# RULE-MAKING ORDER
## PERMANENT RULE ONLY

## CR-103P (December 2017)
## (Implements RCW 34.05.360)

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: June 18, 2026
TIME: 2:24 PM

WSR 26-14-015

**Agency:** Washington State Board of Health (Board)

**Effective date of rule:**

**Permanent Rules**

☐ 31 days after filing.

☒ Other (specify) July 27, 2026 **(If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)**

The Board is requesting an effective date of July 27, 2026, because Engrossed Substitute House Bill (ESHB) 1946 (Chapter 260, Laws of 2025) directs the Board to adopt rules establishing timelines for modifying the membership of local boards of health, as required by statute. ESHB 1946 requires that these rules take effect no later than one year after July 27, 2025.

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

☐ Yes ☒ No If Yes, explain:

**Purpose:** Chapter 246-90 WAC – Local Board of Health (LBOH) Membership: Clarifying Tribal Representation and Timelines for Modifying LBOH Membership. The Board adopted updates to chapter 246-90 WAC to implement ESHB1946, which clarifies Tribal representation on local boards of health. ESHB 1946 requires the Board to adopt rules establishing timelines for modifying LBOH membership to maintain a balance of elected and non-elected members when Tribal representatives are added.

The adopted amendments to the rule clarify Tribal appointment authority, specify that chapter 246-90 WAC applies to Tribal representation under RCW 70.05.030(1)(e), 70.05.035(1)(e), 70.46.020(1)(e), and 70.46.031(1)(e), and define "Tribal representative." These updates also establish timelines for county legislative authorities or boards of county commissioners to modify LBOH membership following the appointment of a Tribal representative by a Tribal government or organization. Additionally, the updated rule extends the current statutory 60-day timeline to 90 days to provide additional flexibility for counties whose legislative authorities or boards of county commissioners do not meet monthly.

**Citation of rules affected by this order:**

New: None
Repealed: None
Amended: WAC 246-90-005, WAC 246-90-010, and WAC 246-90-015.
Suspended: None

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

**Other authority:** RCW 70.05.030(1)(e), 70.05.035(1)(e), 70.46.020(1)(e), and 70.46.031(1)(e)

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as WSR 26-09-104 on April 20, 2026 (date).

Describe any changes other than editing from proposed to adopted version: N/A

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting: N/A

Name:
Address:
Phone:
Fax:
TTY:

Email:
Web site:
Other:

**Note: If any category is left blank, it will be calculated as zero. No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note. A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

| | | | | | | |
|---|---|---|---|---|---|---|
| Federal statute: | New | 0 | Amended | 0 | Repealed | 0 |
| Federal rules or standards: | New | 0 | Amended | 0 | Repealed | 0 |
| Recently enacted state statutes: | New | 0 | Amended | 3 | Repealed | 0 |

**The number of sections adopted at the request of a nongovernmental entity:**

| | | | | | | |
|---|---|---|---|---|---|---|
| | New | 0 | Amended | 0 | Repealed | 0 |

**The number of sections adopted on the agency's own initiative:**

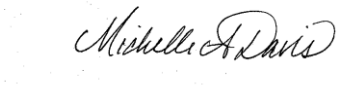
| | | | | | | |
|---|---|---|---|---|---|---|
| | New | 0 | Amended | 0 | Repealed | 0 |

**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

| | | | | | | |
|---|---|---|---|---|---|---|
| | New | 0 | Amended | 0 | Repealed | 0 |

**The number of sections adopted using:**

| | | | | | | |
|---|---|---|---|---|---|---|
| Negotiated rule making: | New | 0 | Amended | 0 | Repealed | 0 |
| Pilot rule making: | New | 0 | Amended | 0 | Repealed | 0 |
| Other alternative rule making: | New | 0 | Amended | 3 | Repealed | 0 |

| | |
|---|---|
| **Date Adopted:** June 4, 2026<br>**Name:** Michelle A. Davis<br>**Title:** Executive Director | **Signature:**<br>  |

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.