

Rulemaking FAQ

Does SB 5236 include mandatory staffing standards?

It does. [SB 5236](#) requires Department of Labor & Industries (L&I) to conduct a rulemaking process to establish the specific unit-based ratios that the hospitals would be required to follow under the law.

Why aren't there specific ratios in the 2023 version of the staffing bill?

The specific unit-based ratios will be determined through rulemaking. The rulemaking will allow us the opportunity to have more informed expertise involved in the development of the ratios. The rulemaking is a public process with multiple opportunities for individuals and groups to weigh in. The rulemaking also allows for increased flexibility. If the ratios need to be improved in the future, we don't have to pass another bill out of the Legislature to do so. Through the rulemaking process, WSNA members will have the opportunity to provide input to Labor & Industries (L&I) on what they want the ratios to be based off their own experience and knowledge of their facility. During the 2022 fight for the staffing bill, we heard from numerous members that the ratios in the bill didn't work for their own facility. Through rulemaking those members will be able to participate in the development of the mandated ratios.

Does having mandated ratios even matter if the hospitals refuse to follow it?

Our bill moves agency oversight of our staffing law from the Department of Health (DOH) to L&I. This move is crucial because L&I specializes in enforcement. DOH has failed at enforcing Washington's staffing law up to this point. DOH is a public health agency that does not have expertise in enforcement. Because the bill moves enforcement from DOH over to L&I, L&I will be responsible for overseeing the rulemaking process. In addition to soliciting public feedback, L&I will work closely with staffing experts and rely heavily on science and research to help develop the ratios.

What is rulemaking?

After laws, or statutes, are passed by the state Legislature and signed by the Governor, they are compiled in the Revised Code of Washington, or RCWs. Rules to carry out those laws - which are sometimes called regulations and sometimes called WACs, for the Washington Administrative Code - are adopted by agencies through a process mandated in law by [Washington's Administrative Procedure Act \(APA\)](#).

The APA sets out exactly what steps an agency must follow to adopt rules. Different processes are provided for different kinds of rules. The same basic process is used to adopt, amend, or repeal a rule. It has three formal steps.

How does the rulemaking process work?

Rulemaking is conducted in three steps.

Step 1: Notice of Intent for Rulemaking and Public Feedback

L&I provides public notice that they plan to start rulemaking. After the bill is passed any individual or organization can sign up to receive notification when L&I will begin rulemaking on the staffing bill. During this time L&I will host public forums for Washingtonians to share their feedback on ratios. They will also accept formal written comments from individuals and

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organizations. WSNA will engage in both the forums and submit formal written comments. L&I is required to take all feedback into consideration when developing the rules.

Step 2: Proposed New or Revised Rule Language

After gathering comments from the public, L&I will develop a draft of the proposed rules. L&I will also engage the public in this step by sharing drafts of the rules and forming drafting committees. Once L&I has developed a final rule, they will file a "Notice of Proposed Rulemaking" which will be posted publicly and shared with all interested parties. L&I will then hold a public hearing where they will consider formal comments and make changes as necessary. If the changes in the next draft are substantial, L&I will post and share another draft version with the public for further feedback and discussion.

Before final adoption, L&I will share a statement that summarizes the agency's reasons for adopting the rule and any comments received during the rulemaking process.

Step 3: Final Adoption of the Rule

When L&I is finished with rulemaking they will file a final rule with the Code Reviser. Rules normally become effective 31 days after they are filed. L&I will send notice to interested parties that the rule was adopted.

How do I ensure I am notified by L&I when rulemaking starts?

L&I will post publicly when they plan to start the rulemaking process. People who are interested in participating or receiving updates can email the department at that time to make sure they are added to the interested parties list.

If the bill is passed, WSNA will follow the process closely and will publicize updates and every time there is an opportunity for our members to weigh in.