



Senate Bill 430: Breastfeeding Accommodations
Senate Committee on Labor, Regulatory Reform, Veterans and Military Affairs

Testimony of Senator Joan Ballweg
Thursday, October 5, 2023

Good morning and thank you, Chairman Testin and members of the committee, for hearing Senate Bill 430.

In 2010, the federal Fair Labor Standards Act included a provision for employers to provide reasonable accommodations for employees so they can breastfeed at the workplace. A situation was brought to our attention where an employer accommodated the need to breastfeed by only allowing unpaid breaks. The time the employee clocked out to breastfeed put her working hours below the threshold for health insurance eligibility so her health insurance benefits were denied. This seems like an unintended consequence of the law.

Senate Bill 430 brings Wisconsin in line with updates to federal regulations, including the recently passed federal provisions in the 2022 Pump Act, to ensure reasonable accommodations are made by the employer so a woman can breastfeed. The bill also requires that the employer count any unpaid break time taken for breastfeeding toward eligibility for healthcare coverage so women do not jeopardize eligibility for benefits. Small employers can receive an exemption from providing accommodations if an undue hardship exists.

According to the Centers for Disease Control and Prevention (CDC), data from infants born in 2019 show that 83.2 percent received some breastmilk at one month old. By six months, only 55.8 percent of infants received some breastmilk. Due to the challenges families face when it comes to breastfeeding, the CDC states that "the steady decline in any and exclusive breastfeeding from month-to-month indicates that breastfeeding families may need stronger systems of support to reach their breastfeeding goals."

The health benefits of breastfeeding for newborns and mothers is widely documented. The 2020-2025 Dietary Guidelines for Americans and the American Academy of Pediatrics both recommend for the first six months that infants are exclusively breastfed and that there is continued breastfeeding with complementary foods introduced for at least one or two years. While the choice to breastfeed is personal, and not every woman is able to, we should ensure that the ability to breastfeed is not hindered whenever possible.

This bill is supported by the Wisconsin Catholic Conference, Wisconsin Association of Local Health Departments and Boards, and Wisconsin Public Health Association. Thank you for your consideration of SB 430. I am happy to answer any questions.



REPRESENTATIVE
Lisa Subeck

To: Senate Committee on Labor, Regulatory Reform, Veterans and Military Affairs

From: Representative Lisa Subeck

Date: October 5, 2023

Subject: Testimony in support of Senate Bill 430, relating to: requiring an employer to provide reasonable break time and accommodations for an employee who is breastfeeding the employee's child to express breast milk for the child.

Chairman Testin & Members of the Senate Committee on Labor, Regulatory Reform, Veterans and Military Affairs:

Thank you for the opportunity to provide testimony on Senate Bill 430 (SB 430) along with Senator Ballweg. This legislation ensures new mothers do not face unnecessary barriers returning to work while breastfeeding.

SB 430 would ensure reasonable accommodations to support the health of working mothers and their babies in our state. While it will always be a personal decision whether or not to breastfeed, and while not every mother is able to nurse, the benefits of breastfeeding are well-documented and should be supported when possible.

Mothers and their babies both benefit from breastfeeding. According to the Centers for Disease Control and Prevention, breastfed children have better health outcomes than children who are not. 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, breastfeeding and expressing breast milk in the workplace is too often challenging for working mothers.

In 2010, updates to the Fair Labor Standards Act included a provision for employers to provide accommodations for employees to breastfeed at the workplace. A constituent brought to our attention a situation which we believe is an unintended consequence of this allowance. Her employer accommodated the need to breastfeed by allowing an unpaid break to pump milk while at work. Unfortunately, the time she was clocked out to breastfeed pushed her working hours slightly below the minimum threshold for health insurance eligibility.

For employees whose benefits eligibility is dependent on the number of hours that the employee works, the bill requires that their employer must count any unpaid break time to breastfeed or pump milk be counted when determining eligibility for healthcare benefits. The bill also codifies into state law updates to federal regulations, including the recently passed federal provisions from the 2022 PUMP Act.

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This change will allow breastfeeding mothers in the workplace the full benefit of these federal accommodations during the temporary period in which they are breastfeeding. At a time when Wisconsin is facing a worker shortage, SB 430 would make it easier for new mothers to re-enter the workforce.

Thank you again for your time and attention to SB 430.

