

**BENCHMARK ADVISORY COMMITTEE UPDATE TO THE JOINT LEGISLATIVE TASK FORCE  
ON THE UNDERGROUND ECONOMY IN THE CONSTRUCTION INDUSTRY**

**The Benchmark Advisory Committee has identified**

- Elements of SSB 6732 and ESHB 3122 where data are or will be available to monitor progress and results associated with recommended activities;
- Reporting responsibilities of each agency; and
- Data elements to be reported and when they will be available.

**Elements of SSB 6732 for which data are or will be available on a regular basis from at least one agency (by numbered policy area):<sup>1</sup>**

**1. Contractor Registration and Records**

- (a) Require contractor UBI number. [SSB 6732 Sec.1(1)(b)]
- (b) Application denials and suspensions (no UBI, false information, or not registered). [SSB 6732 Sec.1(3)(a)(iv-v), 1(3)(b)(iv-v), and 2(7)]
- (c) Requiring a record of contractor/electrician compensation. [SSB 6732 Sec. 5(1)(b)]

**2. Penalties**

- (a) Persons subject to up to \$10,000 penalty for submitting false information on an application. [SSB 6732 Sec. 2(8)(a)]
- (b) Prohibited from bidding on public works contracts for one year do to specific violations (registration laws, misrepresenting payroll or employee hours, business without L&I certificate of coverage, or second violation of contractor registration). [SSB 6732 Sec. 3]

**3. Enforcement**

- (a) Increase L&I investigative staff (vetoed but funded). [SSB 6732 Sec. 11(1)(a)]
- (b) Attorney General: Prosecutor dedicated to contractor compliance (vetoed but funded). [SSB 6732 Sec. 11(2)]

**4. Education and Outreach**

- (a) Social Marketing Campaign. [SSB 6732 Sec. 12]

**5. Data Sharing and Detection**

- (a) Data sharing across agencies. [SSB 6732 Sec. 6(9)]

**6. Monitoring Underground Construction Activity**

- (a) Establish benchmarks for future monitoring of activities recommended by the Task Force. [SSB 6732 Sec. 14]

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<sup>1</sup> ESHB 3122 dealt with the definition of independent contractor. There are no ongoing data associated with that policy. The December 2008 will describe the activities undertaken by the agencies to meet the requirement of the legislation.

## Reporting responsibilities by agency and available data:

### 1. Contractor Registration and Records

(a) Require contractor UBI number.

**L&I:** Number of contractor registrations with and without UBI numbers.

- Historical data are available.
- Recent data will be available for the December 2008 report.

(b) Application denials and suspensions.

**DOR:** Tax recoveries associated with denials and suspensions.

- Historical data are unavailable (because there are not prior records of denials).
- Data available only after DOR processes occurrences reported by L&I.

**L&I:** Number of denials and suspensions and accompanying narratives.

- Historical data are unavailable (because there are not prior records of denials).
- Data available for the December 2008 report if there are occurrences.

(c) Requiring a record of contractor/electrician compensation.

**ESD:** Number of cases based on audits by existing auditors.

- Historical data are unavailable.
- Data reflecting this change over 2008 will be available January 2010.

### 2. Penalties

(a) Persons subject to up to \$10,000 penalty for submitting false information on an application.

**L&I:** Number of occurrences, collection amounts, and accompanying narratives.

- Historical data are unavailable.
- Data available as cases resolve.

(b) Prohibited from bidding on public works contracts for one year do to specific violations.

**ESD:** Number of referrals to L&I for firms misrepresenting payroll or employee hours.

- Historical data: would not have reported any cases in the last two years.
- Data available after appeals process is exhausted and reported to L&I.

**L&I:** Number of construction audits, occurrences, and narrative accounts.

- Historical data are unavailable.
- Data available for the December 2008 report if there are occurrences.

### 3. Enforcement

(a) Increase L&I investigative staff (4 FTE auditors and 2.5 FTE FAIR Team staff).

**L&I:** Number of audits filed and total dollars assessed per year per person for all industries and construction (4 FTE auditors).

- Historical data not applicable (measuring the influence of additional 4 FTE auditors).
- October and November audit results available for the December 2008 report.

**L&I:** Number of unregistered contractor infractions, collection referrals, and audit referrals, and dollars collected by FAIR Team.

- Historical data are available.
- November collections available for the December 2008 report.

(b) Attorney General: Prosecutor dedicated to contractor compliance.

**L&I:** Number of cases initiated for prosecution, prosecution outcomes, and narrative accounts.

- Processes and staffing are still in development.

### 4. Education and Outreach

(a) Social Marketing Campaign.

**L&I:** Number contacts, classes, contractors attending, home shows (and attendance), and associated referrals.

- Historical data are available.
- Media campaign delayed until spring, but data on ongoing activities will be available for the December 2008 report.

### 5. Data Sharing and Detection

(a) Data sharing across agencies.

**DOR:** Number of referrals across agencies and dollars assessed and collected.

- Quarterly data are available from June 2007.
- Updates will be available for the December 2008 report.

## 6. Monitoring Underground Construction Activity

(a) Establish benchmarks for future monitoring of activities recommended by the Task Force.

**DOR:** Tax losses estimated in the DOR Bi-annual Non-compliance study.

- Historical data are available.
- The 2010 study will include audits in 2008 and earlier years. The study does not provide a yearly, point in time estimate.

**ESD:** Based on targeted and other audits, percent of audited construction firms misclassifying workers and number of misclassified workers.

- Historical data are available.
- Data reflecting all of 2008 will available June 2010.

**L&I:** Number of construction audits identifying workers and hours, number of unregistered contractors, and dollars identified by both.

- Historical data are available.
- Recent activity will be available for the December 2008 report.

### **Post implementation data likely to be available for the December 2008 report:**

- Number of contractor registrations with and without UBI numbers.
- L&I audits filed and total dollars assessed (October and November audit results).
- Unregistered contractor infractions, collection referrals, and audit referrals, and dollars collected by the L&I FAIR Team (November collections only).
- Social Marketing Campaign: Number contacts, classes, contractors attending, home shows (and attendance), and associated referrals.
- Number of referrals across agencies and dollars assessed.
- If they occur, number of application denials and suspensions and accompanying narratives.
- Most data will only reflect a few months of activity under policies authorized by the statute.

### **Remaining activities:**

- Determine responsibilities, frequency, and audience for ongoing reports.
- Publish December 2008 preliminary report.
- Establish benchmarks/goals.
- Recommend strategies for monitoring underground construction activity.
- Institute is funded through June 2009 to undertake additional activities and report results to both committees.

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