

By the Committee on Military and Veterans Affairs, Space, and Domestic Security; and Senator Stargel

583-01928-17

2017370c1

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 Civil Air
5 Patrol leave; prohibiting specified public and private
6 employers from discharging, reprimanding, or
7 penalizing a Civil Air Patrol member because of his or
8 her absence by reason of taking Civil Air Patrol
9 leave; providing procedures for and requirements of
10 employees and employers with respect to Civil Air
11 Patrol leave and employment following such leave;
12 specifying rights and entitlements of a Civil Air
13 Patrol member who returns to work following Civil Air
14 Patrol leave; providing for a civil action; specifying
15 damages; authorizing the award of attorney fees and
16 costs; specifying conditions under which a
17 certification of probable cause of a violation of the
18 act may be issued; providing an effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Section 252.55, Florida Statutes, is amended to
23 read:

24 252.55 Civil Air Patrol, Florida Wing.—

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

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

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30 provided by a policy or practice of the employer.

31 (b) "Civil Air Patrol leave" means leave requested by an
32 employee who is a Civil Air Patrol member for the purpose of
33 participating in a Civil Air Patrol training or mission.

34 (c) "Civil Air Patrol member" means a senior member of the
35 Florida Wing of the Civil Air Patrol.

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

42 (e) "Employer" means a private or public employer, or an
43 employing or appointing authority of this state, a county, a
44 school district, a municipality, a political subdivision, a
45 career center, a Florida College System institution, or a state
46 university.

47 (2)~~(1)~~ The Florida Wing of the Civil Air Patrol, an
48 auxiliary of the United States Air Force, ~~is shall be~~ recognized
49 as a nonprofit, educational, and emergency-management-related
50 organization and ~~is shall be~~ eligible to purchase materials from
51 the various surplus warehouses of the state.

52 (3)~~(2)~~ Funds shall be appropriated annually from the
53 Emergency Management, Preparedness, and Assistance Trust Fund
54 for the purpose of acquisition, installation, conditioning, and
55 maintenance of the Florida Wing of the Civil Air Patrol.
56 However, ~~no part of~~ the annual appropriation, or any part
57 thereof, may not ~~shall~~ be expended for the purchase of uniforms
58 or personal effects of members of the organization or for

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59 compensation or salary to such members.

60 (4)~~(3)~~ The wing commander of the Florida Wing of the Civil
61 Air Patrol may employ administrative help and purchase
62 educational materials for the training of Florida youth for
63 which funds from the annual appropriation may be used.

64 (5)~~(4)~~ Purchase of aircraft is ~~shall be~~ limited to not more
65 than \$15,000 per year, and not more than \$15,000 per year may be
66 placed in a building reserve fund to be used for the ~~toward~~
67 acquisition of a permanent state headquarters and operations
68 facility.

69 (6)~~(5)~~ The wing commander of the Florida Wing of the Civil
70 Air Patrol shall biennially furnish the division a 2-year
71 projection of the goals and objectives of the Civil Air Patrol
72 which shall be reported in the division's biennial report
73 submitted pursuant to s. 252.35.

74 (7) An employer:

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

78 (b) May not require a Civil Air Patrol member returning to
79 employment following Civil Air Patrol leave to use vacation,
80 annual, compensatory, or similar leave for the period during
81 which the member was on Civil Air Patrol leave. However, any
82 such returning member is, upon his or her request, authorized to
83 use any vacation, annual, compensatory, or similar leave with
84 pay accrued by the member before the commencement of his or her
85 Civil Air Patrol leave.

86 (c) May not discharge, reprimand, or otherwise penalize a
87 Civil Air Patrol member because of his or her absence by reason

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88 of taking Civil Air Patrol leave.

89 (8) (a) Upon the completion of a Civil Air Patrol leave, the
90 Civil Air Patrol member shall promptly notify the employer of
91 his or her intent to return to work.

92 (b) An employer is not required to allow a Civil Air Patrol
93 member to return to work upon the completion of his or her Civil
94 Air Patrol leave if:

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

97 2. Employment would impose an undue hardship on the
98 employer;

99 3. The employment from which the member takes such leave is
100 for a brief, nonrecurring period and there is no reasonable
101 expectation that such employment will continue indefinitely or
102 for a significant period; or

103 4. The employer had legally sufficient cause to terminate
104 the member at the time he or she commenced such leave.

105
106 The employer has the burden of proving any circumstance
107 specified in subparagraphs 1.-4. which served as the employer's
108 basis for not allowing a Civil Air Patrol member to return to
109 work upon completion of Civil Air Patrol leave.

110 (c) A Civil Air Patrol member who returns to work following
111 his or her Civil Air Patrol leave is entitled to:

112 1. The seniority that the member had at his or her place of
113 employment on the date his or her leave began and any other
114 rights and benefits that inure to the member as a result of such
115 seniority; and

116 2. Any additional seniority that the member would have

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117 attained at his or her place of employment if he or she had
118 remained continuously employed and any other rights and benefits
119 that would have inured to the member as a result of such
120 seniority.

121 (d) A Civil Air Patrol member who returns to work following
122 his or her Civil Air Patrol leave may not be discharged from
123 such employment for a period of 1 year after the date the member
124 returns to work, except for cause.

125 (9) If the wing commander of the Florida Wing of the Civil
126 Air Patrol certifies that there is probable cause to believe
127 that an employer has violated this section, an aggrieved
128 employee who had taken Civil Air Patrol leave may bring a civil
129 action against the employer in a court in the county where the
130 employer resides or has his or her principal place of business
131 or in the county where the alleged violation occurred. Upon
132 adverse adjudication, the defendant is liable for actual damages
133 or \$500, whichever is greater. The prevailing party is entitled
134 to recover reasonable attorney fees and court costs.

135 (10) The certification of probable cause may not be issued
136 until the wing commander of the Florida Wing of the Civil Air
137 Patrol, or his or her designee, has completed an investigation.
138 All employers and other personnel involved with the subject of
139 such an investigation must cooperate with the wing commander in
140 the investigation.

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