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Tony Evers, Governor
Amy Pechacek, Secretary

Date: Thursday, Oct. 5, 2023

To: Chair Testin, Vice-Chair Nass, and Members of the Senate Committee on Labor, Regulatory Reform, Veterans and Military Affairs

From: Department of Workforce Development Secretary Amy Pechacek

Written Testimony Regarding SB 430

Chair Testin, Vice-Chair Nass, and committee members, thank you for the opportunity to provide written testimony for information only on SB 430, which adds the federal labor standards enacted under the Providing Urgent Maternal Protections for Nursing Mothers Act (PUMP Act) to Wisconsin state law. The PUMP Act requires an employer to provide reasonable break time for employees to express breast milk for their children who are at or under one year of age, in a private place other than a bathroom. This bill further requires employers to provide access to an electrical outlet, running water, and a refrigerator for the storage of breast milk; and requires an employer to treat unpaid break time taken by the employee to express breast milk as paid work time, if an employee's eligibility for employer contribution toward health care coverage is dependent on the number of worked hours.

The department appreciates the opportunity to share more information on how this legislation is consistent with DWD's mission to meet Wisconsin's diverse workforce needs, and advocate for the protection and economic advancement of all Wisconsin workers, employers, and job seekers. Given Wisconsin's historically low unemployment rate and the demographic challenges contributing to the state's worker quantity challenge, the proposed legislation would remove an employment barrier for many working women and support employers in attracting and retaining talent with minimal impact to the department's current operations.

DWD's Equal Rights Division (ERD) strives to make Wisconsin a fair and just place for all people to live and work. Education and outreach play an important role in achieving compliance with laws that prohibit discrimination in employment as well as the state's family and medical leave law.

SB 430 advances this work by increasing the accessibility and improving the equity of Wisconsin's workplaces specifically for employees who are breastfeeding. This legislation's alignment with federal law would allow ERD to educate employers about the importance of providing these accommodations to nursing employees and prevent violations of these labor standards. It also would provide employees the opportunity to file a complaint with ERD if an employer fails to provide these accommodations. Ultimately, SB 430 would allow ERD to further contribute to the protection of employees who are breastfeeding, and combat workplace discrimination.

Wisconsin's economy remains on a winning streak with an August unemployment rate of 2.9%, a record high number of jobs, historic lows in continuing unemployment insurance claims, and a labor force participation rate of 65.7%, which is 2.9 percentage points above the national rate. While these numbers are incredibly positive for Wisconsin, DWD recognizes that many employers feel anxious about their ability to fill jobs and many workers have concerns about their careers.

The reality is we're facing a labor market quantity challenge driven by demographic trends that have been building for decades. Baby Boomers are aging and retiring, and we've seen a gradual rise of employment barriers including lack of access to affordable childcare, transportation, housing, and broadband.

These challenges are not unique to Wisconsin or even our nation. However, what sets Wisconsin apart is our innovative approach to finding workforce solutions and developing homegrown talent. DWD has taken a proactive approach to these challenges by working to remove employment barriers, provide training opportunities, and connect employers with underutilized talent pools.

SB 430 aligns with DWD's efforts to remove employment barriers and support workers and job seekers in achieving their employment potential. This includes providing accommodations for workers including nursing mothers, so that they can maintain employment and build family-sustaining careers. This legislation takes a step towards making Wisconsin a more attractive place to live for working families and combatting the labor market quantity challenge.

As noted in the fiscal estimate DWD provided, the fiscal impact of this legislation on DWD's operations is minimal and anticipated to be absorbable by the department. The department does not anticipate a significant uptick in labor standard complaints because of this legislation and anticipates that any incoming complaints as a result of this legislation could be managed by current DWD staff.

Thank you for the opportunity to provide this information.

DWD CONTACT: Legislative Liaison Arielle Exner, (608) 770-5223, Arielle.exner@dwd.wisconsin.gov



WISCONSIN CATHOLIC CONFERENCE

TO: Senator Patrick Testin, Chair
Members, Committee on Labor, Regulatory Reform, Veterans and Military Affairs

FROM: Barbara Sella, Executive Director

DATE: October 5, 2023

RE: Support for Senate Bill 430 Breastfeeding Breaks

The Wisconsin Catholic Conference (WCC), the public policy voice of the Catholic bishops of Wisconsin, appreciates the opportunity to offer testimony in support of Senate Bill 430.

This bill provides commonsense protection for mothers and their children in alignment with the new federal PUMP for Nursing Mothers Act. This bipartisan legislation not only aligns with the PUMP Act but is also part and parcel to embracing both mother and child. Breastfeeding is considered the clinical gold standard, providing many health benefits to both mothers and their babies. It does, however, require time to express throughout the workday. This bill ensures that working mothers and their children can both receive these health benefits, and that there will be resources within their workplace to express and keep breastmilk. It also ensures that mothers will not lose health insurance if their hours are impacted.

