purchase of uniforms or
59 personal effects of members of the organization or for
60 compensation or salary to such members.

61 (4)~~(3)~~ The wing commander of the Florida Wing of the Civil

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62 Air Patrol may employ administrative help and purchase
63 educational materials for the training of Florida youth for
64 which funds from the annual appropriation may be used.

65 (5)~~(4)~~ Purchase of aircraft is ~~shall be~~ limited to not more
66 than \$15,000 per year, and not more than \$15,000 per year may be
67 placed in a building reserve fund to be used toward the
68 acquisition of a permanent state headquarters and operations
69 facility.

70 (6)~~(5)~~ The wing commander of the Florida Wing of the Civil
71 Air Patrol shall biennially furnish the division a 2-year
72 projection of the goals and objectives of the Civil Air Patrol
73 which shall be reported in the division's biennial report
74 submitted pursuant to s. 252.35.

75 (7) An employer:

76 (a) That employs 15 or more employees shall provide up to
77 15 days of unpaid Civil Air Patrol leave annually to an employee
78 engaged in a Civil Air Patrol mission or training, subject to
79 the conditions in this section.

80 (b) May not require any member of the Florida Wing of the
81 Civil Air Patrol returning to employment following a period of
82 Civil Air Patrol service or training to use vacation, annual,
83 compensatory, or similar leave for the period during which the
84 member was engaged in a Civil Air Patrol mission or training.
85 However, any such returning member is, upon his or her request,
86 authorized to use, for the period during which the member was
87 ordered into Civil Air Patrol service or training, any vacation,
88 annual, compensatory, or similar leave with pay accrued by the
89 member before the commencement of his or her service or
90 training.

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91 (c) May not discharge, reprimand, or otherwise penalize a
92 member of the Florida Wing of the Civil Air Patrol because of
93 his or her absence by reason of service or training if the
94 member is ordered into service to perform a Civil Air Patrol
95 mission or participate in training.

96 (8) (a) Upon the completion of a Civil Air Patrol mission or
97 training, the Civil Air Patrol member shall promptly notify the
98 employer of his or her intent to return to work.

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

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

104 2. Employment would impose an undue hardship on the
105 employer;

106 3. The employment from which the Civil Air Patrol member
107 leaves to perform a Civil Air Patrol mission or participate in
108 training is for a brief, nonrecurring period and there is no
109 reasonable expectation that such employment will continue
110 indefinitely or for a significant period; or

111 4. The employer had legally sufficient cause to terminate
112 the Civil Air Patrol member at the time he or she left to
113 perform a Civil Air Patrol mission or participate in training.

114
115 The employer has the burden of proving any factor set forth in
116 subparagraphs 1.-4. that served as the employer's basis for not
117 allowing a Civil Air Patrol member to return to work upon
118 completion of a Civil Air Patrol mission or training.

119 (c) A member of the Florida Wing of the Civil Air Patrol

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120 who returns to work after completion of a Civil Air Patrol
121 mission or training is entitled to:

122 1. The seniority that the member had at his or her place of
123 employment on the date his or her Civil Air Patrol mission or
124 training began and any other rights and benefits that inure to
125 the member as a result of such seniority; and

126 2. Any additional seniority that the member would have
127 attained at his or her place of employment if he or she had
128 remained continuously employed and any other rights and benefits
129 that inure to the member as a result of such seniority.

130 (d) A member of the Florida Wing of the Civil Air Patrol
131 who returns to work after completion of a Civil Air Patrol
132 mission or training may not be discharged from such employment
133 for a period of 1 year after the date the member returns to
134 work, except for cause.

135 (9) If the wing commander of the Florida Wing of the Civil
136 Air Patrol certifies that there is probable cause to believe an
137 employer has violated this section, an aggrieved employee who
138 engaged in a Civil Air Patrol mission or training may bring a
139 civil action against the employer in a court in the county where
140 the employer resides or has his or her principal place of
141 business or in the county where the alleged violation occurred.
142 Upon adverse adjudication, the defendant is liable for actual
143 damages or \$500, whichever is greater. The prevailing party is
144 entitled to recover reasonable attorney fees and court costs.

145 (10) The certification of probable cause may not be issued
146 until the wing commander of the Florida Wing of the Civil Air
147 Patrol, or his or her designee, has completed an investigation.
148 All employers and other personnel involved with the subject of

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149 such an investigation must cooperate with the wing commander in
150 the investigation.

151 Section 2. This act shall take effect July 1, 2017.