



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: March 03, 2021

TIME: 9:40 AM

WSR 21-06-110

Agency: Employment Security Department

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 20-14-086 ; 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)

Long-Term Services and Supports Trust Program

Adding Chapter 192-905 WAC Exemptions

Adding sections:

WAC 192-905-005 Eligibility requirements for an employee to receive an exemption from the long-term services and supports trust program.

WAC 192-905-010 How and when can an employee apply for an exemption from the long-term services and supports trust program?

WAC 192-905-015 What happens after an employee's exemption application is processed?

WAC 192-905-020 Is an exempt employee entitled to a refund of premiums?

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
April 6, 2021	9:00 AM	Call-in number: (360) 407-3780 Pin: 474082#	Hearing will be held by conference call due to COVID-19

Date of intended adoption: On or after April 13, 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) April 6, 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) March 30, 2021

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The proposed rules are the first of three phases of rules to implement portions of the Long-Term Services and Supports Trust Program (Title 50B RCW) under the Employment Security Department's authority. The proposed rules address exemptions from participation in the program and include rules related to eligibility and application requirements, employee and employer responsibilities, and refunds of premiums.

Reasons supporting proposal: The proposed rules are necessary to implement portions of the Long-Term Services and Supports Trust Program and provide guidance to employees and employers regarding exemptions from the program.

Statutory authority for adoption: RCW 50B.04.020, RCW 50B.04.085,

Statute being implemented: RCW 50B.04.050, RCW 50B.04.085

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:

Email: rules@esd.wa.gov

Other:

No: Please explain:

WAC 192-905-005 is exempt under RCW 34.05.328 (5)(b)(v) and (c)(i)(C). The rule is explicitly and specifically dictated by statute (RCW 50B.04.085) and is a procedural rule that adopts a policy pertaining to the internal operations of the department. Procedural rules are not significant legislative rules under RCW 34.05.328 (5)(c)(iii).

WAC 192-905-010 is exempt under RCW 34.05.328 (5)(b)(v) and (c)(i)(C). The rule is explicitly and specifically dictated by statute (RCW 50B.04.085) and is a procedural rule that adopts a policy pertaining to the internal operations of the department. Procedural rules are not significant legislative rules under RCW 34.05.328 (5)(c)(iii).

WAC 192-905-015 is exempt under RCW 34.05.328 (5)(b)(v) and (c)(i)(C). The rule is explicitly and specifically dictated by statute (RCW 50B.04.085) and is a procedural rule that adopts a policy pertaining to the internal operations of the department. Procedural rules are not significant legislative rules under RCW 34.05.328 (5)(c)(iii).

WAC 192-905-020 is exempt under RCW 34.05.328 (5)(b)(v). The rule is explicitly and specifically dictated by statute (RCW 50B.04.085).

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:

RCW 34.05.310 (4)(b)
(Internal government operations)

RCW 34.05.310 (4)(e)
(Dictated by statute)

RCW 34.05.310 (4)(c)
(Incorporation by reference)

RCW 34.05.310 (4)(f)
(Set or adjust fees)

RCW 34.05.310 (4)(d)
(Correct or clarify language)

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 192-905-005 Eligibility requirements for an employee to receive an exemption from the long-term services and supports trust program. | The rule is exempt under RCW 34.05.310 (4)(b) and (e) because the rule is related to internal operations of the department and is specifically dictated by statute (RCW 50B.04.085).

WAC 192-905-010 How and when can an employee apply for an exemption from the long-term services and supports trust program? | The rule is exempt under RCW 34.05.310 (4)(b) and (e) because the rule is related to internal operations of the department and is specifically dictated by statute (RCW 50B.04.085).

WAC 192-905-015 What happens after an employee's exemption application is processed? | The rule is exempt under RCW 34.05.310 (4)(b) and (e) because the rule is related to internal operations of the department and is specifically dictated by statute (RCW 50B.04.085).

WAC 192-905-020 Is an exempt employee entitled to a refund of premiums? | The rule is exempt under RCW 34.05.310 (4)(e) because the rule is specifically dictated by statute (RCW 50B.04.085).

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: March 3, 2021

Name: April Amundson

Title: Policy and Rules Manager, Leave and Care Division

Signature:

