

- SUBJECT:** Creating right for public employees to express breast milk at workplace
- COMMITTEE:** Business and Industry — favorable, without amendment
- VOTE:** 7 ayes — Oliveira, Simmons, Collier, Fletcher, Rinaldi, Romero, Villalba
0 nays
- WITNESSES:** For — Barbara Wilson-Clay, Healthy Mothers Healthy Babies of Central Texas; Alice Bufkin, Texans Care for Children; Paige Williams, Texas Classroom Teachers Association; Carisa Lopez, Texas State Employees Union; Sarah Kuttesch; Anna Smith; (*Registered, but did not testify:* Kate Kuhlmann, Association of Texas Professional Educators; Janet Jones, Central Texas Breastfeeding Coalition; Lindsay Lanagan, City of Houston; Shannon Lucas, March of Dimes; Rick Levy, Texas AFL-CIO; Ted Melina Raab, Texas American Federation of Teachers; Krisdee Donmoyer, Texas Breastfeeding Coalition, Central Texas Breastfeeding Coalition; Michelle Romero, Texas Medical Association; Michael Cunningham, Texas State Building and Construction Trades Council; Harrison Hiner, Texas State Employees Union; Casey Smith, United Ways of Texas; Maxie Gallardo, Workers Defense Project; Neesha Davé; Adam Donmoyer; Glenn Scott; Gordon Waggett)

Against — None

On — (*Registered, but did not testify:* Tammy Sajak, Texas Department of State Health Services)
- BACKGROUND:** The federal Fair Labor Standards Act (FLSA) 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:** HB 786 would create a right for public employees to express breast milk

in the workplace and require public employers to make certain accommodations for those employees.

Under the bill, “public employer” would mean a county, municipality, or another political subdivision of Texas, including a school district, or a board, commission, office, department, or another agency in the executive, judicial, or legislative branch of state government, including an institution of higher education.

The public employer would be required to provide a reasonable amount of break time for an employee to express breast milk each time the employee needed to and provide a place for the employee to express breast milk, other than a bathroom, that would be shielded from view and free from intrusion from other employees and the public. The public employer would be required to write a policy stating that the employer supported the practice of expressing breast milk and that it would make reasonable accommodations for the needs of employees who expressed breast milk.

The bill would prohibit a public employer from discriminating against, or suspending or terminating the employment of an employee because the employee asserted her right to express breast milk in the workplace.

The bill would take effect on September 1, 2015.

**SUPPORTERS
SAY:**

HB 786 would increase health benefits for nursing mothers at work and their children, while conferring economic benefits to the public employer. Many scientific studies have shown health benefits of breastfeeding for both the child and mother. A new mother returning to work should be able to pass on these health benefits to her child. To do this, she must continue to pump breast milk regularly throughout the day to prevent her body from stopping milk production, but many public employees are not able to take a break for this purpose because they lack a replacement to temporarily cover their job duties. The bill would ensure that the public employee could express breast milk at any time she needed to do so.

The bill also would ensure that public employees had a place to express

breast milk. For many, the bathroom is the only available space at their workplace for this purpose. Bathrooms often lack the necessary electrical outlets for breast pumps or may not be sufficiently sanitary. These conditions and the difficulties associated with taking a break to express breast milk force many employees to choose between their jobs and continuing to breastfeed their children. This is not fair to the employee or child.

HB 786 would benefit public employers economically. More employees would return to work and stay at their jobs after giving birth if they had support from employers. Public employers would not have to hire or train new employees as often because the turnover would be lower, resulting in economic savings. This ultimately would negate upfront costs for accommodating this common sense measure.

The bill would guarantee public employees the same right to express breast milk granted to hourly employees by the Fair Labor Standards Act. According to the Texas Municipal League, the cost to municipalities would not be significant, and the Texas Association of Counties reported that many counties have implemented policies in line with this bill. Many other public employers also already have made accommodations for their employees because of similar requirements under federal law.

**OPPONENTS
SAY:**

HB 786 could burden some public employers that might have difficulty providing the accommodations required by the bill, particularly those with fewer workers and limited workspace. For some public employers who did not already have such accommodations, this requirement could require some cost to provide the required space. Other public employers, including school districts, might not have sufficient staff to temporarily cover the duties of women taking breaks to express breast milk at unpredictable times during the workday. The bill would not provide funding to help cover any of these costs, which could be significant for some employers.