



CR 101 Memorandum

Re: Employee Stock Ownership Plans (ESOP)

Date: October 9, 2024

Presented by: Daniel Jacobs, Policy and Rules Coordinator

Background

During the 2023 legislative session, the Washington state legislature passed [Substitute Senate Bill 5096, chapter 392, Laws of 2023](#), expressing the policy of the state of Washington to support the use of Employee Stock Ownership Plans (ESOP) to encourage employee ownership structure.

An ESOP is a tax-qualified retirement plan that owns company stock and, through its corporate structure, gradually increases employee partial ownership of their employer as they obtain seniority, and should the employee leave the company or retire, they are able to trade in their shares and obtain a pot of money for retirement.

[WAC 314-55-035](#), known as the true party of interest (TPI) rule, identifies the permissible forms of corporate structure used in cannabis licenses, and depending on the structure, who or which entity needs to meet certain residency and other requirements of Washington law to participate in cannabis business ownership. [WAC 314-07-035](#) addresses similar requirements for liquor licensees.

In May 2024, the Washington State Liquor and Cannabis Board (LCB) [accepted](#) a petition for rulemaking from the Washington Cannabis Association to amend the TPI rule to explicitly identify ESOP as a permissible entity structure and who in relation to an ESOP would need to meet the TPI requirements.

Reasons Why Rulemaking Is Needed

This rulemaking is needed to consider addressing explicitly allowing ESOPs to operate within existing Washington state cannabis statutes and regulations while preserving the intent of SSB 5096 by amending WAC 314-55-035 and other sections of Title 314 WAC and creating or repealing other sections of Title 314 WAC as necessary to respond to the rulemaking petition. This may include other rule changes needed to ensure ESOPs are not used to avoid compliance with other statutes and regulations. This rulemaking may also extend to the use of ESOPs regarding liquor licenses.

//
//

Process

The rulemaking process begins by announcing the Board's intent to consider changes to existing rules, adding new rule sections, or both, by filing a preproposal statement of inquiry (CR 101) form with the Office of the Code Reviser. This allows staff, stakeholders, industry partners, and all members of the authorizing environment to begin discussing proposed rule changes.

At this stage of the rulemaking process, no proposed language is offered. Any interested party may comment on this possible rulemaking during the designated comment period. Notice will be sent to all who have indicated that they want to receive notice of rule activity related to this preproposal statement of inquiry. The notice will identify the public comment period and where comments can be sent.