PROPOSED RULE MAKING

CR-102 (June 2024)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: April 20, 2026
TIME: 1:27 PM

WSR 26-09-104

Agency: Washington State Board of Health

☒ **Original Notice**
☐ **Supplemental Notice to WSR**
☐ **Continuance of WSR**

☐ **Preproposal Statement of Inquiry was filed as WSR** 25-19-045 **; 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) Chapter 246-90 WAC, Clarifying Tribal Representation and Timelines for Modifying Local Board of Health (LBOH) Membership. The Washington State Board of Health (Board) is proposing updates to its LBOH composition rules to establish timelines for modifying LBOH membership. This rulemaking is required by the legislature under Engrossed Substitute House Bill (ESHB) 1946.

Hearing location(s):

Date:	**Time:**	**Location:** (be specific)	**Comment:**
June 4, 2026	1:30 p.m.	Historic Davenport Hotel, Early Bird Room 10 S Post St Spokane, Washington 99201 OR Via Zoom Webinar: https://us02web.zoom.us/webinar/register/WN_VMRRsyNtTLOO2WiatniCwA	In-person and virtual attendance options available

Date of intended adoption: June 4, 2026 (Note: This is **NOT** the **effective** date)

Submit written comments to:
Name Ashley Bell
Address PO Box 47990, Olympia, WA 98504-7790
Email: lbohcomposition@sboh.wa.gov
Fax 360-236-4088
Other:
https://airtable.com/app4oL9BzOkuQNw2s/pag5OaobWSLIeSVWk/form
Beginning (date and time) Date and time of filing
By (date and time) May 20, 2026, at 11:59 p.m.

Assistance for persons with disabilities:
Contact Ashley Bell
Phone 360-800-7481
Fax 360-236-4088
TTY 711
Email ashley.bell@sboh.wa.gov

Other
By (date) May 28, 2026

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The proposed rule implements ESHB 1946 (Chapter 260, Laws of 2025), which clarifies Tribal representation on LBOHs. The law requires the Board to adopt rules that set timelines for adjusting LBOH membership to maintain a balance of elected and non-elected members when Tribal representatives are added. These rules must take effect by July 27, 2026.

The proposed changes align existing rules with the new law by clarifying Tribal appointment authority and establishing a timeline for when a county legislative authority or board(s) of county commissioner(s), as applicable, must modify the membership of a LBOH to maintain a balance of elected and non-elected members. The proposed rule specifies that chapter 246-90 WAC applies to the inclusion of Tribal representation on LBOHs under RCW 70.05.030(1)(e), 70.05.035(1)(e), 70.46.020(1)(e), and 70.46.031(1)(e), provides a definition of "tribal representative", and establishes a timeline under which a county legislative authority or board(s) of county commissioner(s), as applicable, will modify the membership of a LBOH when a Tribal government or organization appoints a Tribal representative to a LBOH. The proposal extends the current 60-day timeline required in statute to 90 days, offering more flexibility for a county legislative authority or board(s) of county commissioner(s) that do not meet monthly.

Reasons supporting proposal: During the 2025 legislative session, the legislature passed ESHB 1946, which went into effect in July 2025. The new law modified the appointment process for Tribal representatives, directed the Board to update chapter 246-90 WAC, and set an interim timeline for LBOH membership changes until the Board's updated rules are in place.

Supporting this proposal ensures county legislative authorities, boards of county commissioners, and LBOHs comply with the new requirements in ESHB 1946 and chapter 246-90 WAC. The Board has the authority to adopt rules that govern the appointment of non-elected members to LBOHs in Washington State. These rules provide a standardized process for local governments to recruit and appoint non-elected members who represent public health, health systems, consumers, and other community stakeholders.

Statutory authority for adoption: RCW 43.20.300 and Sec. 5 of ESHB 1946 (Chapter 260, Laws of 2025)

Statute being implemented: RCW 70.05.030(1)(e), 70.05.035(1)(e), 70.46.020(1)(e), and RCW 70.46.031(1)(e)

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: None

Name of proponent: (person or organization) State Board of Health
Type of proponent: ☐ Private. ☐ Public. ☒ Governmental.

