



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: June 22, 2021

TIME: 5:00 PM

WSR 21-13-161

Agency: Employment Security Department

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 21-10-047 ; or

Expedited Rule Making--Proposed notice was filed as WSR _____; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject)

Adding WAC 192-500-200 Pandemic leave assistance.

Adding WAC 192-510-095 How will certain moneys owed to the trust be considered when calculating the premium rate?

Adding WAC 192-530-100 Are voluntary plans required to pay pandemic leave assistance benefits?

Adding WAC 192-560-011 What small business grants are available under pandemic leave assistance?

Amending WAC 192-610-035 Documenting a family relationship.

Adding WAC 192-610-100 What is the attestation required for an employee claiming pandemic leave assistance?

Hearing location(s):

Date:

Time:

Location: (be specific)

Comment:

July 27, 2021

9:00 AM

Microsoft TEAMS.

Hearing will be held remotely due to COVID-19.

Join online: link available at
paidleave.wa.gov/rulemaking
under "Upcoming Meetings."

Join by phone: (564) 999-2000 //
PIN: 204472260#

Date of intended adoption: July 29, 2021 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: April Amundson

Address: Employment Security Department, PO Box 9046 Olympia, WA 98507-9046

Email: rules@esd.wa.gov

Fax:

Other:

By (date) July 27, 2021

Assistance for persons with disabilities:

Contact Teresa Eckstein, State EO Officer

Phone: 360-480-5708

Fax:

TTY: 711

Email: Teckstein@esd.wa.gov

Other:

By (date) July 20, 2021

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The rules are necessary to align the Paid Family and Medical Leave program with new requirements created by the state legislature in the 2021 legislative session, specifically regarding the passage of HB 1073 and SB 5097.

Reasons supporting proposal: Adopting the rules will provide enhanced direction to the public. Failing to do so will create confusion on changes to the program's operation in light of the new statutory requirements.

Statutory authority for adoption: RCW 50A.05.060

Statute being implemented: Chapter 109, Laws of 2021 (HB 1073) and Chapter 232, Laws of 2021 (SB 5097)

Is rule necessary because of a:

| | | |
|-------------------------|------------------------------|--|
| Federal Law? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Name of proponent: (person or organization) Employment Security Department, Leave and Care Division Private Public Governmental

Name of agency personnel responsible for:

| | Name | Office Location | Phone |
|-----------------|----------------|-----------------|--------------|
| Drafting: | April Amundson | Lacey, WA | 360-485-2816 |
| Implementation: | April Amundson | Lacey, WA | 360-485-2816 |
| Enforcement: | April Amundson | Lacey, WA | 360-485-2816 |

Is a school district fiscal impact statement required under RCW 28A.305.135? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Is a cost-benefit analysis required under RCW 34.05.328?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name:
Address:
Phone:
Fax:

TTY:
 Email:
 Other:

No: Please explain:

| WAC Section | Section Title | Exempting reason(s) | Exempting statute(s) |
|-----------------|--|--|--|
| WAC 192-500-200 | Pandemic leave assistance | The rule is interpretive and sets forth the agency's interpretation of statutory provisions. | RCW 34.05.328(5)(c)(ii) |
| WAC 192-510-095 | How will certain moneys owed to the trust be considered when calculating the premium rate? | The rule relates only to internal governmental operations that are not subject to violation by a nongovernment party. | RCW 34.05.328(5)(b)(ii) |
| WAC 192-530-100 | Are voluntary plans required to pay pandemic leave assistance benefits? | The rule is interpretive and sets forth the agency's interpretation of statutory provisions. | RCW 34.05.328(5)(c)(ii) |
| WAC 192-560-011 | What small business grants are available under pandemic leave assistance? | The rule adopts or incorporates by reference without material change Washington state statutes; and is a rule the content of which is explicitly and specifically dictated by statute. | RCW 34.05.328(5)(b)(iii) ; RCW 34.05.328(5)(b)(v) |
| WAC 192-610-035 | Documenting a family relationship. | The rule corrects references and clarifies language without changing the effect of the rule. | RCW 34.05.328(5)(b)(iv) |
| WAC 192-610-100 | What is the attestation required for an employee claiming pandemic leave assistance? | The rule adopts or incorporates by reference without material change Washington state statutes; and is a rule the content of which is explicitly and specifically dictated by statute. | RCW 34.05.328(5)(b)(iii) ; RCW 34.05.328(5)(b)(v) |

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- | | |
|--|--|
| <input checked="" type="checkbox"/> RCW 34.05.310 (4)(b) (Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e) (Dictated by statute) |
| <input checked="" type="checkbox"/> RCW 34.05.310 (4)(c) (Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f) (Set or adjust fees) |
| <input checked="" type="checkbox"/> RCW 34.05.310 (4)(d) (Correct or clarify language) | <input type="checkbox"/> RCW 34.05.310 (4)(g) ((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |

This rule proposal, or portions of the proposal, is exempt under RCW _____.

Explanation of exemptions, if necessary:

| WAC Section | Section Title | Exempting reason(s) | Exempting statute(s)Right, |
|-------------|---------------|---------------------|----------------------------|
|-------------|---------------|---------------------|----------------------------|

| | | | |
|-----------------|--|--|---|
| WAC 192-510-095 | How will certain moneys owed to the trust be considered when calculating the premium rate? | The rule relates only to internal governmental operations that are not subject to violation by a nongovernment party. | RCW 34.05.310 (4)(b) |
| WAC 192-560-011 | What small business grants are available under pandemic leave assistance? | The rule adopts or incorporates by reference without material change Washington state statutes; and is a rule the content of which is explicitly and specifically dictated by statute. | RCW 34.05.310 (4)(c); RCW 34.05.310 (4)(e) |
| WAC 192-610-035 | Documenting a family relationship. | The rule corrects references and clarifies language without changing the effect of the rule. | RCW 34.05.310 (4)(d) |
| WAC 192-610-100 | What is the attestation required for an employee claiming pandemic leave assistance? | The rule adopts or incorporates by reference without material change Washington state statutes; and is a rule the content of which is explicitly and specifically dictated by statute. | RCW 34.05.310 (4)(c); RCW 34.05.310 (4)(e) |

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's analysis showing how costs were calculated. WAC 192-500-200 serves as a general definition of the grant established by the passage of HB 1073 and acts as a reference point to establish the scope of all related rules. This rule creates no costs for employers. WAC 192-530-100 exempts voluntary plan employers from grant liability. This rule creates no costs for employers.

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Date: June 22, 2021

Name: April Amundson

Title: Policy and Rules Manager, Leave and Care Division

Signature:

