



**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

830 PUNCHBOWL STREET, ROOM 321
HONOLULU, HAWAII 96813
www.labor.hawaii.gov
Phone: (808) 586-8842 / Fax: (808) 586-9099
Email: dlir.director@hawaii.gov

March 11, 2013

To: The Honorable Mark M. Nakashima, Chair,
The Honorable Mark J. Hashem, Vice Chair, and
Members of the House Committee on Labor and Public Employment

Date: Tuesday, March 12, 2013
Time: 9:00 a.m.
Place: Conference Room 309, State Capitol

From: Dwight Y. Takamine, Director
Department of Labor and Industrial Relations (DLIR)

Re: S.B. No. 532, S.D. 1 Relating to Breastfeeding in the Workplace

I. OVERVIEW OF PROPOSED LEGISLATION

This measure requires employers to provide adequate place and time at the workplace to express breast milk within the first year of giving birth. Allows employers with less than 20 employees to be exempt if they can show undue hardship. Provides for a private right of action for enforcement including attorney fees, damages, and penalties of \$1,000 for each violation.

The DLIR supports this bill.

II. CURRENT LAW

Expressing breast milk during a break or meal period is a protected activity under Part I, Section 378-10, Hawaii Revised Statutes. (HRS). Hawaii law does not require a break or meal period.

III. COMMENTS ON THE SENATE BILL

This measure emphasizes how important the mother-child connection in the development and success of Hawaii keiki. Requiring employers to provide the opportunity to express milk benefits our community and will assist in some of the challenges working mothers face.

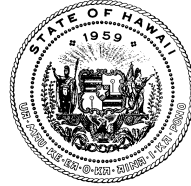
Senate Draft 1 creates a new part in the Employment Practices Law, Chapter 378

(HRS), that requires employers to provide adequate place and time at the workplace to express breast milk within the first year of giving birth. It provides a private right of action for enforcement and damages. It also provides a penalty of \$1,000 per violation to be deposited into the general fund.

Placing this provision in a new part of Employment Practices, Chapter 378, HRS, rather than the Wage and Hour Law, Chapter 387, HRS, expands the applicability to those mothers who are considered exempt from the Wage and Hour Law, and the Federal Labor Standards Act (FLSA). This broad coverage follows the existing law under Part I, Chapter 378, HRS, which applies to all employees.

At the federal level, under the Patient Protection and Affordable Care Act (P.L. 11-148) and Amendments to Section 7 of the Federal Labor Standards Act, (FLSA), only employers and employees subject to FLSA would be subject to the law. This excludes many professional, managerial or supervisory employees who would be considered exempt. It also excludes other types of workers who are exempt from FLSA like domestic workers.

By providing a private right of action in an appropriate court a nursing mother can get the necessary relief granted as needed on a case by case basis, with opportunity to recover attorney fees. Whether the action is in small claims or circuit court to obtain a simple injunction or bring a class action, this new private action provides opportunity for nursing mothers to identify the damages and relief they seek.



STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

**House Committee on Labor and Public Employment
S.B. 532, S.D. 1, Relating to Breastfeeding in the Workplace**

**Testimony of Loretta J. Fuddy, A.C.S.W., M.P.H.
Director of Health**

March 12, 2013

1 **Department's Position:** The Department of Health (DOH) supports this measure but defers to the
2 Department of Labor and Industrial Relations (DLIR) for implementation.

3 **Fiscal Implications:** None to the Department of Health.

4 **Purpose and Justification:** The purpose of this bill is to require employers to provide a reasonable
5 break time and a clean place for breastfeeding employees to express milk in order to maintain milk
6 supply and continue breastfeeding.

7 The Department supports the health benefits that this bill would bring, including protecting
8 infants and children from significant acute and chronic diseases; reducing the risk of obesity throughout
9 the life span; and for women who breastfeed a reduced risk of breast cancer, ovarian cancer, type 2
10 diabetes, postpartum depression, and cardiovascular disease.

11 Prior to passage, Senate draft 1 (SD1) inserted a one year cap on the length of time a woman
12 would be eligible for the breastfeeding break. We would like to note that current medical
13 recommendations call for exclusive breastfeeding for the first six months of life and continued
14 breastfeeding for at least the next six months, during which time appropriate complementary foods are
15 added to the infant's diet. Both the duration and the exclusivity of breastfeeding are important.

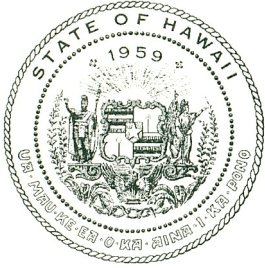
1 Employment plays a key role in a woman’s decisions about infant feeding. A woman’s career
2 plans have the most significant impact on both whether she breastfeeds exclusively and for how long she
3 breastfeeds. Working outside the home negatively affects both initiation and duration of breastfeeding.
4 Women employed full time are less likely to initiate breastfeeding and to continue breastfeeding once
5 they return to work. Only 25 percent of employed women with children under age 1 combine working
6 and breastfeeding for at least a month. There is ample evidence that a supportive worksite environment
7 with a private place to express milk and access to a quality breast pump helps women feel more
8 confident in continuing to breastfeed after returning to work, and that lack of accommodations
9 contributes to shorter breastfeeding duration. Women who do not express milk regularly experience a
10 drop in milk supply that leads to early weaning.

11 Lactation support at work also provides benefits to the employer. Lactation programs are cost-
12 effective, showing a \$3 return on \$1 investment. By supporting lactation at work, employers can reduce
13 turnover, lower recruitment and training costs, cut rates of absenteeism, boost morale and productivity,
14 and reduce health care costs.

15 The Department supports passage of S.B. 532, S.D. 1 due to the health benefits of breastfeeding.
16 Thank you for the opportunity to provide testimony.

17

HAWAII
STATE
COMMISSION
ON THE
STATUS OF
WOMEN



Chair
LESLIE WILKINS

COMMISSIONERS:

ELENA CABATU
ADRIENNE KING
CARMILLE LIM
AMY MONK
LISA ELLEN SMITH
CAROL ANNE PHILIPS

Executive Director
Cathy Betts, JD

Email:
DHS.HSCSW@hawaii.gov
Visit us at:
humanservices.hawaii.gov
/hscsw/

235 S. Beretania #407
Honolulu, HI 96813
Phone: 808-586-5758
FAX: 808-586-5756

March 12, 2013

Testimony in Support of SB 532, SD1, Relating to Breastfeeding in the Workplace

To: Honorable Mark Nakashima, Chair
Honorable Mark Hashem, Vice-Chair
Members of the House Committee on Labor

From: Cathy Betts, Executive Director, Hawai'i State Commission on the Status of Women

Re: Testimony in Support of SB 532, SD1

The Hawai'i State Commission on the Status of Women is in strong support of SB 532, SD1. In 2009, 50% of all mothers with children younger than twelve months old were employed. 69% of those women worked full time.¹ Breastfeeding women face many difficult challenges when returning to work. Many women are forced to discontinue breastfeeding upon returning to work because they are unable to take breaks. Some women simply cease breastfeeding because they are fearful of losing their job. Some women are given the proposition of expressing breast milk in unsanitary restrooms (although requiring the use of a restroom for expressing milk is a violation of existing law) or in locations lacking privacy.

Many employers do not recognize the many economic benefits that follow when female employees are provided reasonable time to express breast milk. Among the benefits are lower health care costs, lower absenteeism and lower turnover rates. Employees whose employers provide breastfeeding support report improved morale, better satisfaction with their employment and higher productivity.² 24 states, the District of Columbia and Puerto Rico all have laws protecting breastfeeding women in the workplace.³ While SB 532, SD1 aims to protect breastfeeding women, the Commission does not believe that a civil right of action adequately protects breastfeeding women who are just returning to work. Filing a civil right of action seems overly burdensome and costly.

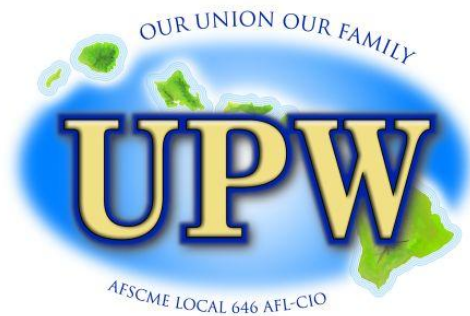
Thank you for this opportunity to testify.

Cathy Betts
Executive Director
Hawaii State Commission on the Status of Women

¹ United States Department of Labor, Bureau of Labor Statistics, Table 6, Employment Status of Mothers (2006).

² United States Department of Health and Human Services, *The Business Case for Breastfeeding*, Health Resources and Services Administration (2008).

³ National Conference of State Legislatures, *Breastfeeding Laws* (May 2011).



THE HAWAII STATE HOUSE OF REPRESENTATIVES
The Twenty-Seventh Legislature
Regular Session of 2013

COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

The Honorable Rep. Mark Nakashima, Chair
The Honorable Rep. Mark Hashem, Vice Chair

DATE OF HEARING: Tuesday, March 12, 2013
TIME OF HEARING: 9 a.m.
PLACE OF HEARING: Conference Room 309

TESTIMONY ON SB532 SD1 RELATING TO BREASTFEEDING IN THE WORKPLACE

By DAYTON M. NAKANELUA,
State Director of the United Public Workers,
AFSCME Local 646, AFL-CIO ("UPW")

My name is Dayton M. Nakanelua and I am the State Director of the United Public Workers, AFSCME, Local 646, AFL-CIO (UPW). The UPW is the exclusive representative for approximately 14,000 public employees, which include blue collar, non-supervisory employees in Bargaining Unit 1 and institutional, health and correctional employees in Bargaining Unit 10, in the State of Hawaii and various counties. The UPW also represents about 1,500 members of the private sector.

The UPW supports SB532 SD1 that would require certain employers to provide reasonable time and a clean location for breastfeeding employees to express breast milk in privacy; requires employers to post a notice; and establishes a civil fine.

This measure would support working mothers and their babies, as breast milk has been linked to better mother and infant health. Formula-fed babies are at a greater risk of necrotizing enterocolitis, lower respiratory infections, asthma, obesity, and type 2 diabetes, among other illnesses (per womenshealth.gov). Mothers who breastfeed also tend to take less sick leave, as their babies are ill less often.

For the reasons stated above, we ask that the Committee pass this measure.

Thank you for the opportunity to testify.



March 12, 2013

**TESTIMONY BEFORE THE HOUSE COMMITTEE ON
JUDICIARY AND LABOR
ON SB 532 SD1 RELATING TO BREAST FEEDING IN THE WORKPLACE**

Thank you Chair Nakashima and committee members. I am Gareth Sakakida, Managing Director of the Hawaii Transportation Association (HTA) with over 400 transportation related members throughout the state of Hawaii.

HTA requests an exception from this bill for employees whose regular duties require them to be on the road.

Drivers of commercial vehicles cannot be afforded a sanitary and private area to express milk when they are on the road as there is no employer owned facility on the drivers' route.

Furthermore, drivers cannot stop and park their tractor trailers, trucks, buses, etc., for any appreciable length of time, anywhere. Even in a legal loading zone there are time limits to remain in the space.

Such a rule could render the employment of female drivers untenable.

An amendment could be Under Section 2, **387-, Opportunity to express milk**, new paragraph (d), on page 3 stating, “ **Drivers employed by a motor carrier as defined in chapter 286-201, are exempt from subsection (a).** ”

Thank you.

**Testimony to the House Committee on Labor and Public Employment
Tuesday, March 12, 2013 at 9:00 A.M.
Conference Room 309, State Capitol**

**RE: SENATE BILL 532 SD 1 RELATING TO BREASTFEEDING IN THE
WORKPLACE**

Chair Nakashima, Vice Chair Hashem, and Members of the Committee:

The Chamber of Commerce of Hawaii ("The Chamber") **has comments on SB 532 SD 1 Relating to Breastfeeding in the Workplace.**

The Chamber is the largest business organization in Hawaii, representing more than 1,100 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

SB 532 SD 1 requires all employers to make reasonable efforts to provide a break time and a clean location other than a bathroom for breastfeeding employees to express breast milk in privacy. Requires covered employers to post a notice pertaining to this provision in a conspicuous location. Establishes a civil fine for the failure of an employer to provide a location or post notice.

The Chamber understands and supports women in the workplace. We would appreciate if the penalty language be permissive and not mandatory. We believe that discretion be left up to the investigating staff of the Department of Labor and Industrial Relations.

We appreciate the exemption for small businesses with less than 50 employees where there is undue hardship to comply. This will help small businesses that do not have the resources to fully comply with the bill. We also appreciate that it is only mandated for the first year of the infant.

Thank you for the opportunity to express our views.



To: The Honorable Mark M. Nakashima, Chair
The Honorable Mark J. Hashem, Vice Chair, and
Members of the House Committee on Labor and Public Employment

Date: March 12, 2013

Time: 9:00 am

Place: Conference Room 309, State Capitol

From: Deb Trankel, RNC, BSN, CLC, IBCLC
President, Breastfeeding Hawaii

Breastfeeding Hawaii stands in support of SB 532 SD1 "Relating to Breastfeeding in the Workplace".

