



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (December 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: September 28, 2022

TIME: 11:22 AM

WSR 22-20-044

Agency: Employment Security Department

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes
 - No
- If Yes, explain:

Purpose: The Employment Security Department (department) is adopting new and amended rules to implement Substitute House Bill (SHB) 1732 (Chapter 1, Laws of 2022), Engrossed Substitute House Bill (ESHB) 1733 (Chapter 2, Laws of 2022), and the third phase of the department's initial program implementation. The rules provide guidance to employees and employers regarding voluntary exemptions from the Long-Term Services and Supports Trust program, referred to as the WA Cares Fund program. The rules outline application and qualification requirements for voluntary exemptions and include four new types of exemptions added by ESHB 1733. The rules also implement provisions of ESHB 1733 which require three of the new voluntary exemptions to be discontinued by the individual within a specific time period when conditions qualifying them for the exemption are no longer met. The rules outline notification requirements and penalties for failing to provide required notifications to discontinue an exemption. The rules also delay the date self-employed individuals may elect coverage, make a reference correction to how the department will determine wages earned and hours worked for self-employed individuals, and address employer audit procedures that align with employer audit procedures for the Paid Family and Medical Leave program.

Citation of rules affected by this order:

New:

- WAC 192-905-006 Eligibility requirements for an employee to receive a conditional exemption from the long-term services and supports trust program.
- WAC 192-905-007 Notification requirements and penalties for discontinuing conditional exemptions.
- WAC 192-930-005 Audit procedures.
- WAC 192-930-010 What happens if an employer fails to provide requested information to the department for an audit?

Repealed:

Amended:

- WAC 192-905-005 Eligibility requirements for an employee to receive a permanent 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 192-910-015 What are the employer's responsibilities for premium deductions?
- WAC 192-915-005 Election of coverage for self-employed persons.
- WAC 192-915-015 How will the department determine the wages earned and hours worked for self-employed persons electing coverage?

Suspended:

Statutory authority for adoption: RCW 50B.04.020, RCW 50B.04.055, RCW 50B.04.080, RCW 50B.04.085, RCW 50B.04.090

Other authority: Substitute House Bill 1732 , Chapter 1, Laws of 2022 and Engrossed Substitute House Bill, Chapter 2, Laws of 2022

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 22-16-111 on August 3, 2022 (date).
Describe any changes other than editing from proposed to adopted version:

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: Janette Benham

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

Phone: 360-790-6583

Fax:

TTY: WA Relay: 711 (Contact Teresa Eckstein at 360-507-9890 for accommodations)

Email: rules@esd.wa.gov

Web site: <https://paidleave.wa.gov/rulemaking/>

Other:

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	4	Amended	<u>5</u>	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted on the agency's own initiative:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	4	Amended	5	Repealed	_____

Date Adopted: September 28, 2022

Name: April Amundson

Title: Policy and Rules Manager, Leave and Care Division

Signature:

