PROPOSED RULE MAKING

CR-102 (December 2017)  
(Implements RCW 34.05.320) 
Do NOT use for expedited rule making

Agency: Department of Labor and Industries

☑ Original Notice  
☐ Supplemental Notice to WSR _____  
☐ Continuance of WSR _____

☒ Preproposal Statement of Inquiry was filed as WSR 17-19-091; 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) WAC 296-06-120, Copying Fees  
The department is proposing rulemaking to amend the current public records fee schedule in WAC 296-06-120, Legislation passed in 2017 that amended RCW 42.56.120, which governs agency charges to requestors for providing copies of public records.

Hearing location(s):  
Date:  Time:  Location: (be specific)  Comment:  
April 3, 2018  9:00am  L&I Headquarters  
7273 Linderson Way SW,  
Tumwater, WA 98501  
Room S117

Date of intended adoption: May 1, 2018 (Note: This is NOT the effective date)

Submit written comments to:  
Name: Jessica Ward  
Address: PO Box 44632, Olympia, WA 98504  
Email: Jessica.Ward@lni.wa.gov  
Fax: 360-902-5529  
Other:  
By (date) 5:00 pm April 6, 2018

Assistance for persons with disabilities:  
Contact Jessica Ward  
Phone: PO Box 44632, Olympia, WA 98504  
Fax: 360-902-5529  
TTY:  
Email: Jessica.Ward@lni.wa.gov  
Other:  
By (date) 5:00 pm March 30, 2018

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The purpose of this rulemaking is to implement an agency fee schedule for reimbursement of the costs associated with fulfilling public records requests. An agency study has been conducted to determine the actual costs associated with copying, scanning, electronically producing and delivering records and the guidelines to appropriately assess the fees. The current rule does not include a fee schedule for providing electronic records.
Reasons supporting proposal: This rulemaking is supported by RCW 42.56.120, which allows agencies to charge a default fee schedule or conduct a study to calculate the actual costs. The agency does not currently have a fee schedule in place in order to seek reimbursement of a small portion of the cost for administering the Public Records program.

Statutory authority for adoption: RCW 42.56.120

Statute being implemented: RCW 42.56.120

<table>
<thead>
<tr>
<th>Is rule necessary because of a:</th>
<th>☐ Yes ☒ No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal Law?</td>
<td></td>
</tr>
<tr>
<td>Federal Court Decision?</td>
<td></td>
</tr>
<tr>
<td>State Court Decision?</td>
<td></td>
</tr>
</tbody>
</table>

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) Department of Labor and Industries

☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

<table>
<thead>
<tr>
<th>Drafting:</th>
<th>Name</th>
<th>Office Location</th>
<th>Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Jessica Ward</td>
<td>Tumwater, Washington</td>
<td>360-902-5232</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Implementation:</th>
<th>Name</th>
<th>Office Location</th>
<th>Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Darla Koflanovich</td>
<td>Tumwater, Washington</td>
<td>360-902-4404</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Enforcement:</th>
<th>Name</th>
<th>Office Location</th>
<th>Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Darla Koflanovich</td>
<td>Tumwater, Washington</td>
<td>360-902-4404</td>
</tr>
</tbody>
</table>

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 exemption criteria is listed in RCW 34.05.328(5)(b) including: rules that set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045. Under RCW 42.56.120, the department’s fees are to be
set at a level that does not exceed the amount necessary to reimburse the agency for its actual costs directly incident to copying public records.

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, may be exempt from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). 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 42.56.070; RCW 42.56.120.

Explanation of exemptions, if necessary:

To the extent there are costs assessed by this agency for records provided in response to public records requests by small businesses, the authorized costs are set out in statute and apply to all requesters.

If 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 analysis showing how costs were calculated.

☐ Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert 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: February 20, 2018

Name: Joel Sacks
Title: Director

Signature: 

Page 3 of 3