

# SENATE BILL REPORT

## SB 6575

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As of January 26, 2010

**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:** Senators Kohl-Welles, Keiser, Kline, Franklin and McDermott.

**Brief History:**

**Committee Activity:** Labor, Commerce & Consumer Protection: 1/25/10.

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### SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

**Staff:** Kathleen Buchli (786-7488)

**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.

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

**Summary of Bill:** The bill as referred to committee not considered.

**Summary of Bill (Proposed Substitute):** 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 ten days to register as a

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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 the classes or approve classes conducted by others. 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, the class locations, fees, and curriculum.

A contractor registration account is created beginning July 1, 2011. All registration fees, penalties, and class fees must be deposited into this account. Monies may be appropriated from the account only for purposes of contractor registration.

A contractor who receives a third citation from the Department for failing to register as a contractor is guilty of a class C felony if that person works as a contractor while unregistered, while his or her registration is suspended or revoked, or under a registration issued to another contractor.

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

**Appropriation:** None.

**Fiscal Note:** Available.

[OFM requested ten-year cost projection pursuant to I-960.]

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: The Task Force met during the 2009 interim. Business and labor came together and recognized the need to address the underground economy and the costs to legitimate contractors who act in good faith in becoming registered. We believe this bill provides the state with practical approaches to achieve compliance as well as protections for the public. The fiscal note on the bill points out a Catch 22 created by the Legislature; the agency is asked to do more with less but you as a Legislature are charging contractors more than what is being appropriated back to the program. This amounts to a hidden tax that goes into the general fund. By creating a dedicated account, that money will be easier to identify and it will be easier to enforce contractor statutes and protect the general public. There has been discussion at the Task Force meetings on what Oregon has passed and how they have addressed the issue of independent contractors. We have an amendment that will address how many independent contractors may be working in a specific area or on a jobsite, and will address that they may be under the direction and control of someone else and avoiding the payment of workers compensation premiums.

OTHER: The way the provisions relating to the class to be offered by the Department are written needs to be clarified so that people throughout the state are able to take a class within the 120 days provided in the statute. It is a concern of the Department to have a broad time frame to ensure that classes will be available relative to where the contractors are located, and the Department is also exploring on-line classes.

**Persons Testifying:** PRO: Senator Kohl-Welles, prime sponsor; Dave Johnson, Washington State Building and Construction Trades Council; Rick Slunaker, Associated General Contractors.

OTHER: Gary Smith, Independent Business Association; Carl Hammersburg, Department of Labor and Industries.