

- SUBJECT:** Allowing public employees to express breast milk or breast-feed
- COMMITTEE:** Business and Industry — committee substitute recommended
- VOTE:** 7 ayes — Oliveira, Bohac, Orr, E. Rodriguez, Villalba, Walle, Workman
0 nays
- WITNESSES:** For — Stephanie Diaz, Texas State Employees Union; Krisdee Donmoyer, Central Texas Healthy Mothers and Healthy Babies Coalition; Rebecca Graber; Gail Gresham, Texas Breastfeeding Coalition; Susan Landers; Yvonne Porterfield; Johnny Villarreal, Houston Professional Firefighters Association, Local 341; Paige Williams, Texas Classroom Teachers Association; (*Registered, but did not testify:* Troy Alexander, Texas Medical Association; Laura Blanke, Texas Pediatric Society; Portia Bosse, Texas State Teachers Association; Kathryn Clarkson; Adam Donmoyer; Melissa Gardner, Texans Care for Children; Jerry Gonzalez and Shannon Perez, SEIU; Dwight Harris, Texas American Federation of Teachers; Paul Hastings; David Huber; Rene Lara, Texas AFL-CIO; Shannon Lucas; Heidi Manti; Leigh Melson; Jeremy Newman; Derrick Osobase, Texas State Employees Union; Shannon Perez, SEIU; Carlos Salinas, Alliance for Texas Families; Ben Snodgrass, Texas Home School Coalition; Emily Timm, Workers Defense Project; Buddy Villejo; Trent Williams)
- Against — (*Registered, but did not testify:* Brent Connett, Texas Conservative Coalition; Cathy Dewitt, Texas Association of Business)
- On — Laura Mueller, Texas Municipal League; (*Registered, but did not testify:* Tracy Erickson, Texas Department of State Health Services; Robert E. Johnson, Jr., City of Houston)
- BACKGROUND:** The Fair Labor Standards Act, sec. 7 was amended in 2010 to require employers with 50 or more employees to provide a reasonable break time for employees to express breast milk for a year after the child's birth. The employer must provide a place, other than a bathroom, that is shielded from view and free of intrusion. These provisions only apply to hourly employees, not employees who are exempt from FLSA.
- DIGEST:** CSHB 741 would allow an employee of a public employer to express

breast milk at the employee's workplace. A public employer would be defined as a county, municipality, or other political subdivision of the state including a school district, a board, commission, office, department, or other agency in state government including an institute of higher education.

The public employer would develop a written policy supporting the practice of expressing breast milk and making reasonable accommodations for the needs of the employees who expressed breast milk. The public employer also would allow reasonable amounts of break time for an employee to express breast milk when that employee had a need to do so, and provide a place other than a bathroom that was shielded from view and free from intrusion. A public employer could not suspend or terminate an employee for exercising the right to express breast milk.

The bill would take effect September 1, 2013.

**SUPPORTERS
SAY:**

According to physicians, infants who are fed breast milk have greater resistance to disease and infection, fewer gastrointestinal infections, and are less likely to have lower respiratory tract diseases or adult obesity, along with other health benefits. Texas should expand the opportunities women in the workplace have to ensure their children receive breast milk in the beginning stages of their lives, and CSHB 741 would help accomplish this goal.

Women who are breastfeeding must express milk at certain intervals in order to maintain milk production. Some women who cease expressing breast milk develop painful infections.

The bill would guarantee public employees the same right to express breast milk granted to hourly employees by the Fair Labor Standards Act.

CSHB 741 would not present a significant financial burden on the government. The Legislative Budget Board reported no fiscal impact on the state, and the Texas Municipal League claimed that the cost to municipalities would not be significant. The Texas Association of Counties reported that many counties have already implemented policies in line with this bill.

The bill could reduce absenteeism and health care costs by reducing the number of times an employee had to leave work to tend to a sick child, as

feeding a child breast milk instead of formula could reduce childhood illness.

The bill would help keep teachers and other state employees satisfied, increase retention, and reduce rates of turnover. State employees who are mothers would not need to choose between continuing to provide breast milk for their child or keeping their jobs. The bill would provide a way for more women to stay in the workplace and balance the demands of a family. A high rate of women's workforce participation is crucial for the Texas economy.

The committee substitute would be limited to expressing breast milk and would not include breast-feeding, as some employers expressed concerns that some workplaces were not safe environments for young infants. Limiting the bill to expressing breast milk would ensure that the mother could maintain milk production and provide her child with all the healthful benefits of breast milk while maintaining a professional boundary.

The bill would balance carefully the needs of the breastfeeding employees with amenities public employers may feasibly provide to their employees. By requiring that employers spare only a room and some break time, the burden is not great, especially since private employers already need to accommodate hourly employees whose right to express breast milk is already guaranteed by the Fair Labor Standards Act.

**OPPONENTS
SAY:**

The bill would impose a major new regulation on state employers without demonstrating that mothers who wish to express milk cannot currently be accommodated. The bill would create an aggressive new right for public employees and would burden local government with an unfunded mandate. Counties without policies for nursing mothers could see a fiscal impact. Bexar County reported to the LBB that it would have to spend a one-time amount of \$448,000.