

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

576-03485-17

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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 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 a declaration of
19 important state interest; providing an effective date.

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

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

25 252.55 Civil Air Patrol, Florida Wing.—

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

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

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30 insurance, and pensions, regardless of whether such benefits are
31 provided by a policy or practice of the employer.

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

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

37 (d) "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 includes an independent contractor.

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

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
58 thereof, ~~shall~~ may not ~~shall~~ be expended for the purchase of uniforms

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59 or 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
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 for the ~~toward~~
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
78 employee, subject to the conditions in this section.

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

87 (c) May not discharge, reprimand, or otherwise penalize a

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88 Civil Air Patrol member because of his or her absence by reason
89 of taking Civil Air Patrol leave.

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

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

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

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

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

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

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

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

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

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

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

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

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

142 Section 2. The Legislature finds that a proper and
143 legitimate state purpose is served when allowing senior members
144 of the Florida Wing of the Civil Air Patrol to take Civil Air
145 Patrol leave, as authorized under s. 252.55, Florida Statutes.

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146 Therefore, the Legislature determines and declares that this act
147 fulfills an important state interest.

148 Section 3. This act shall take effect July 1, 2017.