PROPOSED RULE MAKING

CR-102 (December 2017)
(Implements RCW 34.05.320)
Do NOT use for expedited rule making

Agency: Employment Security Department

☒ Original Notice
☐ Supplemental Notice to WSR _____
☐ Continuance of WSR ____

☒ Preproposal Statement of Inquiry was filed as WSR 20-09-111; 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)
Implementing Substitute House Bill (SHB) 2614 (Chapter 125, Laws of 2020) related to administering the Paid Family and Medical Leave Program.

Amending:
WAC 192-500-010 Employer.
WAC 192-500-035 Interested parties.
WAC 192-500-185 Waiting period.

Adding new sections:
WAC 192-570-030 What is the process for an employee to file a complaint alleging that an employer committed unlawful acts?
WAC 192-570-040 What happens when the department receives a complaint alleging unlawful acts by an employer?
WAC 192-570-050 WAC 192-570-050 How are damages and liquidated damages assessed by the department, awarded, and paid?

Hearing location(s):

<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
<th>Location (be specific)</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>September 9, 2020</td>
<td>9:00 AM</td>
<td>Conference call number: 360-407-3780 PIN: 962631#</td>
<td>Hearing will be held remotely due to COVID-19.</td>
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</tbody>
</table>

Date of intended adoption: On or after September 23, 2020. (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: Online portal: https://www.opentownhall.com/portals/289/forum_home?phase=open
By (date) September 9, 2020

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) September 2, 2020
Purpose of the proposal and its anticipated effects, including any changes in existing rules: The proposed amendments and new rules implement provisions of SHB 2614. The definition of employer is amended to add a reference to casual labor. The definition of interested parties is amended to allow interested parties to receive information about complaints under chapter 50A.40 RCW. The definition of waiting period is amended to reference that the waiting period does not apply to family leave taken for reasons related to a qualified military exigency. New rules are added to outline the process for employees to file complaints alleging unlawful acts by an employer, the process the Employment Security Department (department) will use to investigate allegations of unlawful acts, and how the department will assess damages and liquidated damages when an employer violates RCW 50A.40.010.

Reasons supporting proposal: Rulemaking is necessary in order to implement the provisions of SHB 2614. The proposed rules will assist in clarifying the requirements of SHB 2614 and provide clear and usable guidance to the public regarding program operations.

Statutory authority for adoption: RCW 50A.05.060

Statute being implemented: RCW 50A.05.010, RCW 50A.15.020, chapter 50A.40 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) Employment Security Department, Paid Family and Medical Leave Division ☐ Private ☒ Public ☒ Governmental

Name of agency personnel responsible for:

<table>
<thead>
<tr>
<th>Name</th>
<th>Office Location</th>
<th>Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drafting:</td>
<td>April Amundson</td>
<td>Lacey, WA</td>
</tr>
<tr>
<td>Implementation:</td>
<td>April Amundson</td>
<td>Lacey, WA</td>
</tr>
<tr>
<td>Enforcement:</td>
<td>April Amundson</td>
<td>Lacey, WA</td>
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</tbody>
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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:
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:  

<table>
<thead>
<tr>
<th>Date: August 5, 2020</th>
<th>Signature:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Name:</strong> April Amundson</td>
<td></td>
</tr>
<tr>
<td><strong>Title:</strong> Policy and Rules Manager for Paid Family and Medical Leave</td>
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