



Senate Fiscal Agency
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BILL



ANALYSIS

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Senate Bill 310 (as passed by the Senate)
Sponsor: Senator Patrick J. Colbeck
Committee: Commerce

Date Completed: 9-17-15

RATIONALE

The Civil Air Patrol (CAP) is the civilian auxiliary of the United States Air Force (USAF). Individuals who serve with the CAP often do so as volunteers to conduct aerospace education, various cadet programs, or emergency services. These individuals typically have jobs that can conflict with their CAP service, and may be asked to take time away from their jobs to perform their service. Apparently, some CAP members have been discriminated against or disciplined by their employers as a result of their CAP activities. Some believe that those who serve in the CAP should be protected from discrimination in their place of employment when they are called to volunteer for emergency services.

CONTENT

The bill would create the "Civil Air Patrol Employment Protection Act" to do the following:

- Prohibit an employer from discriminating against, disciplining, or discharging an employee because he or she was responding to an emergency as a member of the Civil Air Patrol, if certain conditions were met.**
- Specify that the proposed Act would not prohibit certain employer actions.**
- Allow an employee bring a civil action to enforce the Act.**

The bill would take effect 90 days after its enactment.

Specifically, an employer would be prohibited from discriminating against, disciplining, or discharging an employee because the employee was absent from work if all of the following conditions were met: a) the employee was absent for the purpose of responding as a member of the Civil Air Patrol to an emergency declared by the Governor; b) the employee gave his or her employer as much notice as possible of the dates the employee would be absent to serve with the Civil Air Patrol during the emergency; and c) the employee provided the employer with verification from the Civil Air Patrol of the emergency need for the employee's service.

"Civil air patrol" would mean the civilian auxiliary of the United States Air Force. "Employee" would mean an individual who receives wages or remuneration for providing services to an employer. "Employer" would mean a person that provides wages or remuneration to one or more individuals who perform services for the employer under an express or implied contract of hire.

The proposed Act would not prohibit an employer from doing either of the following: a) treating the time the employer was absent because of emergency Civil Air Patrol service as unpaid time off; or b) complying with a collective bargaining agreement or employee benefit plan entered into before the bill's effective date.

An employee or former employee could bring a civil action for damages or equitable relief to enforce the proposed Act.

BACKGROUND

The Civil Air Patrol was formed on December 1, 1941, in order to contend with threats to civil aviation and sabotage, and became a volunteer organization under the jurisdiction of the Army Air

Corps during World War II.¹ Throughout the war, the CAP engaged in search and rescue missions, courier and cargo flying, and coastal patrols. In some instances, members of the CAP were involved in combat.² After the war, the CAP was incorporated as a benevolent nonprofit organization, and, in 1947, became the auxiliary to the USAF.³

At present, the CAP has three primary missions: aerospace education, cadet programs, and emergency services.⁴ The aerospace education mission is directed to members of the CAP and the general public, and focuses on teaching basic aerospace knowledge and aerospace technology. The cadet programs allow youths and young adults to progress through a 16-step program in various subjects, such as leadership, physical fitness, and aerospace education, and to compete for scholarships for further studies in topics related to aerospace, e.g., engineering, science, or meteorology. Cadets who attain cadet officer status within the program are able to enter the USAF at a higher enlisted rank. The CAP also operates a number of emergency services, including search and rescue, disaster relief, humanitarian missions, air force support (communications support or route surveys), and anti-drug missions.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Individuals involved in the Civil Air Patrol can be called up to participate in various emergency services missions. Because the Civil Air Patrol is not the primary emergency services provider on the scene, these missions typically last only a few days to a week. In some cases, employers are unaware of this and have denied a request from a CAP volunteer to take leave to attend to an emergency mission. The bill would prohibit an employer from discriminating against, disciplining, or discharging an employee for his or her service in the CAP, provided he or she satisfied the bill's criteria. This would allow CAP volunteers to continue to serve their community without having to worry about being terminated or disciplined by their employer. The bill also would allow an employee who was discriminated against for his or her service to bring a civil action to enforce the proposed Act.

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bill could have a fiscal impact on the State or a local unit of government if a civil action for damages or equitable relief were filed by an individual who was the subject of a violation of the proposed Act. The potential cost to the State or local unit of government is indeterminate and dependent on the amount of damages or equitable relief awarded by the court. These costs would be in addition to any potential costs of litigation that the State or local unit would incur.

Fiscal Analyst: Joe Carrasco

¹ "History of Civil Air Patrol", Civil Air Patrol, retrieved 6-25-2015, at: <http://www.gocivilairpatrol.com/about/>; Headquarters, Civil Air Patrol, *Introduction to the Civil Air Patrol*, Publication # P50-5, p. 1, 4-2013, retrieved 6-25-2015, at: http://www.capmembers.com/forms_publications_regulations/pamphlets-1702/.

² See n. 1, *Introduction to the Civil Air Patrol*, p. 9-10.

³ See n. 1, "History of the Civil Air Patrol".

⁴ "Civil Air Patrol's Three Primary Missions", Civil Air Patrol, retrieved 6-25-2015, at: http://www.gocivilairpatrol.com/about/civil_air_patrols_three_primary_missions/.