

ASSEMBLY BILL

No. 485

Introduced by Assembly Member Carter

February 24, 2009

An act to add Part 5 (commencing with Section 1500) to Division 2 of the Labor Code, relating to the Civil Air Patrol.

LEGISLATIVE COUNSEL'S DIGEST

AB 485, as introduced, Carter. Civil Air Patrol: California Wing: employment leave.

Existing federal law establishes the Civil Air Patrol as the civilian auxiliary of the United States Air Force. Existing state and federal law establish leave provisions for members of the Armed Forces of the United States, the reserve components of the Armed Forces of the United States, and the National Guard.

This bill would require employers employing more than 15 employees to provide not less than 15 days per year of leave, beyond any leave benefits otherwise available to employees, to employees who have been employed by that employer for at least 90 days immediately preceding the commencement of leave, who are members of the California Wing of the Civil Air Patrol, and who have been duly directed and authorized by a political entity that has the authority to authorize an emergency operational mission of the California Wing of the Civil Air Patrol, to respond to an emergency operational mission of the California Wing of the Civil Air Patrol. The employee would be required to give at least 7 days' notice of the intended date upon which the Civil Air Patrol leave will begin if the leave will consist of 5 or more consecutive workdays or as much notice as is practical if the leave will consist of less than 5 consecutive workdays. The bill would require an employer, upon

expiration of the Civil Air Patrol leave taken by an employee, to restore the employee to the position he or she held when the leave began or to a position with equivalent seniority status, employee benefits, pay, and other terms and conditions of employment, unless the employee is not restored because of conditions unrelated to the exercise of the leave rights by the employee.

The bill would authorize an employee to bring a civil action in the state court of appeal of appropriate jurisdiction to enforce the Civil Air Patrol leave rights. The court would be authorized to enjoin any act or practice that violates the Civil Air Patrol leave provisions and to order any equitable relief necessary and appropriate to redress the violation or to enforce the Civil Air Patrol leave rights.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Part 5 (commencing with Section 1500) is added
2 to Division 2 of the Labor Code, to read:

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PART 5. CIVIL AIR PATROL

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6 1500. This part shall be known and may be cited as the Civil
7 Air Patrol Employment Protection Act.

8 1501. In this part, the following terms have the following
9 meanings:

10 (a) "Civil Air Patrol leave" means leave requested by an
11 employee who is a member of the civilian auxiliary of the United
12 States Air Force commonly known as the Civil Air Patrol and who
13 has been duly directed and authorized by the United States Air
14 Force, the California Emergency Management Agency, or other
15 political subdivision of the State of California that has the authority
16 to authorize an emergency operational mission of the California
17 Wing of the Civil Air Patrol, to respond to an emergency
18 operational mission of the California Wing of the Civil Air Patrol.

19 (b) "Employee" means a person who may be permitted, required,
20 or directed by an employer for wages or pay to engage in any
21 employment and who has been employed by that employer for at
22 least a 90-day period immediately preceding the commencement
23 of leave, if otherwise eligible for leave.

1 (c) "Employee benefits" means all benefits, other than salary
2 and wages, provided or made available to an employee by an
3 employer and includes group life insurance, health insurance,
4 disability insurance, and pensions, regardless of whether benefits
5 are provided by a policy or practice of an employer.

6 (d) "Employer" means any person, partnership, corporation,
7 association, or other business entity; or the State of California, a
8 municipality, or other unit of local government; that employs more
9 than 15 employees.

10 1502. An employer shall not discriminate against or discharge
11 from employment a member of the Civil Air Patrol because of
12 such membership and shall not hinder or prevent a member from
13 performing service as part of the California Wing of the Civil Air
14 Patrol during an emergency operational mission of the California
15 Wing of the Civil Air Patrol for which a member is entitled to
16 leave under this part.

17 1503. (a) An employer shall provide not less than 15 days per
18 calendar year of unpaid Civil Air Patrol leave to an employee
19 responding to an emergency operational mission of the California
20 Wing of the Civil Air Patrol.

21 (b) (1) An employee shall give at least seven days' notice of
22 the intended date upon which the Civil Air Patrol leave will begin
23 if the leave will consist of five or more consecutive workdays. If
24 practical, the employee shall consult with the employer to schedule
25 the leave so as to not unduly disrupt the operations of the employer.

26 (2) An employee taking Civil Air Patrol leave for less than five
27 consecutive workdays shall give the employer as much advance
28 notice as is practical.

29 (3) An employer may require certification from the proper Civil
30 Air Patrol authority to verify the eligibility of the employee for
31 the leave requested.

32 (c) An employee taking leave under this part shall not be
33 required to exhaust all accrued vacation leave, personal leave,
34 compensatory leave, sick leave, disability leave, and any other
35 leave that may be available to the employee in order to take Civil
36 Air Patrol leave.

37 1504. (a) An employer shall, upon expiration of a leave
38 authorized by this part, restore an employee to the position held
39 by him or her when the leave began or to a position with equivalent
40 seniority status, employee benefits, pay, and other terms and

1 conditions of employment. An employer may decline to restore
2 an employee as required in this subdivision because of conditions
3 unrelated to the exercise of rights under this part by the employee.

4 (b) An employer and an employee may negotiate for the
5 employer to maintain the benefits of the employee at the expense
6 of the employer during the leave.

7 1505. (a) Taking Civil Air Patrol leave under this part shall
8 not result in the loss of an employee benefit accrued before the
9 date on which the leave began.

10 (b) This part does not affect the obligation of an employer to
11 comply with any collective bargaining agreement or employee
12 benefit plan that provides greater leave rights to employees than
13 the rights provided under this part.

14 (c) The rights provided under this part shall not be diminished
15 by any collective bargaining agreement or employee benefit plan
16 entered into on or after January 1, 2010.

17 (d) This part does not affect or diminish the contract rights or
18 seniority status of an employee not entitled to Civil Air Patrol
19 leave.

20 1506. (a) An employer shall not interfere with, restrain, or
21 deny the exercise or the attempt to exercise a right established by
22 this part.

23 (b) An employer shall not discharge, fine, suspend, expel,
24 discipline, or in any other manner discriminate against an employee
25 who does any of the following:

26 (1) Exercises a right provided under this part.

27 (2) Opposes a practice made unlawful by this part.

28 1507. (a) An employee may bring a civil action in the state
29 court of appeal of appropriate jurisdiction to enforce this part.

30 (b) The court may enjoin any act or practice that violates this
31 part and may order any equitable relief necessary and appropriate
32 to redress the violation or to enforce this part.