



EXPEDITED RULE MAKING

CR-105 (June 2024) (Implements RCW 34.05.353)

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STATE OF WASHINGTON
FILED

DATE: January 02, 2025

TIME: 8:12 AM

WSR 25-02-118

Agency: Department of Labor & Industries (L&I)

Title of rule and other identifying information: (describe subject) Self-Insurance Reserve Fund. Chapter 296-15 WAC, Workers' compensation self-insurance rules and regulations.

Purpose of the proposal and its anticipated effects, including any changes in existing rules: In 2023 Washington state lawmakers enacted Senate Bill 5084 (SB 5084), Chapter 110, Laws of 2023, which created the self-insurance reserve fund to hold self-insured employers' second injury fund assessments and other pre-funded pension obligations. The proposed amendments will update two rules governing the self-insurance program, aligning them with statutory changes required under SB 5084. The proposed formatting changes to WAC 296-15-171 will also make it easier to read.

Proposed amendments to WAC 296-15-171:

- Clarifying that self-insurers who choose to finance pensions with a surety bond will be required to deposit cash into the new self-insurance reserve fund.
- Minor formatting changes to improve readability.

Proposed amendments to WAC 296-15-225:

- Clarifying that self-insured employers' second injury fund assessments will be recorded in the second injury assessment account once the self-insurance pension fund is implemented.

Reasons supporting proposal: These amendments meet the criteria for expedited adoption as set forth in the following subsections of RCW [34.05.353](#):

- Subsection (1)(c): "The proposed rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect."
- Subsection (1)(d): "The content of the proposed rules is explicitly and specifically dictated by statute."

Statutory authority for adoption: RCW 51.14.077, 51.14.120(7), 51.14.150(4), 51.14.160, 51.44.040(3), 51.44.070 and 51.44.150.

Statute being implemented: RCW 51.44.155, 51.16.120, 51.32.242, 51.44.070, 51.44.073, 51.44.080, 51.44.100, and 51.44.140.

Is rule necessary because of a:

Federal Law?

☐ Yes ☒ No

Federal Court Decision?

☐ Yes ☒ No

State Court Decision?

☐ Yes ☒ No

If yes, CITATION:

Name of proponent: (person or organization) Washington State Department of Labor & Industries

☐ Private

☐ Public

☒ Governmental

Name of agency personnel responsible for:

Name

Office Location

Phone

Drafting:	Ashley Frank	Tumwater, WA	360-902-6566
Implementation:	Ashley Frank	Tumwater, WA	360-902-6566
Enforcement:	Ashley Frank	Tumwater, WA	360-902-6566
Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:			
Expedited Adoption - Which of the following criteria was used by the agency to file this notice:			
<input type="checkbox"/> Relates only to internal governmental operations that are not subject to violation by a person; <input type="checkbox"/> Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; <input checked="" type="checkbox"/> Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect; <input checked="" type="checkbox"/> Content is explicitly and specifically dictated by statute; <input type="checkbox"/> Have been the subject of negotiated rule making, pilot rule making, or some other process that involved substantial participation by interested parties before the development of the proposed rule; or <input type="checkbox"/> Is being amended after a review under RCW 34.05.328.			
Expedited Repeal - Which of the following criteria was used by the agency to file notice:			
<input type="checkbox"/> The statute on which the rule is based has been repealed and has not been replaced by another statute providing statutory authority for the rule; <input type="checkbox"/> The statute on which the rule is based has been declared unconstitutional by a court with jurisdiction, there is a final judgment, and no statute has been enacted to replace the unconstitutional statute; <input type="checkbox"/> The rule is no longer necessary because of changed circumstances; or <input type="checkbox"/> Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.			
Explanation of the reason the agency believes the expedited rule-making process is appropriate pursuant to RCW 34.05.353(4): This notice meets the following criteria to use the expedited adoption process for these rules: The proposed rules also make name changes and clarify language without changing its effect (RCW 34.05.343(1)(c). The proposed rules include content explicitly dictated by statute (RCW 34.05.353(1)(d).			
NOTICE			
THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO			
Name: Ashley Frank Agency: Department of Labor & Industries Address: P.O. Box 44000, Olympia, WA 98504-4000 Phone: 360-902-6566 Fax: 360-902-4204 Email: Ashley.Frank@Lni.wa.gov Other:			
BEGINNING (date/time) <u>January 3, 2025, 8 a.m.</u> AND RECEIVED BY (date/time) <u>March 3, 2025, 5 p.m.</u>			
Date: January 2, 2025 Name: Joel Sacks Title: Director		Signature: 	