



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, 2022

TIME: 8:49 AM

WSR 22-13-176

Agency: Employment Security Department

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 22-08-049 ; 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)

Amending:

WAC 192-520-010 Parties to collective bargaining agreements.

WAC 192-610-025 Birth, placement, or death of a child and required documentation.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
July 26, 2022	9:00 AM	Microsoft TEAMS. Join online: link available at paidleave.wa.gov/rulemaking Join by phone: (564) 999-2000 PIN: 524 452 625#	Hearing will be held remotely due to COVID-19.

Date of intended adoption: On or after August 2, 2022 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Janette Benham

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

Email: rules@esd.wa.gov

Fax:

Other:

By (date) July 26, 2022

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 19, 2022

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The Paid Family and Medical Leave (PFML) program (Title 50A RCW) is proposing amendments to existing rules to implement Second Substitute Senate Bill (2SSB) 5649, which passed into law during the 2022 legislative session. The proposed amendments implement an expiration date of December 31, 2023, for provisions allowing parties to collective bargaining agreements that were in effect on October 19, 2017, have not expired, have not been reopened, or have not been renegotiated to be exempt from PFML participation. The proposed amendments implement the "postnatal period" as the six-week period after an employee gives birth and outline that leave taken for the postnatal period will default to medical leave unless otherwise specified by the

employee or if the employee's available medical leave has been exhausted. The proposed amendments clarify that leave taken for the postnatal period will not require a medical certification and describe other forms of documentation that may be required. The proposed amendments also implement a new provision allowing an employee to take family leave for up to seven calendar days, if available, in the event of the death of a child they would have been eligible to bond with or were bonding with. Additional changes are technical.

Reasons supporting proposal: The proposed amendments to the rules are necessary to implement 2SSB 5649, which passed into law during the 2022 legislative session.

Statutory authority for adoption: Second Substitute Senate Bill 5649 (Chapter 233, Laws of 2022), RCW 50A.05.060.

Statute being implemented: Second Substitute Senate Bill 5649 (Chapter 233, Laws of 2022).

Is rule necessary because of a:

- Federal Law? Yes No
Federal Court Decision? Yes No
State Court Decision? Yes 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: 771

Email: rules@esd.wa.gov

Other:

No: Please explain:

WAC 192-520-010 is exempt under RCW 34.05.328 (5)(b)(v). The content of the proposed amendment is explicitly and specifically dictated by 2SSB 5649.

WAC 192-610-025 is exempt under RCW 34.05.328 (5)(b)(v) and (5)(c)(ii). The proposed amendments are explicitly and specifically dictated by 2SSB 5649 and are interpretive rules that do not subject a person to a penalty or sanction and set forth the agency's interpretation of statutory provisions it administers. Interpretive rules are not significant legislative rules under RCW 34.05.328 (5)(c)(iii).

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 type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input checked="" type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input 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 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 19.85.025 (4).

Explanation of exemptions, if necessary:

WAC 192-510-010 is exempt under RCW 34.05.310 (4)(e). The proposed amendment is explicitly and specifically dictated by 2SSB 5649.

WAC 192-610-025 is exempt under RCW 34.05.310 (4)(e) and RCW 19.85.025 (4). The proposed amendments are explicitly and specifically dictated by 2SSB 5649. The proposed amendments also do not apply to businesses and only apply to individuals applying for and receiving paid family or medical leave benefits.

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.
- 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, 2022

Name: April Amundson

Title: Policy and Rules Manager, Leave and Care Division

Signature:

A handwritten signature in black ink, appearing to read 'April Amundson', is written over a light gray watermark of the same name.