

CHAPTER 2017-73

Committee Substitute for Committee Substitute for Senate Bill No. 370

An act relating to the Florida Wing of the Civil Air Patrol; amending s. 252.55, F.S.; defining terms; requiring certain employers to provide Civil Air Patrol leave; prohibiting specified public and private employers from discharging, reprimanding, or penalizing a Civil Air Patrol member because of his or her absence by reason of taking Civil Air Patrol leave; providing procedures for and requirements of employees and employers with respect to Civil Air Patrol leave and employment following such leave; specifying rights and entitlements of a Civil Air Patrol member who returns to work following Civil Air Patrol leave; providing for a civil action; specifying damages; authorizing the award of attorney fees and costs; specifying conditions under which a certification of probable cause of a violation of the act may be issued; providing a declaration of important state interest; providing an effective date.

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

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

252.55 Civil Air Patrol, Florida Wing.—

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

(a) “Benefits” means all benefits, other than salary and wages, provided or made available to employees by an employer and includes group life insurance, health insurance, disability insurance, and pensions, regardless of whether such benefits are provided by a policy or practice of the employer.

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

(c) “Civil Air Patrol member” means a senior member of the Florida Wing of the Civil Air Patrol with at least an emergency services qualification.

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

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

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

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

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

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

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

(7) An employer:

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

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

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

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

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

- 1. The employer’s circumstances have so changed as to make employment impossible or unreasonable;
- 2. Employment would impose an undue hardship on the employer;
- 3. The employment from which the member takes such leave is for a brief, nonrecurring period and there is no reasonable expectation that such employment will continue indefinitely or for a significant period; or
- 4. The employer had legally sufficient cause to terminate the member at the time he or she commenced such leave.

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

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

- 1. The seniority that the member had at his or her place of employment on the date his or her leave began and any other rights and benefits that inure to the member as a result of such seniority; and
- 2. Any additional seniority that the member would have attained at his or her place of employment if he or she had remained continuously employed and any other rights and benefits that would have inured to the member as a result of such seniority.

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

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

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

Section 2. The Legislature finds that a proper and legitimate state purpose is served when allowing senior members of the Florida Wing of the Civil Air Patrol to take Civil Air Patrol leave, as authorized under s. 252.55, Florida Statutes. Therefore, the Legislature determines and declares that this act fulfills an important state interest.

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

Approved by the Governor June 9, 2017.

Filed in Office Secretary of State June 9, 2017.