

Lisa Subeck

STATE REPRESENTATIVE

To: Assembly Committee on Labor
From: Representative Lisa Subeck
Date: February 10, 2016
Subject: Testimony in support of Assembly Bill 882, relating to requiring an employer to provide reasonable break time for an employee who is breast-feeding her child to express breast milk for the child.

Chairman Jacque, and members of the Assembly Committee on Labor:

Thank you for the opportunity to testify on Assembly Bill 882, which would ensure new mothers do not face unnecessary barriers to breastfeeding when returning to work.

AB 882 puts into place some reasonable accommodations to support the health of mothers and children in our state. While it will always be a personal decision whether or not to breastfeed and while not every woman is able to nurse, the benefits of breastfeeding are well-documented and should be supported when possible.

Mothers and their children both benefit from breastfeeding. According to the Centers for Disease Control and Prevention, breastfed children have better health outcomes than children who are not breastfed. There are also long-term preventative effects for the mother, including an earlier return to pre-pregnancy weight and a reduced risk of pre-menopausal breast cancer and osteoporosis. Unfortunately, for working mothers, breastfeeding and expressing breast milk in the workplace is too often a challenge.

Women who are working mothers are less likely to initiate breastfeeding and are more likely to breastfeed for a shorter length of time than women who do not face workplace barriers. Studies have indicated that nearly 20% of new mothers who did not breastfeed at all report going back to work or school as the reason for not breastfeeding. There is considerable evidence that elimination of workplace barriers for mothers returning to work results in increased rates of breastfeeding.

In 2010, the Federal government made changes to the Fair Labor Standards Act (FLSA) that included a provision requiring employers to provide breastfeeding accommodations in the workplace. Even with these accommodations in place, new mothers face continued challenges and barriers when returning to work.

AB 882 codifies the FLSA changes into state law. The bill applies these standards to any employer, not just those engaged in interstate commerce, unless compliance results in a significant undue financial burden. The bill codifies federal requirements into state law, allowing for reasonable break periods for employees to express milk – this time may be unpaid, requiring employers provide a place other than a bathroom that is shielded from view and free of intrusion where employees may express breast milk, and by providing an exemption for small employers if the requirements would pose an undue hardship to the employer.

Additionally, the bill requires employers to provide an electrical outlet, running water, and a refrigerator for the storage of breast milk, again unless such a requirement results in an undue financial burden. AB 882 also

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requires that unpaid break time taken for the purpose of expressing breast milk be counted like paid time when determining an employee's eligibility for health care coverage.

Recently, a constituent brought to my attention a situation that she and other new mothers have encountered. Her employer has accommodated her need for break time to express breast milk, providing her with unpaid breaks for this purpose. Unfortunately, the time she was clocked out for this purpose ended up dropping her working hours slightly below the minimum threshold for health insurance eligibility. This left her with an impossible choice between making the healthiest choice for her baby or providing health care for her family.

This bill would bring Wisconsin law in line with federal regulations and ensure that women who are taking unpaid break time to express breast milk do not jeopardize their eligibility for employer sponsored health care coverage. No mother should have to choose between making the healthiest choice for her baby versus returning to work and providing health care for her family.

Thank you again for your time and attention to AB 882. I would be happy to answer any questions the committee might have.

78TH ASSEMBLY DISTRICT

TO: Assembly Committee on Labor
FROM: Mike Murray, Policy Director, Wisconsin Alliance for Women's Health
RE: Testimony in Support of AB 882 – Providing Breastfeeding Employees with Reasonable Work Accommodations
Date: February 10, 2016

Chairman Jacque and members of the Assembly Committee on Labor, thank you for the opportunity to provide you with written testimony in favor of AB 882, which would provide breastfeeding employees with a reasonable accommodation at work. As an organization that works to make Wisconsin an environment where all women have the opportunity to realize their optimal health, safety, and economic security at every stage of life, the Wisconsin Alliance for Women's Health strongly supports AB 882.

The health benefits of breastfeeding for babies and mothers are well documented. Babies who are breastfed exclusively are less likely to experience illnesses such as ear infections, diarrhea, and pneumonia.¹ In addition, children who were breastfed are less likely to become obese later in childhood and into adulthood.² Mothers who breastfeed also experience both short- and long-term health benefits, including reduced likelihood of postpartum depression, cardiovascular disease, and certain types of cancer.³ Breastfeeding also provides an opportunity for bonding for the entire family, including fathers and other children.

Medical professionals and public health officials have come to recognize the importance of promoting breastfeeding. In fact, the American Academy of Pediatrics, the Institute of Medicine, and the World Health organization all recommend exclusive breastfeeding for approximately 6 months, with continuation of breastfeeding for 1 year or longer as mutually desired by the mother and infant.⁴ However, according to the Center for Disease Control (CDC), many women who are not medically prevented from breastfeeding have difficulty achieving these recommended guidelines. In 2011, about 79 percent of U.S. newborn infants started to breastfeed, but only 49 percent were breastfeeding at 6 months and 27 percent were breastfeeding at 12 months.⁵

One of the most significant barriers that exist for new mothers to start or continue breastfeeding is a lack of supportive workplace breastfeeding policies and laws. Women now make up approximately half of the U.S. workforce (48 percent in Wisconsin), and two-thirds of working women return to work within three months of giving birth.⁶ Many workplaces—and certainly many of our existing labor laws—have not adjusted to the reality that working women who choose to breastfeed need adequate break time and private space in order to express milk.

¹ <http://pediatrics.aappublications.org/content/129/3/e827.full#content-block>

² <http://www.surgeongeneral.gov/library/calls/breastfeeding/factsheet.html>

³ <http://pediatrics.aappublications.org/content/129/3/e827.full#content-block>

⁴ <http://pediatrics.aappublications.org/content/129/3/e827.full#content-block>

⁵ <http://www.cdc.gov/breastfeeding/pdf/2014breastfeedingreportcard.pdf>

⁶ <http://www.nationalpartnership.org/research-library/work-family/other/supportive-workplace-policies.pdf>

Thankfully, there is strong evidence to suggest that improved employer support for breastfeeding moms will greatly increase the likelihood that working moms will both start breastfeeding their new children and continue to do so for six months or longer. Not only do such policies have significant health and emotional benefits for mothers and children, but they are also good for businesses. Research indicates that employers who make accommodations for breastfeeding mothers enjoy a "reduction in company health care costs, lower employee absenteeism, reduction in employee turnover, and increased employee morale and productivity."⁷ Our communities and the economy benefit from such policies as well. According to the U.S. Surgeon General, increased compliance with breastfeeding guidelines would result in significantly lower health care costs for newborns.⁸

The evidence is clear: ensuring that working women have reasonable breastfeeding accommodations at work is a win our children, families, communities, and businesses. AB 882 would help make the choice to breastfeed a real possibility for thousands of working women in Wisconsin and would be a very important step the Legislature could take to improve the health and economic security of women and families across the state. As a result, we strongly urge the members of this committee to support AB 882.

⁷ <http://pediatrics.aappublications.org/content/129/3/e827.full#content-block>

⁸ <http://www.surgeongeneral.gov/library/calls/breastfeeding/factsheet.html>

From: Laurel Edwards Franczek [mailto:breathe@my3sons.net]

Sent: Wednesday, February 10, 2016 9:59 PM

To: Rep.Jacque <Rep.Jacque@legis.wisconsin.gov>; Rep.Spiros <Rep.Spiros@legis.wisconsin.gov>; Rep.Knodl <Rep.Knodl@legis.wisconsin.gov>; Rep.Kulp <Rep.Kulp@legis.wisconsin.gov>; Rep.Kuglitsch <Rep.Kuglitsch@legis.wisconsin.gov>; Rep.Sinicki <Rep.Sinicki@legis.wisconsin.gov>; Rep.Mason <Rep.Mason@legis.wisconsin.gov>; Rep.Ohnstad <Rep.Ohnstad@legis.wisconsin.gov>

Cc: Rep.Subeck <Rep.Subeck@legis.wisconsin.gov>

Subject: Public hearing for AB 882

Dear Assembly Committee members on Labor,

Thank you again for the opportunity to testify in support of AB 882, the Healthy Babies, Working Mothers bill. I know that this was a long day for you all, and your time and attention to this issue was very much appreciated by all in attendance this evening. I thought that all of you had excellent questions, and I hope that many were answered during the hearing.

I wanted to follow up with you regarding some of the questions that you asked that required follow up information.

Regarding the question about how many of the 27 states that have employment laws with breastfeeding protection were enacted after the 2010 federal law:

There are 4 states that have enacted laws since the federal law was passed in 2010; Louisiana, Minnesota, Montana and Utah. *Three of the 4 states have laws that go above what the federal law requires.*

Louisiana requires schools to provide pump breaks for their employees.

2013 La. Acts, P.A. 87 requires public school boards to adopt a policy to require each school to provide an appropriate, private room, other than a restroom, that may be used by an employee to express breast milk. The school must also provide a reasonable amount of break time to accommodate an employee needing to express breast milk for up to one year following the birth of her child. (HB 635)

Minnesota includes a non-retaliation clause to its workplace breastfeeding law and the lactation room location must be in close proximity to employees' workplace.

Minn. Stat. § 181.939 (1998, 2014) requires employers to provide daily, unpaid break time for a mother to express breast milk for her infant child. Employers are also required to make a reasonable effort to provide a private location, other than a bathroom or toilet stall, in close proximity to the workplace that is shielded from view, free from intrusion and has an electrical outlet. The law specifies that an employer may not retaliate against an employee for asserting rights or remedies under this act. (1998 SB 2751; 2014 HB 2536)

Montana has an anti-discrimination clause with its workplace breastfeeding law and requires that the lactation room must be in close proximity to the employees' workplace.

Mont. Code Ann. § 39-2-215 et seq. specifies that employers must not discriminate against breastfeeding mothers and must encourage and accommodate breastfeeding. Requires employers to provide daily unpaid break time for a mother to express breast milk for her infant child and facilities for storage of the expressed milk. Employers are also required to make a reasonable effort to provide a private location, other than a toilet stall, in close proximity to the work place for this activity.

What kind of employer education resources are provided by the federal government?

There's an excellent website that has resources for educating employers about the federal workplace breastfeeding accommodation law at WomensHealth.Gov. Truly is a helpful resource for employers.

The resources include:

- [Breastfeeding Support FAQs for Employers](#)
- [The Business Case for Breastfeeding Support](#)
 - o This includes examples of how much in annual savings companies have saved by supporting their breastfeeding employees.
- [Time and Space Solutions](#)
 - o Creative examples of how businesses found space and provided break time for mothers
- [Industry Solutions](#)
 - o A long list of different industries and how they make breastfeeding support work and special considerations

Have we ever had a public health campaign for breastfeeding in Wisconsin?

There have been many, with several different types of focus. Most recently, breastfeeding was part of the focus of the campaign to reduce childhood obesity rates in Wisconsin. In 2009, Wisconsin WIC program joined the national campaign called, "Loving Support Makes Breastfeeding Work." As part of this campaign, there were educational videos produced for businesses to become better informed about supporting breastfeeding employees.

However, what I would like to emphasize is that while public awareness campaigns have been successful with helping raise awareness on the importance of breastfeeding, increasing breastfeeding initiation rates to 85%, what is more important is that we need to remove barriers for mothers to continue breastfeeding. This includes workplace accommodation mandates.

Thank you very much for the opportunity to raise awareness on this issue.

Sincerely,

Laurel Franczek, La Leche League Leader
Breastfeeding Coalition of South Central Wisconsin