



PROPOSED RULE MAKING

CR-102 (July 2022)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: November 27, 2023
TIME: 9:39 AM

WSR 23-24-006

Agency: Department of Enterprise Services

- Original Notice**
- Supplemental Notice to WSR** _____
- Continuance of WSR** _____

- Preproposal Statement of Inquiry was filed as WSR 23-11-169 ; 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) Public Works Contracting - Addressing equity and efficiencies, including small works contracting requirements

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
January 9, 2024	10:00 AM	A virtual public hearing will be held online via ZOOM	To attend the hearing please use this link: https://des-wa.zoom.us/j/96728302186 Or One tap mobile : 8778535247,,96728302186# US Toll Free 8887880099,,96728302186# US Toll Free Or Telephone: Dial(for higher quality, dial a number based on your current location): 877 853 5247 US Toll Free 888 788 0099 US Toll Free Webinar ID: 967 2830 2186 International numbers available: https://des-wa.zoom.us/j/96728302186

Date of intended adoption: January 24, 2024 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name:
Address:
Email:
Fax:
Other: <https://www.surveymonkey.com/r/HouseBill-ESSB5268>
By (date) 5 PM PST, January 12, 2024

Assistance for persons with disabilities:

Contact Chris Ferguson
Phone:
Fax:
TTY:
Email: chris.ferguson@des.wa.gov
Other:
By (date) December 31, 2023

Purpose of the proposal and its anticipated effects, including any changes in existing rules: To enhance administrative efficiency, promote the utilization and growth of small business and maintain protections to the labor work force

Reasons supporting proposal: The 2023 Efficiency and Equity in Public Works Contracting bill (SSSB 5268) modified the existing small works roster requirements, put in place a statewide roster and a small business enterprise certification program, aligns financial thresholds throughout the state, and adds a direct contracting option made changes to public works small works roster. Current rules need to be updated to align with changes made by SSSB 5268.)

Statutory authority for adoption: SSSB 5268

Statute being implemented: SSSB 5268

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:

Type of proponent: Private Public Governmental
Name of proponent: (person or organization) Washington State Department of Enterprise Services

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Bill Frare	1500 Jefferson, Olympia, WA	360-280-6083
Implementation:	Bill Frare	1500 Jefferson, Olympia, WA	360-280-6083
Enforcement:	Bill Frare	1500 Jefferson, Olympia, WA	360-280-6083

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: A cost-benefit analysis is not required under RCW 34.05.328. The department of enterprise services (DES) is not an agency listed in RCW 34.05.328 (5)(a)(i). Further, DES does not voluntarily make section 201 applicable to this rule adoption nor to date, has the joint administrative rules review committee made section 201 applicable to this rule adoption

Regulatory Fairness Act and Small Business Economic Impact Statement
Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:
This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). 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 checked="" 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 checked="" 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 19.85.025\(4\)](#) (does not affect small businesses).
- This rule proposal, or portions of the proposal, is exempt under RCW _____.
- Explanation of how the above exemption(s) applies to the proposed rule:

(2) Scope of exemptions: *Check one.*

- The rule proposal is fully exempt (*skip section 3*). Exemptions identified above apply to all portions of the rule proposal.
- The rule proposal is partially exempt (*complete section 3*). The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):
- The rule proposal is not exempt (*complete section 3*). No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of 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 minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. _____
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact 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: November 27, 2023

Name: Jack Zeigler

Title: Policy and Rules Manager

Signature:

