

WASHINGTON STATE BOARD OF HEALTH

The Washington State Board of Health (Board) is inviting informal public comment on draft rules to implement [Engrossed Second Substitute House Bill 1152](#), Supporting measures to create comprehensive public health districts. As part of this legislation, the Board is tasked with adopting rules regarding the selection and appointment process for non-elected members of local boards of health.

The following draft reflects a new chapter of rule, chapter 246-90 WAC, local board of health membership and incorporates updates in response to feedback from the first informal draft circulated this fall. Changes from the first informal draft are shown in red text, with underlined text reflecting added language and ~~strikethrough~~ reflecting removed language.

More information on the scope of the Board's rulemaking can be found in the Board's [CR-101, Preproposal Statement of Inquiry](#). The Board has also created a list of frequently asked questions regarding this work that is available [online](#).

Please send your feedback and any questions on the Board's rulemaking to LBOHComposition@sboh.wa.gov. **Feedback is due by January 14, 2022.**

Staff contacts and more information on these rules can be found on the Board's [local board of health composition rulemaking web page](#).

NEW SECTION

WAC 246-90-005 Purpose, scope, and applicability of chapter.

- (1) The purpose of this chapter is to establish requirements for the recruitment, selection and appointment process of non-elected members of local boards of health. The processes established in this chapter are intended to be fair, unbiased, and ensure to the extent practicable that the membership of local boards of health include a balanced representation of elected officials and non-elected people with a diversity of expertise and lived experience.
- (2) The provisions of this chapter apply to the following:
 - a. A county without a home rule charter in which the jurisdiction of the local board of health is coextensive with the boundaries of the county as established in RCW 70.05.030;
 - b. A county with a home rule charter in which the jurisdiction of the local board of health is coextensive with the boundaries of the county as established in RCW 70.05.035;
 - c. A health district consisting of two or more counties in which the jurisdiction of the local board of health is coextensive with the combined boundaries of the counties as established in RCW 70.46.020; and
 - d. A health district consisting of one county in which the jurisdiction of the board of health is coextensive with the boundary of the county as established in RCW 70.46.031.
- (3) The provisions of this chapter apply only to the recruitment, selection and appointment of persons who are not elected officials identified in RCW 70.05.030(1)(a), RCW 70.05.035(1)(a), RCW 70.46.020(1)(a), and RCW 70.46.031(1)(a).
- ~~(4) The provisions of this chapter do not apply to persons other than elected officials identified in RCW 70.05.030(1)(f), RCW 70.05.035(1)(f), RCW 70.46.020(1)(f), and RCW 70.46.031(1)(f).~~

NEW SECTION

WAC 246-90-010 Definitions.

The following definitions apply throughout this chapter unless the context clearly requires otherwise:

- (1) “Board” means the Washington state board of health.
- (2) “Consumers of public health” means the category of persons consisting of county or health district residents who have self-identified as having faced significant health inequities or as having lived experiences with public health-related programs.
- (3) “Elected official” means any person elected at a general or special election to public office representing a city or county, and any person appointed to fill a vacancy in any such office.
- (4) “Health agency” means a private or public business or organization that renders or connects persons to health services, insurance, or other benefits.
- (5) “Health facility” means a facility, clinic, or other setting licensed under Title 18 RCW, Title 70 RCW, or Title 71 RCW in which behavioral or medical diagnosis, care, treatment, or services are provided.

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- (6) “Local board of health” means the county or district board of health as established under chapter 70.05 RCW.
- (7) “Local health jurisdiction” or “LHJ” means a county health department under chapter 70.05 RCW or health district under chapter 70.46 RCW.
- (8) “Non-elected member” or “non-elected position” means a person appointed to a local board of health who is not an elected official, and represents:
 - a. Public health, health care facilities, and providers;
 - b. Consumers of public health; or
 - c. Other community stakeholders.
- (9) “Other community stakeholders” means the category of persons representing the following types of organizations located in the county or health district:
 - a. Community-based organizations or nonprofits that work with populations experiencing health inequities in the county;
 - b. Active, reserve, or retired armed services members;
 - c. The business community; or
 - d. The environmental public health regulated community.
- (10) “Public health, health care facilities, and providers” means the category of persons practicing or employed in the county or health district who are:
 - a. Medical ethicists;
 - b. Epidemiologists;
 - c. Experienced in environmental public health;
 - d. Community health workers;
 - e. Holders of master’s degrees or higher in public health or another field with an emphasis or concentration in health care, public health, or health policy;
 - f. Employees of a hospital located in the county; or
 - g. Any of the following providers holding an active or retired license in good standing under Title 18 RCW:
 - i. Physicians or osteopathic physicians;
 - ii. Advanced registered nurse practitioners;
 - iii. Physician assistants or osteopathic physician assistants;
 - iv. Registered nurses;
 - v. Dentists;
 - vi. Naturopaths; or
 - vii. Pharmacists.

NEW SECTION

WAC 246-90-015 Local boards of health – Non-elected members.

- (1) The number of non-elected members, as defined in WAC 246-90-010, on a local board of health, including ~~any~~ tribal representatives as described in subsection (2), must equal the number of elected officials on a local board of health. Elected members of the local board of health may not constitute a majority.

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- (2) If a federally recognized Indian tribe holds reservation, trust lands, or has usual and accustomed areas within the county or health district, or if a 501(c)(3) organization registered in Washington that serves American Indian and Alaska Native people and provides services within the county or health district, the local board of health must include a tribal representative selected by the American Indian Health Commission according to the selection process prescribed by the Commission.
 - a. A tribal representative as described in subsection (2) may serve in any of the three non-elected member categories as defined in this chapter if the representative meets the requirements of the category.
- (3) Any changes to local board of health composition must meet the requirements of this chapter.
- (4) If a board of county commissioners or a county legislative authority chooses to adopt a resolution or ordinance or otherwise act to change the size or composition of the local board of health, the resolution, ordinance, or other document used must:
 - a. Include provisions, which are comparable to that of elected members, for the appointment, term, including initial term, and, if applicable, compensation or reimbursement of expenses for non-elected members as defined in this chapter;
 - b. Ensure elected officials do not constitute a majority of the total membership of the local board of health;
 - c. Ensure recruitment, selection, and appointment of non-elected members of the local board of health must conform with the requirements of this chapter; and
 - d. Identify non-elected members as voting members of the local board of health except as it pertains to any decision related to the setting or modification of permit, licensing, and application fees.
 - ~~d.~~e. Identify the process for how a local board of health will refer successful applicants to the board of county commissioners for approval and appointment. If a county does not have a board of county commissioners, the local board of health will refer successful applicants to the county legislative authority for consideration for approval and appointment.

NEW SECTION

WAC 246-90-020 Local boards of health – Non-elected members – Recruitment.

- (1) A local board of health must actively recruit applicants for non-elected member positions of the local board of health in a manner that solicits a broad pool of applicants that represent a diversity of expertise and lived experience.
- (2) A local board of health must:
 - a. Provide reasonable advance notice for applicants to apply for vacancies for positions representing non-elected members on a local board of health;
 - b. Post vacancy announcements in public places, including the newspaper with the most readership, if any, in the county or district;
 - c. Post vacancy announcements in the most common languages spoken in the county or district;

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- d. Post vacancy announcements in all geographic regions represented by the local board of health;
 - ~~d.e.~~ e. Work with local community organizations to distribute vacancy notices; and
 - e.f. Comply with applicable provisions of the Americans with Disabilities Act, Public Law Number 101-336 and chapter 49.60 RCW.
- (3) A local board of health may:
 - a. Require non-elected members of the local board of health to reside within the county or local board of health’s jurisdictional boundaries; and
 - b. Work with local community organizations to identify potential applicants for non-elected positions.
- (4) A local board of health may not require an applicant to provide their political affiliation or voting history.
- (5) A local board of health may require an applicant to designate the specific category or categories they are applying for as identified in WAC 246-90-025(1) in their application materials. A local board of health may consider applicants for any position for which they are qualified.
- (6) All applicants for non-elected positions shall be interviewed in a panel format by the local board of health subject to the following:
 - a. All applicants shall be asked the same questions; and
 - b. In the event of a substantial number of applicants, the local board of health may elect to interview a smaller number applicants as long as the applicants interviewed include a diversity of expertise and lived experience.
- (7) The recruitment process must be consistent with applicable provisions of chapter 42.30 RCW.

NEW SECTION

WAC 246-90-025 Local boards of health – Non-elected members – Selection.

- (1) Non-elected members of a local board of health must be selected from the following categories:
 - a. Public health, health care facilities, and providers;
 - b. Consumers of public health; and
 - c. Other community stakeholders.
- (2) If the total number of non-elected members of a local board of health is evenly divisible by three, there must be an equal number of members selected from each of the three categories.
- (3) There may be no more than one member selected from each category with the same background or position except under the following circumstances:
 - a. If there are one or two non-elected members over the nearest multiple of three, those non-elected members may be selected from any of the three categories; and
 - b. If, in a health district consisting of one county, there are two non-elected members over the nearest multiple of three, each member over the nearest multiple of three must be selected from a different category.
- (4) A local board of health shall assess the following when considering applicants for selection to a local board of health:
 - a. Service, current or past, on other local boards or commissions;

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- b. Whether the applicant's background meets the qualifications of the applicant's selected category or categories as defined in WAC 246-095-010;
 - c. Potential conflict of interest;
 - ~~e.d.~~ The applicant's demonstrated commitment to public health;
 - ~~d.~~ Recommendation from current board members;
 - e. Whether the applicant represents a diversity of expertise and lived experience; and
 - f. Whether the applicant represents the geographic diversity of the community.
- (5) A local board of health shall also assess whether the applicant identifies with a historically underrepresented community when being considered as a non-elected member representing consumers of public health.
- (6) Local board of health membership must include a balanced representation of elected officials and non-elected people with a diversity of expertise and lived experience.
- (7) ~~Persons with a fiduciary obligation to a conflict of interest, including those who receive, or may receive, financial gain from a health facility, or other health agency, or a material financial interest in the rendering of other business or organization that renders health services, may not be selected as a non-elected member of a local board of health representing consumers of public health.~~
- ~~(7)~~(8) Applicants must disclose any potential conflict of interest.
- ~~(8)~~(9) If a local board of health demonstrates that it attempted to recruit members from all three categories under subsection (1) and was unable to do so, the local board of health may select members only from the other two categories.
- ~~(9)~~(10) The selection process must be consistent with applicable provisions of chapter 42.30 RCW.

NEW SECTION

WAC 246-90-030 Local boards of health – Non-elected members – Appointment.

- (1) Non-elected members of a local board of health shall be approved and appointed by a majority vote of the board of county commissioners. If a county does not have a board of county commissioners, then the non-elected members of a local board of health shall be approved and appointed by a majority vote of the county legislative authority.
- (2) The appointment process must be consistent with applicable provisions of chapter 42.30 RCW.

NEW SECTION

WAC 246-90-035 Local boards of health – Non-elected members – Exceptions.

In accordance with RCW 70.05.030, RCW 70.05.035, RCW 70.46.020, and RCW 70.46.031, the following exceptions apply to this chapter:

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- (1) For counties with a home rule charter, counties without a home rule charter, health districts consisting of two or more counties, and health districts consisting of one county:
 - a. A local board of health comprised solely of elected officials may retain its composition if the local health jurisdiction had a public health advisory committee or board with its own bylaws established on January 1, 2021. By January 1, 2022, the public health advisory committee or board must meet the requirements established in RCW 70.46.140 for community health advisory boards.
- (2) For local boards of health made up of three counties east of the Cascade mountains:
 - a. If a local board of health is comprised solely of elected officials, it may retain its current composition if the local health jurisdiction has a public health advisory committee or board that meets the requirements established in RCW 70.46.140 for community health advisory boards by July 1, 2022.
 - b. If the local board of health does not establish the required community health advisory board by July 1, 2022, it must comply with the requirements of this chapter.
- (3) For local boards of health established under RCW 70.46.031, “other community stakeholders” as defined in this chapter does not include active, reserve, or retired armed services members. Active, reserve, or retired armed services members are not precluded from representing other categories of non-elected members as defined in section one of this chapter.