The current draft requires employers to provide a clean, private place and time at the workplace for a female breastfeeding employee to express her breastmilk for up to one year after the child's birth. It also allows employers with less than 20 employees to be exempt if they can show hardship in a written statement to the Department of Labor. Lastly, it provides for a private right of action for enforcement including attorney fees, damages and penalties of \$1000 per violation.

We feel this version of the original bill will assist greatly the women we, as Lactation Consultants and lactation supporters, assist daily to return to work and continue to provide their milk for their infants. We feel this version is manageable for employers.

We also feel that since, according to the Chamber of Commerce testimony at a recent hearing on this bill, 80% of all Hawaii businesses have 20 employees or more. Therefore this bill covering businesses with 20 employees and more, will again reach a wider number of female employees vs. the original bill covering businesses with 50 employees or more.

We stand ready in our community to assist businesses with specific, practical suggestions on how they can comply with the future law, and assist their female employees with this important task.

We encourage this Committee to pass this legislation.

Thank you for the opportunity to share our opinions on this important piece of legislation.

Sincerely,

Deb Trankel, RNC, BSN, CLC, IBCLC

February 25, 2013

Testimony in Support: SB 532

To: Chair Mark Nakashima, Vice Chair Mark Hashem, and Members of the House Committee on Labor
From: Katie Reardon Polidoro, Director of Government Relations & Public Affairs
Re: Testimony in Support of HB 523 SD1, Relating to Breastfeeding in the Workplace

Thank you for hearing HB SB 523 SD1. Planned Parenthood of Hawaii (PPHI) strongly supports this bill, which would require employers to provide a clean and private location for new mothers to express breast milk in the workplace.

We do provide one comment. We believe that the amendment added by the Senate that creates a civil right of action as employees' sole remedy is overly burdensome. By taking away the possibility of an administrative remedy through the Department of Labor, the bill now requires a new mother to enforce her right to express breast milk at work by taking the time consuming and costly route of filing suit against her employer, often jeopardizing her employment. This process will no doubt discourage women from taking advantage of this law.

Many new mothers are faced with difficult choices when returning to the workplace, including the ability to continue breastfeeding. The health benefits of breast milk for both infants and mothers have long been established. According to the US Department of Health and Human Services Office on Women's Health, breastfeeding can help improve an infant's immune system, protecting her from germs and illness. It may also prevent illness such as ear infections, stomach viruses, asthma, obesity, types 1 and 2 diabetes, childhood leukemia, and some respiratory infections.¹ Mothers also benefit from breastfeeding, as it lowers the risk of breast and ovarian cancer, type 2 diabetes, and reduces post partum depression.²

As the flow of breast milk is slowed by less frequent feeding, returning to the workplace may mean ceasing breastfeeding for some women. Employees who are offered a clean and safe space at work to express milk are able to work without compromising their ability to breastfeed. Currently, the Fair Labor Standards Act requires that employers with more than 50 employees provide reasonable break time for employees to breastfeed as well as a private and clean space for expressing breast milk, other than a bathroom.³

PPHI believes in providing all individuals with the information and tools they need to raise healthy and strong families. Accordingly, we support SB 523 SD1 and we ask this Committee to pass it. Thank you.

¹ US Dept. of Health and Human Services, Office of Women's Health, *Breastfeeding Fact Sheet*, <http://www.womenshealth.gov/publications/our-publications/fact-sheet/breastfeeding.cfm#>

² Id.

³ Fair Labor Standards Act, 29 U.S.C. §207(r)(1) (2010)



Committee: Committee on Labor and Public Employment
Hearing Date/Time: Tuesday, March 12, 2013, 9:00 am
Place: Room 309
Re: Testimony of the ACLU of Hawaii in support of S.B. 532, S.D. 1, Relating to Breastfeeding in the Workplace

Dear Chair Nakashima and Members of the Committee on Labor and Public Employment:

In order to ensure full equality for women, workplace policies and practices must appropriately reflect the realities of pregnancy, childbirth, and breastfeeding in many women's lives.

Numerous barriers remain to women's continued workforce participation and advancement once they have children, with both short- and long-term consequences for women's earning potential and economic security.¹ Insufficient support for breastfeeding for women who return to the paid workforce after the arrival of a baby is among these barriers.

These were among the concerns that animated the enactment of the amendment to the Patient Protection and Affordable Care Act, Public Law 111-148 ("Affordable Care Act"). Citing the growing percentage of women who return to work within three to six weeks of giving birth, Senator Merkley characterized the provision as "simply an act of human decency to protect their right to continue [to] breastfeed after they return to work. . . [t]o help meet their basic needs with [] regard to the care and nourishment of their children."² He also cited health benefits for infants and nursing mothers, and savings in health care costs that could be expected as a result of the provision.³

¹ See generally Pamela Stone, *Opting Out? Why Women Really Quit Careers and Head Back Home* (2007) (discussing structural barriers to professional women's continued advancement in the workplace after having children); Sylvia Ann Hewlett, *On-Ramps and Off-Ramps: Keeping Women on the Road to Success* (2007) (documenting that women who took a 2.2 to 3 year break from the workforce lost 18% to 37% of their earning power, and that only 40% were then able to return to paid full-time work despite a desire to do so); Marianne Bertrand *et al.*, *Dynamics of the Gender Gap for Young Professionals in the Financial and Corporate Sectors*, 2 Am. Econ. J.: Applied Econ. 229, 252 (2010) (documenting increasing gap in career progress for female as compared to male M.B.A.s following graduation, and concluding that "[t]he presence of children is the main contributor to the lesser job experience, greater career discontinuity, and shorter work hours for female MBAs").

² Markup Hearing on H.R. 3590 Before the S. Comm. on Health, Education, Labor, & Pensions, 111th Cong., 1st Sess. (Jun. 23, 2009) (comments of Senator Merkley, Senate Sponsor).

³ *Id.*

American Civil Liberties Union of Hawaii
P.O. Box 3410
Honolulu, Hawaii'i 96801
T: 808-522-5900
F: 808-522-5909
E: office@acluhawaii.org
www.acluhawaii.org

Chair Nakashima and Members of the Committee on
Labor and Public Employment
March 12, 2013
Page 2 of 2

Moreover, this provision of the Affordable Care Act reflects a strong policy on the part of the federal government, stretching back at least a quarter of a century, to promote breastfeeding, including women's ability to continue breastfeeding upon return to the paid workforce.⁴ From the first federal summit on breastfeeding in 1984 to the signing of the World Health Organization *Innocenti Declaration on the Protection, Promotion and Support of Breastfeeding* in 1990,⁵ to as recently as this year, when the Surgeon General issued a "Call to Action to Support Breastfeeding" outlining steps that various sectors might take to improve breastfeeding rates, promotion of breastfeeding has been a "key public health issue in the United States."⁶

In light of the legislative concerns motivating this provision of the Fair Labor Standards Act (FLSA), and the strong federal public policy in favor of breastfeeding promotion, we strongly urge this Committee to expand the requirements of H.R.S. §378-10 to ensure that employers provide breastfeeding women with an appropriate space in their place of employment to express their breast milk.

Sincerely,

Laurie A. Temple
Staff Attorney and Legislative Program Director

The American Civil Liberties Union ("ACLU") is our nation's guardian of liberty – working daily in courts, legislatures and communities to defend and preserve the individual rights and liberties that the Constitution and laws of the United States guarantee everyone in this country.

⁴ See United States Department of Health and Human Services, Office of the Surgeon General, *The Surgeon General's Call to Action to Support Breastfeeding* at 5 (2011) [hereinafter "Surgeon General's Call to Action"] (discussing Federal Policy on Breastfeeding").

⁵ See Department of Health and Human Services, Office of Women's Health, *HHS Blueprint for Action on Breastfeeding* (2000), <http://www.womenshealth.gov/archive/breastfeeding/programs/blueprints/bluprntbk2.pdf>; United Nations Children's Fund, World Health Organization, *Innocenti Declaration on the Protection, Promotion and Support of Breastfeeding* (1990) (Adopted by U.S. at WHO/UNICEF policymakers' meeting *Breastfeeding in the 1990s: A Global Initiative*, co-sponsored by the United States Agency for International Development and the Swedish International Development Authority (SIDA), in Florence, Italy), <http://www.unicef.org/programme/breastfeeding/innocenti.htm>.

⁶ *Surgeon General's Call to Action*, *supra*, at v.

American Civil Liberties Union of Hawai'i
P.O. Box 3410
Honolulu, Hawai'i 96801
T: 808-522-5900
F: 808-522-5909
E: office@acluhawaii.org
www.acluhawaii.org

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 11, 2013 10:54 AM
To: LABtestimony
Cc: leealdridge@msn.com
Subject: Submitted testimony for SB532 on Mar 12, 2013 09:00AM

SB532

Submitted on: 3/11/2013

Testimony for LAB on Mar 12, 2013 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Lee Aldridge	Individual	Oppose	No

Comments: I wish to thank the LAB Committee for the opportunity to testify on SB532. I OPPOSE this bill. Even though the bill is an expression of good intentions and exempts employers of less than 10 employees (however, undefined as to whether this includes or excludes temporary, part time, or contact employees) the bill is nevertheless another example of an intrusive and overbearing imposition of government into business and places of employment. This bill requires employers to essentially construct or partition a dedicated "sanitary" room to allow for the access to private breast feeding activity. The bill states specifically that the space cannot be a bathroom or restroom. There are many business locations where this allocation of private space may simply be impractical or unattainable. Additionally, the bill establishes provisions for civil fines against employers for not providing such facilities. Not only does this bill create additional restrictions and added cost to doing business in Hawaii, but it also creates new opportunities for unlimited litigation against employers for some "violation" of fairly ill- defined regulations. I wish to repeat my emphatic opposition to this bill.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

From: Sylvia Pager [sylviapager@hawaii.rr.com]
Sent: Sunday, March 10, 2013 11:18 PM
To: LABtestimony
Subject: SB532

To: The Honorable Mark M. Nakashima, Chair,
The Honorable Mark J. Hashem, Vice Chair, and
Members of the House Committee on Labor and Public Employment

Date: Tuesday, March 12, 2013

Time: 9:00 a.m.

Place: Conference Room 309, State Capitol

From: **Sylvia R. Pager, MD, IBCLC**
Amer. Acad. Of Pediatrics, Hawaii Chapter
Breastfeeding Coordinator.

Re: S.B. 532; S.D. 1 Relating to Breastfeeding in the Workplace

In Support.

- Breastfeeding provides many benefits to businesses as well as to mothers, babies, and the Public Health.
- **Money is saved** when infants are breastfed more exclusively for a longer period.
- Most new mothers need to return to work soon after birth, usually for economic reasons, in the absence of a maternity leave policy in this country. This provides an obstacle to successful continuing to breastfeed, without supplements, for the recommended first six months of life, continuing beyond, with other foods.
- While 80% of our new mothers try to breastfeed, almost half of them have quit by 3 months, and only 20% get to 6 months with providing only breastmilk to their infants.
- Lactating breasts are responsive to needs, but shut down when not emptied regularly, often difficult to coordinate in the workplace. Hence the inclusion of breastfeeding protection and support in the federal healthcare law.
- This law enhances the protections provided in the federal law, and will include a larger proportion of our employees, most personal businesses.
- Many factors contribute to breastfeeding success, and community support and recognition of the value of breastfeeding, such topics.
- We commend your intention supporting our breastfeeding mothers, and encourage passage over all of this bill.

Thank you for the opportunity to testify.

Sylvia R. Pager, MD, MS, FAAP, FABM, IBCLC
Pediatrics, Breastfeeding Medicine
Assoc. Clin. Prof., Dept. of Pediatrics
JABSOM, University of Hawaii
AAP Hawaii Chapter Breastfeeding Coord.
1380 Lusitana St. Ste 907
Honolulu, Hawaii, 96813
Tel: 808 524-2885 w, 732-2384 h, 389-8155 c
Fax: 808 524-2886 w, 739-1600 h



SB532 SD1
RELATING TO BREASTFEEDING IN THE WORKPLACE
Senate Committee on Labor and Public Employment

March 12, 2013

9:00 a.m.

Room 309

The Office of Hawaiian Affairs (OHA) **SUPPORTS** SB532 SD1, which would require certain employers to provide reasonable time and a clean location for breastfeeding employees to express breast milk in privacy. It would also require posting a notice to inform employees of their right to express breast milk in the workplace, and establishes a civil fine for employers who do not comply.

OHA's strategic priorities include Maui Ola (Health), which represents our commitment to improve the conditions of Native Hawaiians and quality of life by reducing the onset of chronic diseases.

Studies have shown that there are many health benefits to breastfeeding, which include reducing the risk of chronic diseases for the infant and mother. More specifically, the U.S. Department of Health & Human Services – Office of Women's Health (OWH) indicates that breast milk reduces the risks of chronic diseases in infants by lowering the risks for respiratory infections, diabetes, obesity, and childhood leukemia. Additionally, lactating mothers reduce their risk for diabetes, breast cancer, ovarian cancer, and postpartum depression.

Furthermore, breastfeeding benefits society and the environment. According to the OWH, the United States could save \$13 billion per year in medical care costs because breastfed infants typically require fewer doctors' visits, prescriptions, and hospitalizations. At the same time, breastfeeding fosters a more productive workforce because it would prevent mothers from having to take leave for a sick infant. OWH also states that breastfeeding helps the environment, as there would be a reduction in waste from formula packaging and bottles.

Currently, the U.S. Fair Labor Standards Act requires that employers with more than 50 employees provide a break for employees who wish to express breast milk. While we appreciate the federal policy, SB532 SD1 establishes a mechanism to improve the status quo at the state level by encouraging employers to provide a sanitary and private accommodation in the workplace for working mothers who choose to breastfeed.

OHA urges the committee to **PASS** SB532 SD1. Mahalo for the opportunity to testify.



March 12, 2013

To: Senator Mark Nakashima, Chair; Senator Mark Hashem, Vice Chair and
Members of the Committee on Labor and Public Employment

From: Jeanne Y. Ohta, Co-Chair

LATE TESTIMONY

RE: SB 532 SD1 Relating to Breastfeeding in the Workplace
Hearing: Tuesday, March 12, 2013, 9:00 a.m., Room 309

Position: Support

The Hawai'i State Democratic Women's Caucus writes in support of SB 532 SD1 Breastfeeding in the Workplace which requires certain employers to provide reasonable time and a clean and private location for breastfeeding employees to express breast milk in privacy.

We do provide one comment:

We believe that the amendment added by the Senate that creates a civil right of action as the employee's sole remedy is overly burdensome. The bill now requires a new mother to enforce her right to express breast milk at work by finding an attorney who will take her case; taking the time consuming and costly route of filing suit against her employer; and perhaps jeopardize her employment. This process will no doubt discourage women from taking advantage of this law.

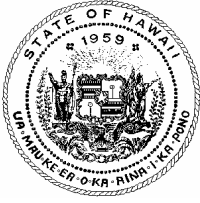
The Hawai'i State Democratic Women's Caucus is a catalyst for progressive, social, economic, and political change through action on critical issues facing Hawaii's women and girls. It is because of this mission, the Women's Caucus supports this measure.

Only one in five children in Hawai'i¹ receives the absolute minimum of six months exclusive breastfeeding, as recommended by the American Academy of Pediatrics and the World Health Organization to reduce risk of obesity, diabetes, infectious disease, asthma, allergies and certain childhood cancers. Women who breastfeed their children benefit too, with lower rates of breast and ovarian cancer, metabolic syndrome and type 2 diabetes. Society benefits with lower health insurance costs. Employers benefit with lower absenteeism on the job and less employee turnover.

According to the 2011 Data Book, 62% of Hawaii's women are in the labor force. Because of our high cost of living, two-wage earners in households are very common. Children deserve the best start to a healthy life as possible. Allowing for accommodations to women who are breastfeeding is a common-sense solution. We respectfully request that the committee pass this measure.

¹ The CDC Breastfeeding Report Card 2012: www.cdc.gov/breastfeeding/data/

LATE TESTIMONY



HAWAI‘I CIVIL RIGHTS COMMISSION

830 PUNCHBOWL STREET, ROOM 411 HONOLULU, HI 96813 ·PHONE: 586-8636 FAX: 586-8655 TDD: 568-8692

March 12, 2013
9:00 a.m.
Room 309

To: The Honorable Mark M. Nakashima, Chair
and Members of the House Committee on Labor and Public Employment

From: Linda Hamilton Krieger, Chair
and Commissioners of the Hawai‘i Civil Rights Commission

Re: S.B. No. 532, S.D.1

The Hawai‘i Civil Rights Commission (HCRC) has enforcement jurisdiction over state laws prohibiting discrimination in employment, housing, public accommodations, and access to state and state-funded services. The HCRC carries out the Hawai‘i constitutional mandate that "no person shall be discriminated against in the exercise of their civil rights because of race, religion, sex or ancestry". Art. I, Sec. 5.

