



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB5760

by Rep. Dave Winters

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Civil Air Patrol Leave Act. Requires that an employer, including the State and units of local government, grant unpaid leave to its employees who are civil air patrol members performing a civil air patrol mission. Exempts employers with fewer than 15 employees. Bases the maximum amount of leave on the size of the employer's workforce. Protects the employee's pre-leave benefits, requires restoration of benefits after the leave, and authorizes civil enforcement actions. Preempts home rule.

LRB095 14840 JAM 40780 b

FISCAL NOTE ACT  
MAY APPLY

HOME RULE NOTE  
ACT MAY APPLY

1 AN ACT concerning civil air patrol leave from employment.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Civil  
5 Air Patrol Leave Act.

6 Section 5. Definitions. In this Act:

7 "Civil air patrol leave" means leave requested by an  
8 employee who is a member of the civilian auxiliary of the  
9 United States Air Force commonly known as the Civil Air Patrol.

10 "Employee" means any person who may be permitted, required,  
11 or directed by an employer in consideration of direct or  
12 indirect gain or profit to engage in any employment. "Employee"  
13 does include an independent contractor. "Employee" includes an  
14 employee of a covered employer who has been employed by the  
15 same employer for at least 12 months and has been employed for  
16 at least 1,250 hours of service during the 12-month period  
17 immediately preceding the commencement of the leave.

18 "Employee benefits" means all benefits, other than salary  
19 and wages, provided or made available to employees by an  
20 employer and includes group life insurance, health insurance,  
21 disability insurance, and pensions, regardless of whether  
22 benefits are provided by a policy or practice of an employer.

23 "Employer" means:

1           (1) any person, partnership, corporation, association,  
2 or other business entity; and

3           (2) the State of Illinois, municipalities, and other  
4 units of local government.

5 Section 10. Civil air patrol leave requirement.

6           (a) Any employer, as defined in Section 5 of this Act,  
7 that employs between 15 and 50 employees shall provide up to  
8 15 days of unpaid civil air patrol leave to an employee  
9 performing a civil air patrol mission, subject to the  
10 conditions set forth in this Section. Civil air patrol  
11 leave granted under this Act may consist of unpaid leave.

12           (b) An employer, as defined in Section 5 of this Act,  
13 that employs more than 50 employees shall provide up to 30  
14 days of unpaid civil air patrol leave to an employee  
15 performing a civil air patrol mission, subject to the  
16 conditions set forth in this Section. Civil air patrol  
17 leave granted under this Act may consist of unpaid leave.

18           (c) The employee shall give at least 14 days' notice of  
19 the intended date upon which the civil air patrol leave  
20 will commence if leave will consist of 5 or more  
21 consecutive work days. When able, the employee shall  
22 consult with the employer to schedule the leave so as to  
23 not unduly disrupt the operations of the employer.  
24 Employees taking civil air patrol leave for less than 5  
25 consecutive days shall give the employer advanced notice as

1 is practical. The employer may require certification from  
2 the proper civil air patrol authority to verify the  
3 employee's eligibility for the civil air patrol leave  
4 requested.

5 (d) An employee taking leave as provided under this Act  
6 shall not be required to have exhausted all accrued  
7 vacation leave, personal leave, compensatory leave, sick  
8 leave, disability leave, and any other leave that may be  
9 granted to the employee.

10 Section 15. Employee benefits protection.

11 (a) Any employee who exercises the right to civil air  
12 patrol leave under this Act, upon expiration of the leave,  
13 shall be entitled to be restored by the employer to the  
14 position held by the employee when the leave commenced or  
15 to a position with equivalent seniority status, employee  
16 benefits, pay, and other terms and conditions of  
17 employment. This Section does not apply if the employer  
18 proves that the employee was not restored as provided in  
19 this Section because of conditions unrelated to the  
20 employee's exercise of rights under this Act.

21 (b) During any civil air patrol leave taken under this  
22 Act, the employer shall make it possible for employees to  
23 continue their benefits at the employee's expense. The  
24 employer and employee may negotiate for the employer to  
25 maintain benefits at the employer's expense for the

1 duration of the leave.

2 Section 20. Effect on existing employee benefits.

3 (a) Taking civil air patrol leave under this Act shall  
4 not result in the loss of any employee benefit accrued  
5 before the date on which the leave commenced.

6 (b) Nothing in this Act shall be construed to affect an  
7 employer's obligation to comply with any collective  
8 bargaining agreement or employee benefit plan that  
9 provides greater leave rights to employees than the rights  
10 provided under this Act.

11 (c) The civil air patrol leave rights provided under  
12 this Act shall not be diminished by any collective  
13 bargaining agreement or employee benefit plan.

14 (d) Nothing in this Act shall be construed to affect or  
15 diminish the contract rights or seniority status of any  
16 other employee of any employer covered under this Act.

17 Section 25. Prohibited acts.

18 (a) An employer shall not interfere with, restrain, or  
19 deny the exercise or the attempt to exercise any right  
20 provided under this Act.

21 (b) An employer shall not discharge, fine, suspend,  
22 expel, discipline, or in any other manner discriminate  
23 against any employee who exercises any right provided under  
24 this Act.

1           (c) An employer shall not discharge, fine, suspend,  
2           expel, discipline, or in any other manner discriminate  
3           against any employee for opposing any practice made  
4           unlawful by this Act.

5           Section 30. Enforcement. A civil action may be brought in  
6           the circuit court having jurisdiction by an employee to enforce  
7           this Act. The circuit court may enjoin any act or practice that  
8           violates or may violate this Act and may order any other  
9           equitable relief that is necessary and appropriate to redress  
10          the violation or to enforce this Act.

11          Section 35. Home rule. This Act is a denial and limitation  
12          of home rule powers and functions in accordance with subsection  
13          (i) of Section 6 of Article VII of the Illinois Constitution. A  
14          home rule unit may not regulate its employees in a manner that  
15          is inconsistent with the provisions of this Act.