



PROPOSED RULE MAKING

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

Do NOT use for expedited rule making

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FILED

DATE: May 04, 2020

TIME: 8:12 AM

WSR 20-10-072

Agency: Employment Security Department

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 19-21-043 ; 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) Leave of Absence – WAC 192-170-080(1)(a).

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
June 11, 2020	9:00 am	Telephone conference, Call (360) 407-3790	When prompted for the Conference ID number, press 51750 and then the # key

Date of intended adoption: June 15, 2020 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Joshua Dye

Address: P.O. Box 9046, Olympia, WA 98507-9046

Email: rules@esd.wa.gov

Fax: 844-652-7096

Other:

By (date) June 10, 2020

Assistance for persons with disabilities:

Contact Teresa Eckstein

Phone: 360-507-9890

Fax: 360-586-4600

TTY: Relay 711

Email: teckstein@esd.wa.gov

Other:

By (date) June 3, 2020

Purpose of the proposal and its anticipated effects, including any changes in existing rules: WAC 192-170-080(1)(a) was determined to be "invalid" by the Commissioner of the Employment Security Department under *In re Ausburn*, Empl. Sec. Comm'r Dec.2d 971 (2011). In that decision, the Commissioner determined the rule was in "direct conflict" with RCW 50.04.310. Consequently, the Department is repealing WAC 192-170-080(1)(a). The remainder of WAC 192-170-080 will remain in effect.

Reasons supporting proposal: WAC 192-170-080(1)(a) should be repealed so the public does not mistakenly rely on an invalid rule.

Statutory authority for adoption: RCW 50.12.010 and RCW 50.12.040 provide general rulemaking authority to the Employment Security Department, including the authority to repeal rules.

Statute being implemented: RCW 50.04.310(1)

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 checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

If yes, CITATION: *In re Ausburn*, Empl. Sec. Comm'r Dec.2d 971 (2011)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

Name of proponent: (person or organization) Employment Security Department

<input type="checkbox"/> Private
<input type="checkbox"/> Public
<input checked="" type="checkbox"/> Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Scott Michael	Olympia	360-890-3448
Implementation:	Julie Lord	Olympia	360-890-9579
Enforcement:	Julie Lord	Olympia	360-890-9579

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: Joshua Dye
Address: P.O. Box 9046, Olympia, WA 98507-9046
Phone: 360-890-3472
Fax:
TTY:
Email: Rules@esd.wa.gov
Other: <https://esd.wa.gov/newsroom/ui-rule-making/>

No: Please explain:

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)(c) (Incorporation by reference)
- RCW 34.05.310 (4)(d) (Correct or clarify language)
- RCW 34.05.310 (4)(e) (Dictated by statute)
- RCW 34.05.310 (4)(f) (Set or adjust fees)
- 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:

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. When considering the total claims spread across the state-wide employer base, the proposed rule would have a negligible impact on total costs for each employer.

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: May 4, 2020	Signature: 
Name: Dan Zeitlin	
Title: Employment Security Policy Director	