



City of Seattle

Michael Patrick McGinn, Mayor

Personnel Department

David L. Stewart, Director

DATE: October 5, 2011

TO: HR Directors, Managers and Representatives

FROM: David L. Stewart, Personnel Director

SUBJECT: Accommodations for City Employees who Breastfeed

Recent changes to federal law and the Seattle Municipal Code provide for new support for City employees who breast feed. As part of the Patient Protection and Affordable Health Care Act of 2010, the FLSA was amended to require employers to provide (unpaid) break time and designated space for employees to express breast milk during the work day. In September of this year, City Council passed and the Mayor signed legislation authorizing paid lactation breaks for City employees covered by the FLSA.

Consistent with Section 7 of the FLSA (29 U.S.C. 207) and Ordinance 123703, City departments shall provide the following accommodations to any employee who is breastfeeding for up to one year after her child's birth. Each employee is responsible for communicating her needs with her supervisor.

Break Time

In addition to other legally required paid and unpaid breaks, departments shall provide nursing mothers reasonable break time to express breast milk each time there is need. Effective October 23, 2011, employees are authorized to take lactation breaks without deduction of pay or paid leave balances provided the breaks are of reasonable length and frequency (see attached Ordinance 123703). Elsie Ling in City Payroll (DFAS) will notify payroll staff when a new department earn-code has been created to track paid lactation breaks.

Place to Express Breast Milk

Departments shall provide employees a location to express breast milk that is shielded from view and free from intrusion by co-workers and the public. The location must be functional as a place for expressing breast milk, and cannot be a bathroom. The

location need not be permanently designated for expressing milk, but it must be available to employees when needed.

Currently, the City has two designated lactation areas in the downtown corridor that may be used by employees from any department. Seattle Municipal Tower 4130 and City Hall L110 are both permanently designated lactation rooms with sinks, chairs, electrical outlets and other amenities for employees who need to express breast milk at work. Employees wishing to use these rooms should contact their key card coordinators to gain access. Once access is granted, building security at the Seattle Municipal Tower or City Hall can assist employees in finding the lactation rooms.

Please contact Sarah Butler at ext. 4-7929 if you have any further questions about this matter.

Attachments

CC: Sarah Butler, Policy Analyst, Personnel Department
Payroll Supervisors

ORDINANCE 123703

1
2
3 AN ORDINANCE relating to City employment; amending Seattle Municipal Code Section
4 4.34.055 to provide eligible employees breaks to express breast milk without deduction of
5 pay or paid leave balances.

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

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

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

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

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

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

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

20 **4.34.055 Use and scheduling of vacations((:))**

21 A. The minimum vacation allowance to be used by an employee shall be no more than ((one-half
22))1/2((:)) day or, at the discretion of the appointing authority or his or her designated
23 management representative, such lesser amount as may be deemed appropriate, but no less than
24 ((fifteen-))15((:))minutes.
25
26
27
28



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

3
4 C. 1. An employee may, with the prior approval of the appointing authority or his or her
5 designated management representative, go on unpaid leave of absence for a period of no more
6 than ~~((twelve-))~~12~~((9))~~ months, without first using accrued vacation credit or compensatory time
7 off. The appointing authority or his or her designated management representative may deny the
8 use of vacation to an employee who has exhausted his or her sick leave balance and requests
9 further paid leave for medical reasons.

10
11 2. However, if an employee has City-provided long-term disability benefits and has accumulated
12 a vacation, compensatory time, or sick leave balance in excess of that necessary to cover the
13 long-term disability plan elimination period, he/she can choose either to receive the long-term
14 disability benefits after the elimination period or to remain on vacation, compensatory time, or
15 sick leave (with approval of the appointing authority or his or her designated management
16 representative) until all such paid leave is exhausted and receive the appropriate long-term
17 disability benefit.

18
19 D. In the event that the City cancels an employee's already scheduled and approved vacation,
20 leaving no time to reschedule such vacation before the employee's maximum balance will be
21 reached, the appointing authority or his or her designated management representative may allow
22 the employee to exceed the normal maximum vacation balance and to continue to accrue
23 vacation credit above the normal maximum credit balance for three ~~((3))~~ months after such
24 maximum has been reached. No similar exception shall be authorized for such employee until
25 ~~((twelve-))~~12~~((9))~~ months after the appointing authority's authorization.



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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.



1 Passed by the City Council the 12th day of September, 2011, and signed by
2 me in open session in authentication of its passage this
3 12th day of September, 2011.

4 
5 _____
6 President _____ of the City Council

7 Approved by me this 23rd day of September 2011.
8

9 
10 _____
11 Michael McGinn, Mayor

12 Filed by me this 23rd day of September, 2011.
13

14 
15 _____
16 Monica Martinez Simmons, City Clerk

17 (Seal)

18
19
20
21
22
23
24
25
26
27
28



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Personnel	David Bracilano/4-7874 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:

This legislation does not have any financial implications.

This legislation has financial implications.



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.





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
Office of the Mayor
600 Fourth Avenue, 7th Floor
PO Box 94749
Seattle, WA 98124-4749

Tel (206) 684-4000
Fax (206) 684-5360
TDD (206) 615-0476
mike.mcgin@seattle.gov



