



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: October 02, 2020

TIME: 4:19 PM

WSR 20-20-081

Agency: Office of Financial Management (OFM)

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR _____ ; 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)

WAC 357-31-100 Must an employer have a policy for requesting and approving leave?

WAC 357-31-325 When must an employer grant leave with pay for other miscellaneous reasons?

WAC 357-31-326 When may an employer grant leave with pay?

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
November 12, 2020	8:30 a.m.	Office of Financial Management Audio conference only Dial-in (888) 285-8919 Enter pin: 8101730 Code (if asked): 415	

Date of intended adoption: November 19, 2020 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Brandy Chinn

Address: Office of Financial Management, PO Box 47500, Olympia, WA 98501

Email: Brandy.Chinn@ofm.wa.gov

Fax: 360-586-4694

Other:

By (date) November 5, 2020

Assistance for persons with disabilities:

Contact Office of Financial Management

Phone:

Fax:

TTY: 7-1-1 or 1-800-833-6384

Email:

Other:

By (date) November 5, 2020

Purpose of the proposal and its anticipated effects, including any changes in existing rules: Senate Bill 6123 passed during the 2020 legislative session effective June 11, 2020. This bill adds language to chapter 41.06 RCW and requires all executive agencies to allow employees to take paid leave, not to exceed 30 days, in a 2-year period, as needed to participate in life-giving procedures. For the purpose of this bill "life-giving procedures" includes organ donation but does not include donation of blood or plasma. The proposed amendment to WAC 357-31-325 is to require a general government employer to allow an employee to take paid leave, not to exceed thirty days in a two-year period to participate in life giving procedures. The proposed amendment to WAC 357-31-326(1) and subsection (2) is to distinguish between the terms "life-giving procedures" and "donation of blood and plasma" between general government (GG) and higher education (HE). The proposed amendment to WAC 357-31-100 is to require a GG employer to update their leave policies to address if an

employee may take additional paid leave beyond thirty days in a two-year period to participate in life-giving procedures in accordance with WAC 357-31-326.

In addition, the new subsection, WAC 357-31-325(5), is to require a GG employer to grant leave with pay (LWP) when an employee is required by Centers of Disease Control and Prevention (CDC) guidelines to self-quarantine due to COVID-19 but is otherwise healthy and has not tested positive for COVID-19 and the employer has determined the employee does not have the option to telework. The new subsection, WAC 357-31-326(4), is to allow a HE employer to grant LWP when an employee is required by CDC guidelines to self-quarantine due to COVID-19 but is otherwise healthy and has not tested positive for COVID-19 and the employer has determined the employee does not have the option to telework; to require an employer to grant leave without pay (LWOP) when an employee requests to be on LWOP due to COVID-19 to protect themselves, a family member or a household member.

Reasons supporting proposal: To align chapter 357-31 WAC with the requirements in the new law and to align Title 357 WAC with Governor Jay Inslee's issued proclamation 20-05 which declares State of Emergency in all counties in the state of Washington as a result of the outbreak of COVID-19. Our Governor further declared that State agencies and departments are directed to use state resources and to do everything reasonably possible to assist affected political subdivisions in an effort to respond to and recover from the outbreak. The worldwide outbreak of COVID-19 and the effects of its extreme risk of person-to-person transmission throughout the United States and Washington State significantly impacts the life and health of our people, as well as the economy of Washington State, and is a public disaster that affects life, health, property or the public peace.

Statutory authority for adoption: Chapter 41.06 RCW

Statute being implemented: RCW 41.06.570 and Chapter 41.06 RCW

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) Private
 Public
 Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Brandy Chinn	128 10 th Ave, Olympia, WA 98501	360-407-4141
Implementation:	Brandy Chinn	128 10 th Ave, Olympia, WA 98501	360-407-4141
Enforcement:	Brandy Chinn	128 10 th Ave, Olympia, WA 98501	360-407-4141

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: Rules are related to internal government operations and are not subject to violation by a nongovernmental party. See RCW 34.05.328(5)(b)(ii) for exemption.

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 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 _____.

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. _____

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: October 2, 2020

Name: Roselyn Marcus

Title: Assistant Director of Legal and Legislative Affairs
Office of Financial Management

Signature:

A handwritten signature in black ink that reads "Roselyn Marcus". The signature is written in a cursive style with a large, stylized 'R' and 'M'.