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Dave Stewart/David Bracilano/sb
PER Breastfeeding ORD
August 4, 2011
Version #2

# ORDINANCE _____

AN ORDINANCE relating to City employment; amending Seattle Municipal Code Section 4.34.055 to provide eligible employees breaks to express breast milk without deduction of pay or paid leave balances.

WHEREAS, breastfeeding has been found to provide medical benefits to mothers and to infants, and to provide economic relief and other benefits to families; and

WHEREAS, policymakers and medical organizations such as United States Surgeon General, the Center for Disease Control, and the World Health Organization, recognize the benefits of breastfeeding and encourage women to breastfeed into later infancy; and

WHEREAS, the Patient Protection and Affordable Care Act amended the Fair Labor Standards Act to require employers to provide time and space for eligible employees to express breast milk, but does not require that such lactation breaks be paid; and

WHEREAS, lack of accommodation in the workplace is one factor that prevents women from continuing to breastfeed their children throughout infancy; and

WHEREAS, the City of Seattle seeks to support its employees and their families; NOW, THEREFORE,

**BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

Section 1. Seattle Municipal Code 4.34.055 shall be amended to read as follows:

**4.34.055 Use and scheduling of vacations((~~.~~))**

A. The minimum vacation allowance to be used by an employee shall be no more than ((~~one-half~~ ~~(~~))1/2((~~)~~)) day or, at the discretion of the appointing authority or his or her designated management representative, such lesser amount as may be deemed appropriate, but no less than ((~~fifteen (~~))15((~~)~~))minutes.



COUNCIL CLERK

B. The appointing authority shall arrange vacation time for employees on such schedules as shall least interfere with the functions of the employing unit.

C. 1. An employee may, with the prior approval of the appointing authority or his or her designated management representative, go on unpaid leave of absence for a period of no more than ((~~twelve (~~))12((~~)~~)) months, without first using accrued vacation credit or compensatory time off. The appointing authority or his or her designated management representative may deny the use of vacation to an employee who has exhausted his or her sick leave balance and requests further paid leave for medical reasons.

2. However, if an employee has City-provided long-term disability benefits and has accumulated a vacation, compensatory time, or sick leave balance in excess of that necessary to cover the long-term disability plan elimination period, he/she can choose either to receive the long-term disability benefits after the elimination period or to remain on vacation, compensatory time, or sick leave (with approval of the appointing authority or his or her designated management representative) until all such paid leave is exhausted and receive the appropriate long-term disability benefit.

D. In the event that the City cancels an employee's already scheduled and approved vacation, leaving no time to reschedule such vacation before the employee's maximum balance will be reached, the appointing authority or his or her designated management representative may allow the employee to exceed the normal maximum vacation balance and to continue to accrue vacation credit above the normal maximum credit balance for three (((~~(3)~~))) months after such maximum has been reached. No similar exception shall be authorized for such employee until ((~~twelve (~~))12((~~)~~)) months after the appointing authority's authorization.



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E. Any employee receiving disability compensation pursuant to ((~~SMC~~)) Chapter 4.44 may exceed the normal maximum vacation balance until such time as the employee ceases to receive such disability compensation. If the employee returns to regular pay status upon discontinuance or exhaustion of such disability compensation, such employee's vacation balance may exceed the normal maximum vacation balance specified in ((~~SMC~~)) Section 4.34.020 B for three ((~~(3)~~)) months after the date of such employee's return; otherwise, the employee shall be paid in a lump sum for any unused vacation credit balance.

F. Upon transfer, the employing unit receiving the employee shall grant any earned vacation due such employee at its expense, subject to the provisions set forth in this chapter.

G. Employees who are eligible under the Fair Labor Standards Act to take breaks to express breast milk may do so without deduction of pay or paid leave balances, provided that such breaks are necessary to express milk and are of reasonable length and frequency.

Section 2. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the ____ day of _____, 2011, and signed by me in open session in authentication of its passage this _____ day of _____, 2011.

_____

President _____ of the City Council

Approved by me this ____ day of _____, 2011.

_____

Michael McGinn, Mayor

Filed by me this ____ day of _____, 2011.

_____

Monica Martinez Simmons, City Clerk

(Seal)

Dave Stewart/David Bracilano/sb
PER Breastfeeding FISC
August 9, 2011
Version #1

Form revised: July 12, 2011

# FISCAL NOTE FOR NON-CAPITAL PROJECTS

| Department: | Contact Person/Phone: | CBO Analyst/Phone: |
|---|---|---|
| Personnel | David Bracilano/4-7874<br>Sarah Butler/4-7929 | Greg Shiring/6-4085 |

**Legislation Title:**

AN ORDINANCE relating to City employment; amending Seattle Municipal Code Section 4.34.055 to provide eligible employees breaks to express breast milk without deduction of pay or paid leave balances.

**Summary of the Legislation:**
This legislation allows employees eligible for lactation breaks under the Fair Labor Standards Act (FLSA) to take such breaks without deduction of their pay or of their paid leave balances.

**Background:**
Breastfeeding has been found to provide medical benefits to mothers and to infants, and to provide economic relief and other benefits to families. Policymakers and medical organizations such as United States Surgeon General, the Center for Disease Control, and the World Health Organization recognize the benefits of breastfeeding and encourage women to breastfeed their children into later infancy. However, many women are unable to sustain breastfeeding much longer than a few months after their child's birth. Lack of accommodation in the workplace is cited as one factor that prevents women from continuing to breastfeed their newborns.

In 2010, President Barack Obama signed the Patient Protection and Affordable Care Act that amended the FLSA to require employers to provide a suitable location and reasonable break time for employees to express breast milk. The law covers non-FLSA exempt (hourly) employees who breastfeed their children for up to one year after their child's birth; it requires employers to provide lactation breaks but does not require that the breaks be paid.

Approximately 75 employees at the City give birth per year. If passed, this Council Bill would provide hourly employees with paid breaks to express breast milk for their newborn children. Salaried employees at the City are already permitted to take breaks from their workday without deduction of pay or leave balances by virtue of their salaried status.

Please check one of the following:

_X_ **This legislation does not have any financial implications.**

____ **This legislation has financial implications.**



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**Other Implications:**

a) **Does the legislation have indirect financial implications, or long-term implications?**
The City will no longer deduct pay or paid leave balances from employees who take lactation breaks. Financial costs are expected to be nominal; there is no direct additional salary cost associated with allowing employees paid lactation breaks except in cases where overtime is paid to cover backfill requirements.

b) **What is the financial cost of not implementing the legislation?**
None.

c) **Does this legislation affect any departments besides the originating department?**
All departments with hourly employees will be affected by the legislation. Department human resources staff will be notified of this change after legislation is finalized. There are not operational effects to this legislation as employees are already afforded unpaid lactation breaks under current federal law.

d) **What are the possible alternatives to the legislation that could achieve the same or similar objectives?** None.

e) **Is a public hearing required for this legislation?**
No.

f) **Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**
No.

g) **Does this legislation affect a piece of property?**
No.

h) **Other Issues:** None.

**List attachments to the fiscal note below:** None.



COUNCIL CLERK

**City of Seattle**
Office of the Mayor

August 9, 2011

Honorable Richard Conlin
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Conlin:

I am pleased to transmit the attached proposed Council Bill that amends Seattle Municipal Code 4.34 to provide for paid lactation breaks for eligible City employees who nurse their infant children. This legislation is expected to affect approximately 75 employees annually.

Breastfeeding has been found to provide numerous medical benefits to mothers and to infants, and to provide economic relief and other benefits to families; however, many women are unable to sustain breastfeeding much longer than a few months into their child's infancy. Lack of accommodation in the workplace is cited as one factor that prevents women from continuing to breastfeed their newborns. The Fair Labor Standards Act (FLSA) was amended in 2010 to require employers to provide a suitable location and reasonable break time for non-FLSA exempt (hourly) employees to express breast milk until the child's first birthday. The new law does not require that the lactation breaks be paid. This legislation provides that employees who take lactation breaks under the FLSA will not have pay deducted or leave balances reduced to cover the missed work time.

Thank you for your consideration of this legislation. Should you have questions, please contact David Bracilano at (206) 684-7874 or Sarah Butler at (206) 684-7929.

Sincerely,

Darryl Smith
Deputy Mayor for
Michael McGinn
Mayor of Seattle

Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

Michael McGinn, Mayor
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