

2017370er

1
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

2017370er

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 with at least an emergency
37 services qualification.

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

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

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

54 (3)(2) Funds shall be appropriated annually from the
55 Emergency Management, Preparedness, and Assistance Trust Fund
56 for the purpose of acquisition, installation, conditioning, and
57 maintenance of the Florida Wing of the Civil Air Patrol.
58 However, ~~no part of~~ the annual appropriation, or any part

2017370er

59 thereof, may not ~~shall~~ be expended for the purchase of uniforms
60 or personal effects of members of the organization or for
61 compensation or salary to such members.

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

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

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

76 (7) An employer:

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

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

2017370er

88 (c) May not discharge, reprimand, or otherwise penalize a
89 Civil Air Patrol member because of his or her absence by reason
90 of taking Civil Air Patrol leave.

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

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

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

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

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

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

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

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

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

2017370er

117 seniority; and

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

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

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

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

143 Section 2. The Legislature finds that a proper and
144 legitimate state purpose is served when allowing senior members
145 of the Florida Wing of the Civil Air Patrol to take Civil Air

2017370er

146 Patrol leave, as authorized under s. 252.55, Florida Statutes.
147 Therefore, the Legislature determines and declares that this act
148 fulfills an important state interest.

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