

# WASHINGTON STATE

## BOARD OF HEALTH

### Local Board of Health Membership Chapter 246-90 WAC Frequently Asked Questions *Updated July 22, 2022*

#### 1. Why did the State Board of Health adopt rules regarding local board of health membership?

During the 2021 legislative session, the legislature passed [Engrossed Second Substitute House Bill 1152](#) (E2SHB 1152), *Supporting measures to create comprehensive public health districts*. Among other changes, this law requires local boards of health to expand their membership to include non-elected persons representing the following groups, as further defined in the law:

- a. Public health, health care facilities, and providers;
- b. Consumers of public health; and
- c. Other community stakeholders representing certain organizations within the jurisdiction.

This law requires the Board to establish rules for the selection and appointment of these nonelected members in a manner that is fair and unbiased, and to the extent possible, ensure a balanced representation of elected and nonelected persons with a diversity of expertise and lived experience. This requirement can be found in [RCW 43.20.300](#).

#### 2. What is the scope of the Board's rules?

Chapter 246-90 WAC, Local Board of Health Membership, is a new chapter of rule that establishes a standard process for recruitment, selection, and appointment of nonelected members of local boards of health representing public health/health systems, consumers of public health, and other community stakeholders. See [WAC 246-90-005](#).

#### 3. Who is required to comply with the Board's rules?

The local boards of health established under the following laws are required to comply with the Board's rules:

- [RCW 70.05.030](#): Counties without a home rule charter
- [RCW 70.05.035](#): Counties with a home rule charter
- [RCW 70.46.020](#): Health districts of two or more counties
- [RCW 70.46.031](#): Health districts of one county

The Board recommends and encourages counties and districts impacted by E2SHB 1152 to consult with their legal counsel to determine whether, and how, they must comply with the Board's rules.

#### **4. Are there exceptions to the new membership requirements for local boards of health?**

Yes. [WAC 246-90-035](#) states that local boards of health comprised solely of elected officials can retain their composition if the following conditions are met:

- a. 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:
  - i. The local health jurisdiction must have had a public health advisory committee or board with its own bylaws established by January 1, 2021, and;
  - ii. By January 1, 2022, the public health advisory committee or board must meet requirements established in RCW 70.46.140.
- b. For local boards of health made up of three counties east of the Cascade mountains:
  - i. The local health jurisdiction has a public health advisory committee or board that meets the requirements established in RCW 70.46.140 by July 1, 2022.

A visual representation of the exemption criteria can be found on the Board's rulemaking [webpage](#).  
Note: Any future changes to local board of health composition must meet the requirements of chapter 246-90 WAC.

#### **5. When do the rules go into effect?**

Chapter 246-90 WAC took effect July 1, 2022.

#### **6. Do the Board's rules define who is an elected member and who is a nonelected member of local boards of health?**

Yes. The Board's rules include a definitions section defining these terms:

- WAC 246-90-010(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.
- WAC 246-90-010(8) "Nonelected member" or "nonelected 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.

#### **7. Does chapter 246-90 WAC address tribal representation?**

[WAC 246-90-015](#) acknowledges requirements for tribal representation. The legislature did not authorize the Board to address requirements for tribal representation in chapter 246-90 WAC. Information regarding tribal representation on local boards of health can be found on the [American Indian Health Commission's website](#).

**8. Can tribal representatives serve in the three nonelected member categories outlined in the rules?**

Yes. The Board's rules include a provision clarifying that tribal representatives may serve in any of the three categories of nonelected members if they meet the criteria of those categories. See [WAC 246-90-015](#).

**9. Are county commissioners or county legislative authorities required to adopt a resolution or ordinance describing the changes to their local board of health?**

Chapter 246-90 WAC does not require counties to adopt a resolution or ordinance when changing the composition of their local boards of health. However, the Board's rule does state that if a board of county commissioners or county legislative authority chooses to adopt a resolution, ordinance, or otherwise act to change the size or composition of the local board of health, the resolution, ordinance, or other document used must include certain provisions. [WAC 246-90-015\(4\)](#) contains additional information.

**10. Are bylaws required for local boards of health?**

The Board's rule does not require local boards of health to adopt bylaws.

**11. Could the composition of elected officials on a local board of health change to include city or other elected officials?**

Yes. Under RCW 70.05.030(1)(f), 70.05.035(1)(f), 70.46.020(1)(f), and 70.46.031(1)(f), the board of county commissioners or the county legislative authority may include elected officials from cities and towns and persons other than elected officials as members of the local board of health as long as the city and county elected officials do not constitute a majority of the total membership of the board.

Any future changes to a local board of health, including the balance of elected officials and non-elected members, must adhere to chapter 246-90 WAC. See [WAC 246-90-015](#).

**12. Do the Board's rules address voting abilities of nonelected members of local boards of health?**

The Board's rules state that if a board of county commissioners or 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 documentation must identify nonelected 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. See [WAC 246-90-015](#).

**13. Are votes weighted depending on the type of member? Do the Board's rules address how a local board of health should resolve votes resulting in a tie?**

This is outside the scope of the rule. The Board does not have authority to address voting abilities of members or how local boards of health should resolve votes resulting in a tie. The Board encourages you to consult your local board of health regarding voting abilities of members.

**14. Can nonelected members be recalled from their positions?**

The Board does not have authority to address whether nonelected members can be recalled from their positions.

**15. Are local boards of health required to reimburse nonelected member expenses?**

The Board's rules do not require reimbursement of nonelected member expenses. The Board's rules state that if a board of county commissioners or county legislative authority chooses to adopt a resolution or ordinance, or otherwise acts to change the size or composition of the local board of health, the resolution, ordinance, or other documentation must include information regarding compensation if applicable. See [WAC 246-90-015](#).

**16. Does the Board require verification of compliance with chapter 246-90 WAC? What type of documentation is needed to verify compliance?**

Verification of compliance with chapter 246-90 WAC from local boards of health is not required. However, the Board encourages local boards of health to publicly share the composition of their boards so that we can keep this information up to date on the Board's [Contact My Local Board of Health webpage](#). Local boards of health can share updates by emailing [wsboh@sboh.wa.gov](mailto:wsboh@sboh.wa.gov).

**17. Does the Board have resources for outreach and recruitment strategies for nonelected members?**

The Board has resources and best practices that local boards of health may use to implement the rules on its rulemaking [webpage](#).

### **18. How can I receive updates on the rules?**

You can subscribe to the Board's [Local Board of Health Composition email distribution list](#). You may also [sign-up to receive](#) news releases, rule updates, and public meeting notices on the Board's general distribution list.

### **19. Who can I contact for more information?**

You may email questions to [lbohcomposition@sboh.wa.gov](mailto:lbohcomposition@sboh.wa.gov). Please note: The Board cannot and does not provide legal advice.

To request this document in an alternate format or a different language, please contact Kelie Kahler, State Board of Health Communication Manager, at 360-236-4102 or by email [kelie.kahler@sboh.wa.gov](mailto:kelie.kahler@sboh.wa.gov)

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