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting	Ashely Bell	101 Israel Road SE, Tumwater, WA, 98504-7990	360-800-7481
Implementation	Local Health	35 Local Health Jurisdictions (LHJs) in WA - Statewide	N/A
Enforcement	Ashley Bell	101 Israel Road SE, Tumwater, WA, 98504-7990	360-800-7481

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: The proposed rules are exempt from completing a cost-benefit analysis under RCW 34.05.328(5)(b)(ii) because they are only related to internal operations of a government entity. The proposed rule specifies that chapter 246-90 WAC applies to the inclusion of Tribal representation on LBOH under RCW 70.05.030(1)(e), 70.05.035(1)(e), 70.46.020(1)(e), and 70.46.031(1)(e), provides a definition of "tribal representative", and establishes a timeline under which a county legislative authority or board(s) of county commissioner(s), as applicable, will modify the membership of a LBOH when a Tribal government or organization appoints a Tribal representative to a LBOH.

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:

- ☒ RCW 34.05.310 (4)(b) (Internal government operations)
- ☐ RCW 34.05.310 (4)(c) (Incorporation by reference)
- ☐ RCW 34.05.310 (4)(d) (Correct or clarify language)
- ☐ RCW 34.05.310 (4)(e) (Dictated by statute)
- ☐ RCW 34.05.310 (4)(f) (Set or adjust fees)
- ☐ 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: As described above, the proposed rules only relate to internal operations of a government entity.

(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?

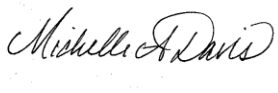
☐ No Briefly summarize the agency's minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs.

☐ 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: 4/15/2026 **Name:** Michelle A. Davis **Title:** Executive Director	**Signature:** 

AMENDATORY SECTION (Amending WSR 22-11-039, filed 5/11/22, effective 7/1/22)

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 nonelected 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 nonelected people with a diversity of expertise and lived experience.

(2) ((~~The provisions of this chapter apply to the following~~)) This chapter applies to:

(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 district 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 district 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~~)) This chapter applies only to the recruitment, selection, and appointment of persons who are not elected officials ((~~who are~~)) identified in RCW 70.05.030 (1)(a), 70.05.035 (1)(a), 70.46.020 (1)(a), and 70.46.031 (1)(a). It also applies to the inclusion of tribal representatives on local boards of health under RCW 70.05.030 (1)(e), 70.05.035 (1)(e), 70.46.020 (1)(e), and 70.46.031 (1)(e).

AMENDATORY SECTION (Amending WSR 22-11-039, filed 5/11/22, effective 7/1/22)

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, 70, or 71 RCW in which behavioral or medical diagnosis, care, treatment, or services are provided.

(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) "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.

(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 practice registered ((~~nurse practitioners~~)) nurses;

(iii) Physician assistants;

(iv) Registered nurses;

(v) Dentists;

(vi) Naturopaths; or

(vii) Pharmacists.

(11) "Tribal representative" means a member selected by a federally recognized Indian tribe with reservation or trust lands within the county, or an urban Indian organization recognized by the Indian Health Service and registered as a 501(c)(3) organization in Washington state that serves American Indian and Alaska Native people and provides services within the county.

AMENDATORY SECTION (Amending WSR 22-11-039, filed 5/11/22, effective 7/1/22)

WAC 246-90-015 Local boards of health—Nonelected members. (1) The number of nonelected members, as defined in WAC 246-90-010, on a local board of health, including any tribal representative as described in subsection (2) of this section, must equal the number of elec-

ted officials on a local board of health. Elected members of the local board of health may not constitute a majority.

(2) Tribal representatives on local boards of health are selected and appointed following the applicable provisions of RCW 70.05.030, 70.05.035, 70.46.020, and 70.46.031. ((~~A tribal representative may serve in any of the three nonelected member categories as defined in this chapter if the representative meets the requirements of the category.~~)) When a tribal representative is added to the local board of health, the county legislative authority or board(s) of county commissioners, as applicable, must modify the local board of health's membership within 90 days of receiving notice of the selection, and the local board of health shall notify the American Indian Health Commission (AIHC).

(3) Any changes to local board of health composition must meet the requirements of this chapter.

(4) If ((~~a board~~)) the board(s) 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 those of elected members, for the appointment, term, including initial term, and, if applicable, compensation or reimbursement of expenses for nonelected 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 nonelected members of the local board of health conform with the requirements of this chapter;

(d) 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; and

(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.