Wisconsin has a long history of high participation of women in the labor force, but not enough has been done to respect and accommodate the needs of mothers in the workforce. If Wisconsin is to be a place where everyone can thrive, our workplaces must become more humane and accommodating. The PUMP Act and SB 430 are a great first step in that direction. We strongly urge you to pass the bill.



TO: Members, Senate Committee on Labor, Regulatory Reform, Veterans & Military Affairs

FROM: Rachel Ver Velde, Senior Director of Workforce, Education and Employment Policy

DATE: October 5, 2023

RE: Comments on Senate Bill 430

Wisconsin Manufacturers & Commerce (WMC) appreciates the opportunity to comment on Senate Bill 430.

WMC is the joint statewide chamber of commerce and state manufacturing association. Additionally, WMC is the largest general business association in Wisconsin, representing approximately 3,800 member companies of all sizes, and from every sector of the economy. Since 1911, our mission has been to make Wisconsin the most competitive state in the nation to do business.

Senate Bill 430, in part, aligns state law with a recently passed federal law, the PUMP Act. But it also adds additional mandates on employers outside the federal law. These additional mandates include requiring employers to provide access to an electrical outlet, running water and a refrigerator for breast milk storage. Additionally, if an employee's eligibility for the employer contribution towards the employee's health coverage is dependent on the number of hours worked, the employer must treat an unpaid break for expressing milk as paid work time for determining the employee's eligibility for the health coverage.

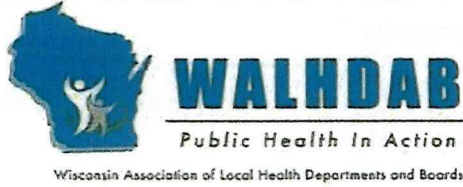
Employers in Wisconsin are facing worker shortages and challenges retaining employees as companies are increasingly competing for the same employees. For this reason, employers are doing all that they can to keep workers on the job and are working in particular with female employees on accommodations to keep them in the workforce.

In speaking with the WMC HR Policy Committee, which is composed of HR professionals from companies of various sizes and from all sectors of the economy throughout Wisconsin, most employers already provide these accommodations for their employees and all are already complying with federal law. They feel that the new federal regulations are appropriate and straightforward, but employers are concerned with creating two separate standards for expressing milk – one at the federal level and one at the state level. When the state has different standards than the federal government this creates confusion and can be overly burdensome for employers.

Additionally, WMC employers were unequivocal that none of their employees would lose health care benefits due to their accommodation to express milk putting them below the minimum threshold for health insurance eligibility. Every employer said that they would work with the employee to keep their insurance coverage, and many said they already do pay their employees for the time the employee needs to express milk.

This problem seems to be an issue with one employer and not indicative of employers in general. It is often misguided to make policy decisions based on one-off situations when instead the situation should be addressed directly with one employer.

WMC is concerned about the precedent that this legislation sets – continually adding additional mandates on employers. Additional mandates will make it more difficult and expensive for companies to do business in Wisconsin. WMC asks that you consider the cost and complexity of complying with multiple standards when considering Senate Bill 430.



TO: Honorable Members of the Senate Committee on Labor, Regulatory Reform, Veterans and Military Affairs

FROM: The Wisconsin Association of Local Health Departments and Boards (WALHDAB) and the Wisconsin Public Health Association (WPHA)

DATE: October 5, 2023

RE: Please Support Senate Bill 430, Requiring an Employer to Provide Reasonable Break Time and Accommodations for an Employee Who is Breastfeeding the Employee's Child to Express Breast Milk for the Child

The Wisconsin Public Health Association (WPHA) and Wisconsin Association of Local Health Departments and Boards (WALHDAB) represent over 1,200 public health professionals who promote and protect the health of Wisconsin residents. We support Senate Bill 430, which would require Wisconsin employers to provide break times and accommodations for employees to express breast milk in order to breastfeed their children and applaud Senator Joan Ballweg for introducing this bill. We respectfully request the Senate Committee on Labor, Regulatory Reform, Veterans and Military Affairs to support this important legislation. While this legislation supports a short amount of time in daily life, reducing barriers to breastfeeding improves the rates of continuation after returning to work. Breastfeeding provides lasting impacts on our families and children. Just a few of the benefits for babies are reduced risks of asthma, obesity, diabetes, and for mothers, it reduces high blood pressure, diabetes, and various types of cancers. Low rates of breastfeeding add more than \$3 billion per year to medical costs for the mother and child in the United States.ⁱ

WPHA member, Niki Lucht, serves on the Joint Policy and Advocacy Committee for WPHA and WALHDAB and is the Community Health Planner for the Wood County Health Department. This is her story. "In addition to working full time, I am a breastfeeding mom to 14-month-old twins. My daughters were born two months early, and one of them was born with a rare birth defect where she was unable to eat by mouth until she was six months old. Because of this, I had to express milk so my daughter could receive it through her gastrostomy tube - a tube inserted through the belly that delivers nutrition directly to her stomach. Breast milk is especially beneficial for babies born prematurely as it helps protect them from infections that they are at a higher risk for, and it is easier on their digestive system than formula. My daughters would have needed specialized formula with their sensitive digestive system; breastfeeding saved my family over \$10,000 in formula. Fortunately, I work for an organization that supports breastfeeding and provided accommodations for me to continue expressing breast milk while away from my children, but that's not the case for many working moms in Wisconsin."

According to the Wood County Breastfeeding Coalition, "One of the most common times women tend to stop breastfeeding is around the time they return to work. To help eliminate this, women need support in the workplace. A business can actually profit from supporting their employees during breastfeeding. Infants who are breastfed are sick less often, so mom misses less time at work. Mom will be more satisfied and thus functioning at their highest capacity!"ⁱⁱ

Once again, WPHA and WALHDAB respectfully request your support of this legislation. Thank you for allowing us to provide our testimony today regarding Senate Bill 430.

ⁱ <https://www.cdc.gov/breastfeeding/about-breastfeeding/why-it-matters.html>

ⁱⁱ <https://woodcountybreastfeeding.org/BreastfeedingFriendlyResources/BreastfeedingFriendlyBusinesses.aspx>

Dear Members of the Senate Committee on Labor, Regulatory Reform, Veterans and Military Affairs,

My name is Eileen Zeiger, and I am the Executive Director of the Wisconsin Association for Perinatal Care and a proud member of the Wisconsin Public Health Association. Today, I write in favor of SB 430 not only as a representative of these organizations, but also as a mother who has personally faced the challenge of inadequate support for breastfeeding in the workplace.

Out of financial necessity, I returned to work six weeks postpartum after my first child. Upon my return, I was told that I had no more than my regular 15-minute break to pump – a demonstrably insufficient amount of time to set up the pump equipment, relax enough to get the milk flowing, clean the pump equipment, and properly store the milk. I asked if it would be possible for me to combine my two 15-minute breaks per shift, but encountered pushback depending on the shift and supervisor, and was not always allowed to do so resulting in painfully engorged and leaking breasts, as well as harm to my milk supply.

If getting permission to take a sufficient amount time was difficult, requesting an appropriate place to pump was even worse. The 'solution' offered was a public men's restroom, where I was advised to drag in a chair and lock the door. Even a simple request to leave the chair in the bathroom to save my precious little time to pump was denied on the grounds of sanitation. The irony was visceral as I balanced my lunch on an unsanitary sink, while simultaneously trying to relax enough to pump the only source of nourishment for my six-week-old infant.

The struggles I endured aren't personal grievances. They are symptomatic of a larger systemic problem. The health benefits of breastfeeding for both mother and child are well-documented, and supporting a person's right to breastfeed is essential to the well-being of our community. Providing reasonable accommodations for lactating employees is not only about workplace equity but is also a public health imperative.

I'm sure other testimony will make the business case for allowing breastfeeding—which is also true—but I urge you to consider the real-life implications of this bill for mothers like me. Breastfeeding in the workplace is not about comfort or convenience. It is about the right to provide for our children both nutritionally and financially. As Wisconsin seeks to be a state that supports its families and its economy, passing this SB 430 is not just logical. It is a moral obligation.

Thank you for your time and consideration.

Sincerely,

Eileen Zeiger
Executive Director, Wisconsin Association for Perinatal Care
Member, Wisconsin Public Health Association
October 5, 2023



Wisconsin State AFL-CIO

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Stephanie Bloomingdale
In Support of SB 430
October 5, 2023

Good morning Mr. Chairman and members of the Committee. My name is Stephanie Bloomingdale and I am the President of the Wisconsin AFL-CIO. I appear on behalf of the hard-working men and women across Wisconsin to urge this Committee to support Senate Bill 430, a bipartisan bill that ensures privacy and protection for breastfeeding mothers in the workplace.

This common-sense bill would ensure that breastfeeding women who return to work are provided a private space with an electrical outlet, running water, and a refrigerator to safely store breast milk. These are not mere amenities but critical components to uphold the dignity of breastfeeding women at work. The bill also requires that unpaid break time used by breastfeeding women to express breast milk is not counted against them for healthcare benefits purposes.

The Wisconsin State AFL-CIO has long-advocated for an update of state statute to protect new mothers who return to work while at the same trying to take good care of their babies by pumping breastmilk, at work and in a clean, private space, and maintaining benefits. This bill will ensure dignity and respect at work for women.

I urge each of you to oppose Senate Bill 430.