S.B. No. 532, S.D.1, requires employers with 20 or more employees to provide a reasonable break time for one year after the birth of a child and a private location for breastfeeding employees to express breast milk. It also imposes posting requirements, a \$1,000 fine for each violation and a private right of action. Employers with less than 20 employees are exempt from these requirements only if the requirements pose an undue hardship. S.B. No. 532, S.D.1, places these protections under a new section of HRS Chapter 378 and deletes the breastfeeding provisions in H.R.S. §378-10. S.B. No. 532,

S.D. 1, conforms state law on breastfeeding and expression of breast milk in the workplace to the federal law provisions of the Fair Labor Standards Act

The HCRC supports S.B. No. 532, S.D.1, and its removal of the proposed breastfeeding and expression of breast milk in the workplace requirements from Chapter 378, Part I and HCRC jurisdiction, because they are health and safety protections, not civil rights protections within the enforcement mandate and expertise of the HCRC.

LATE TESTIMONY

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 11, 2013 10:39 PM
To: LABtestimony
Cc: annsfreed@gmail.com
Subject: Submitted testimony for SB532 on Mar 12, 2013 09:00AM

SB532

Submitted on: 3/11/2013

Testimony for LAB on Mar 12, 2013 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Ann S. Freed	Hawai`i Women's Coalition	Support	No

Comments: Chair Mark Nakashima, Vice Chair Mark Hashem, and Members of the House Committee on Labor The Hawai`i Women's Coalition is in strong support of this measure. However we would prefer that the committee remove or redraft the Senate amendment that creates a civil right of action as employees' only recourse for enforcement. By taking away the possibility of an administrative remedy through the Department of Labor, the bill now requires a new mother to enforce her right to express breast milk at work by taking the time consuming and costly route of filing suit against her employer, often jeopardizing her employment. This process will no doubt discourage women from taking advantage of this law. We therefore wish to support the original version of the bill and have submitted previous testimony detailing the reasons why this bill is needed. Ann S. Freed Co-Chair Hawai`i Women's Coalition Mililani, HI 96789

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov



LATE TESTIMONY

March 11, 2013

To: Chair Mark Nakashima, Vice Chair Mark Hashem, and Members of the House Committee on Labor
From: Lisa Kimura, Executive Director, Healthy Mothers Healthy Babies Coalition of Hawaii
Re: Testimony in Support of HB 532 SD1, Relating to Breastfeeding in the Workplace
Hearing: March 12, 2013 at 9:00am

Thank you for hearing HB SB 532 SD1. Healthy Mothers Healthy Babies Coalition of Hawaii strongly supports this bill, which would require employers to provide a clean and private location for new mothers to express breast milk in the workplace.

Companies successful at retaining valued employees after childbirth find that providing dedicated space for breastfeeding employees to express milk in privacy, and providing worksite lactation support makes the difference. The employer's cost is minimal, but payoff is significant: more satisfied, loyal employees and cost savings to the business. These savings are seen in such areas as:

- Retention of experienced employees;
- Reduction in sick time taken by both moms and dads for children's illnesses; and
- Lower health care and insurance costs.¹

The health benefits of breast milk for both infants and mothers have long been established and it is imperative from a public health perspective to promote and sustain breastfeeding. One-day absences to care for sick children occur more than twice as often for mothers of formula-feeding infants.² Breastfeeding helps improve an infant's immune system, preventing illness such as ear infections, stomach viruses, asthma, obesity, types 1 and 2 diabetes, childhood leukemia, and some respiratory infections. Mothers also benefit from breastfeeding, as it lowers the risk of breast and ovarian cancer, type 2 diabetes, and reduces post-partum depression.

Mothers must pump milk consistently to maintain their supply and employees who are offered a clean and safe space at work to express milk are able to work without compromising their ability to breastfeed. Each milk expression session usually takes around 15 minutes and breastfeeding employees typically need no more than an hour per work day to express milk, which can easily be divided between usual paid breaks and the meal period. If milk expression takes longer than expected, a common solution is to allow employees the flexibility to come in early or stay late, or to use a portion of their lunch period, to make up time.

Healthy Mothers Healthy Babies Coalition of Hawaii believes in providing all women with the information and resources they need to raise healthy and strong families. Accordingly, we support SB 532 SD1 and ask this Committee to pass it.

Thank you for the opportunity to testify.

¹ The Business Case for Breastfeeding. (www.WomensHealth.gov)

² U.S. Dept. of Health and Human Services, Health Resources and Services Administration (HRSA), Maternal and Child Health Bureau.

845 22nd Avenue, Honolulu, Hawaii 96816
phone: (808) 222-0165 e-mail: lisak@hmhb-hawaii.org
www.hmhb-hawaii.org