

## WSR 23-10-007

## EXPEDITED RULES

## EMPLOYMENT SECURITY DEPARTMENT

[Filed April 24, 2023, 10:15 a.m.]

Title of Rule and Other Identifying Information: Corporate officer cross-reference cleanup. This rule making will update the cross-reference in WAC 192-300-170 (2)(b) from a repealed statute to the current statute.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to amend WAC 192-300-170 to remove a cross-reference to RCW 23A.08.470, which was repealed in 1990. The cross-reference will be updated to the current statute, RCW 23B.08.400.

Reasons Supporting Proposal: The proposal is needed to update the rule to reference the current statute, rather than a statute that was repealed in 1990.

Statutory Authority for Adoption: RCW 50.12.010 and 50.12.040.

Statute Being Implemented: RCW 50.12.010.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Employment security department (ESD), governmental.

Name of Agency Personnel Responsible for Drafting: Stephanie Frazee, Olympia, Washington, 425-465-0313; Implementation and Enforcement: J.R. Richards, Olympia, Washington, 360-463-1079.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: None.

This notice meets the following criteria to use the expedited adoption process for these rules:

Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The proposed change updates a cross-reference to a repealed statute and does not materially change the amended rule.

## NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Josh Dye, ESD, P.O. Box 9046, Olympia, WA 98507-9046, phone 360-890-3472, fax 844-652-7096, email rules@esd.wa.gov, TDD relay 711, AND RECEIVED BY June 21, 2023.

April 24, 2023

Dan Zeitlin

Employment Security Policy Director

OTS-4526.1

AMENDATORY SECTION (Amending WSR 13-24-068, filed 11/27/13, effective 12/29/13)

**WAC 192-300-170 Requirements for election of unemployment insurance coverage.** The department applies RCW 50.04.165 and 50.24.160 to establish the election of coverage for unemployment insurance by employers where personal services are not considered employment under the law:

(1) RCW 50.24.160 allows any employing unit to request unemployment insurance coverage for personal services that are not covered as employment:

(a) The request must be in writing to the department;

(b) The department must approve the request for election of coverage in writing; and

(c) The request must be signed by someone legally authorized to bind the business.

(2) RCW 50.04.165 allows a corporation to elect to cover the personal services of all or none of its corporate officers for unemployment insurance purposes.

(a) A corporation must submit a written request for voluntary election coverage signed by a person authorized to legally bind the corporation.

(i) When establishing voluntary coverage for an existing account, the written request will be considered timely if received within (~~thirty~~) 30 days before the end of the quarter in which the change is made.

(ii) When establishing voluntary coverage for a new account, the written request will be considered timely if received within (~~thirty~~) 30 days from the end of the quarter the employer is requesting coverage to begin.

(b) "Corporate officer" is defined in RCW (~~23A.08.470~~) 23B.08.400;

(c) Personal services provided by corporate officers appointed under RCW 23B.08.400, other than those covered by chapters 50.44 and 50.50 RCW, are not considered services in employment unless the corporation elects coverage of all its corporate officers under RCW 50.24.160.

(d) All services performed by corporate officers are exempt until the date the election of coverage is approved.

(3) All changes in elected coverage remain in effect for at least two calendar years. The business may terminate coverage only at the end of a calendar year. To terminate coverage, the employer must send a written request to the department by January 15th.

(4) The department reserves the right to disapprove a request for coverage because:

(a) The applicant is not liable for federal unemployment taxes (FUTA);

(b) The occupation or industry is seasonal; or

(c) Other reasons apply.

(5) The department reserves the right to cancel unemployment insurance coverage for a voluntary election employer because:

(a) Of nonpayment of unemployment insurance taxes or failure to file an unemployment insurance tax and wage report;

(b) Of misrepresentation of facts;

- (c) Coverage is not used for involuntary unemployment as outlined in RCW 50.01.010; or
- (d) Other reasons apply.

[Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 13-24-068, § 192-300-170, filed 11/27/13, effective 12/29/13; WSR 07-23-127, § 192-300-170, filed 11/21/07, effective 1/1/09; WSR 00-05-064, § 192-300-170, filed 2/15/00, effective 3/17/00.]