

# HOUSE BILL REPORT

## HB 2826

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**As Reported by House Committee On:**  
Commerce & Labor

**Title:** An act relating to recommendations of the joint legislative task force on the underground economy.

**Brief Description:** Concerning the recommendations of the joint legislative task force on the underground economy.

**Sponsors:** Representatives Conway, Chase, Hudgins and Simpson.

**Brief History:**

**Committee Activity:**

Commerce & Labor: 1/22/10, 2/2/10 [DPS].

**Brief Summary of Substitute Bill**

- Requires contractors who fail to register with the Department of Labor and Industries to take a training class, in addition to registering, to be eligible for a reduced penalty for a first-time offense.
- Provides that a contractor who engages in certain unregistered contractor activity after a third final infraction for such activity commits a class C felony.
- Provides that a contractor violation occurs in certain circumstances when contractors work together on a task when at least one contractor has no covered workers.
- Creates a dedicated account for contractor registration.

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### HOUSE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Conway, Chair; Wood, Vice Chair; Green, Moeller and Williams.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Condotta, Ranking Minority Member; Chandler and Crouse.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Staff:** Joan Elgee (786-7106).

**Background:**

In 2007 the Legislature established a Joint Legislative Task Force on the Underground Economy in the Construction Industry (Task Force). The Task Force met during the 2007 and 2008 interims and developed recommendations which were incorporated into legislation. In 2009 the Legislature expanded the scope of the Task Force beyond the construction industry. The Task Force made a number of recommendations based on its 2009 interim work.

The Contractor Registration Act (Act) requires general and specialty contractors to register with the Department of Labor and Industries (Department). Under the Act, a contractor who fails to register is subject to a fine of not less than \$1,000 and not more than \$5,000. The Director of the Department may reduce the fee to no less than \$500 for a first offense if the contractor registers within 10 days of receiving a notice of infraction. It is also a gross misdemeanor for a contractor to work without being registered, work while a registration is suspended or revoked, or commit certain other acts.

Contractor registration fees and penalties are deposited into the General Fund.

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**Summary of Substitute Bill:**

The penalty for a first offense of failure to register as a contractor is modified. To receive a reduced penalty, a contractor must register for and complete a contractor training class in addition to registering as a contractor. Once a contractor receives a notice of infraction, the contractor has 10 days to register as a contractor and register for a class, and 120 days to complete the class. A contractor must also pay any class fees upon registration to receive the reduced penalty.

The Department may conduct or approve contractor training classes. The Department may charge a fee that covers the cost of administering a class. In addition, the Department may adopt rules on the number of classes to be offered, and the class locations, fees, and curriculum.

A contractor commits a class C felony if he or she engages in unregistered contractor activity after receiving a third final infraction for working while unregistered, while his or her registration is suspended or revoked, or under a registration issued to another contractor.

A violation occurs if, on a single job site, a contractor works on a task that is performed together by more than two sole proprietor contractors or more than one contractor other than a sole proprietor, when at least one of the contractors has no covered workers. If the contractors are working together in the same trade or craft, the contractors have the burden or proof to show that they are not working together on the same task. A "job site" is a single physical address, or multiple addresses if the addresses are covered by the same general

contract. The violation is committed by all contractors who are parties to the contract for the performance of that task.

A Contractor Registration Account (Account) is created beginning July 1, 2011. All registration fees, penalties, and class fees must be deposited into the Account, and moneys may be appropriated from the Account only for purposes of contractor registration.

A double amendment regarding retainage on public works contracts is corrected.

**Substitute Bill Compared to Original Bill:**

The substitute bill adds provisions creating: (1) a class C felony for unregistered contractor activity after a contractor has received a third final infraction for unregistered contractor activity; and (2) a contractor violation for work on a task performed together by contractors when at least one contractor has no covered workers.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed, except for sections 3 and 4, relating to the Contractor Registration Account, which take effect July 1, 2011.

**Staff Summary of Public Testimony:**

(In support) The Task Force recommendations are supported. There are some pieces that business and labor are still discussing. One would be similar to Oregon's model and would restrict subcontractors with no covered workers working side-by-side on the same job site on the same task. The other was a Task Force recommendation to provide a felony for a third infraction of unregistered contractor activity. The lack of inclusion of the felony may have been an oversight. The new language on the multiple contractor issue is supported.

(With concerns) The language on the classes needs to be tightened up to make sure classes are offered.

(Opposed) None.

**Persons Testifying:** (In support) Carl Hammersburg, Department of Labor and Industries; David Johnson, Washington State Building and Construction Trades Council; and Bob Abbott, Washington and North Idaho District Council of Laborers.

(With concerns) Gary Smith, Independent Business Association.

**Persons Signed In To Testify But Not Testifying:** (In support) Randy Loomans, International Union of Operating Engineers Local 302.