



Underground Economy Benchmark Report 2010 Report to the Legislature

As required by RCW 18.27.342

**Joint Report of the
Washington State Department of Labor and Industries
Washington State Department of Revenue
and the
Washington State Employment Security Department**

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Background and Introduction

In 2009, the Legislature adopted Substitute House Bill 1555 relating to the recommendations of the Joint Legislative Task Force on the Underground Economy that, among other things, requires the Department of Labor and Industries (L&I), the Department of Revenue (DOR), and the Employment Security Department (ESD) to coordinate and report on the effectiveness of efforts to address the underground economy to the appropriate committees of the legislature by December first of each year. This report is the second of these annual reports to the legislature.

The report is intended to provide the legislature with information on the effectiveness of state efforts to combat the underground economy by L&I, DOR, and ESD. Particular emphasis is placed on data sharing between the agencies and other areas where the agencies have partnered to uncover and take action on tax misreporting or fraud. Even though the Joint Legislative Task Force on the Underground Economy ended in 2009, the agencies remain committed to working together and sharing information in order to prevent fraud and reduce the impacts of the underground economy. See Appendix B for more information on legislation related to the Joint Legislative Task Force on the Underground Economy.

Report Highlights for Fiscal Year 2010 (July, 2009 – June, 2010)

- DOR, ESD and L&I uncovered a combined 1,677 unregistered businesses that were assessed nearly \$39 million in unpaid taxes, premiums, penalties and interest.
- DOR, ESD and L&I exchanged over 100,000 tips and leads through electronic data matches, up from about 25,000 in FY2009.
- L&I collected \$126.6 million from delinquent employer premiums.
- DOR issued over 220,000 reseller permits.
- ESD found 11,613 unreported or misclassified workers as a result of their audit efforts.
- L&I suspended 750 contractor registrations for failure to pay workers' compensation premiums.
- DOR, ESD, and L&I collaborated to create a marketing campaign to discourage consumers from using non-compliant businesses. Radio adds began running in October, 2010.
- L&I provided education and training to over 1,100 construction contractors and provided information on independent contractor reporting requirements to over 17,000 new businesses.

Cross-Agency Collaboration and Data Sharing Efforts

In addition to efforts associated with the Joint Legislative Task Force on the Underground Economy, DOR, L&I, and ESD developed a Cross-Agency Referral Committee as a result of the 2006 Governor's GMAP on Economic Vitality. The committee developed an online referral form that allows employees to share tips and leads with other agencies and developed an e-learning tool to educate staff on how to help other agencies. The Committee meets quarterly and shares information on:

- Tax discovery.
- Fraud prevention.
- New technology and data sharing opportunities.
- Audit data on businesses along with audit findings, and
- Unregistered businesses that were involuntarily registered.

On-going efforts of the Cross-Agency Referral Committee focus on new cross-match scenarios and how to refine existing queries. We continue to discuss and focus on using technology such as how best to use our data warehouse information and data analysis software to refine and share leads. The agencies also collaborate on research projects including the 2007 study on the impact of the underground economy in Washington on state revenue. In addition to the work of the committee and the automated exchange of data, managers and staff from all three agencies continue informal sharing when coordinating individual cases, special projects or other items of interest.

Other joint efforts focusing on the underground economy include improving our training and education of staff. The Department of Revenue, Labor and Industries, and Employment Security Departments have joined together in developing an on-line video focusing on investigator training. The video training includes general training pertinent to staff in all three agencies as well as an individual video segment specific to each agency. Anticipated completion date to have this joint video training on-line is March 2011.

The three agencies worked together to create a joint Notice of Completion form to assist Public Agencies when they request retainage release on public works jobs over \$35,000. The retainage release process helps ensure that appropriate taxes are paid on public construction projects.

Interagency Prosecution Efforts

In addition to sharing information on tips, leads, and audit results, ESD, DOR and L&I also collaborate on certain criminal cases of mutual interest. For example, in FY 2010, DOR and L&I worked jointly to successfully prosecute Masters Touch Drywall, Inc. Mark Standley pled guilty to 14 felonies; was ordered to pay \$1,896,711 in court ordered restitution, and was sentenced to 75 months in prison.

Number of tips and leads shared between agencies:

Cross-agency Referrals				
	FY 2009		FY 2010	
Referral from...to	Referrals via Interagency Referral Form	Referral via Electronic Data File Transfers	Referrals via Interagency Referral Form	Referral via Electronic Data File Transfers
DOR to L&I	1	9,396	3	38,087
DOR to ESD	11	2,109	21	33,659
L&I to DOR	49	5,430	29	5,594
L&I to ESD	89	4,899	23	18,192
ESD to L&I	8	3,633	10	2,829
ESD to DOR	26	0	5	2,651
Total	184	25,467	91	101,103
<i>Source: DOR</i>				

Note: We currently measure tips received from auditors at other agencies and tips sent to other agencies. State agencies cannot share IRS data for this and similar purposes.

Individual Agency Enforcement Highlights – **Fiscal Year 2010 (July 2009 – June 2010)**

Labor & Industries: Highlights

Record audit year (2008 2SSB 6732 Sec 11 – Vetoed but funding added for three additional L&I Auditors) – L&I Conducted a record 5,846 audits in FY2010 with an associated \$26.4 million in assessments from worker misclassification and unregistered businesses. Both the number of audits and the dollars assessed in FY2010 were the highest results recorded in agency history, with over double the number of audits and three times the amount assessed compared to when the Fraud Prevention and Compliance program was created in 2004. Our audits of unregistered and underreporting employers in the last three years discovered enough reportable hours to cover 103,000 full-time workers with workers’ compensation coverage.

Audits: Registered Businesses	Assessments	Audits: Unregistered Businesses	Assessments	Total Audits	Total Assessments
5,196	\$19.2 million	650	\$7.2 million	5,846	\$26.4 Million

L&I Regains Retainage Release Authority on Public Works Jobs Over \$35,000 (2009 SHB 1555 – multiple sections) - L&I launched its Contract Release unit to review and approve requests to release retainage on public works projects, ensuring that appropriate workers’ compensation premiums are paid on all major public works projects. Two revenue auditors coordinate with contractors to reconcile taxes due and paid on the project, and request amended tax reports when needed. If the employer refuses to pay any additional taxes due, the special collections revenue agent submits the certificate of lien and coordinates with field revenue agents as appropriate if there are no retainage funds left to pay the taxes owing. The new program began in October, 2009, and by the end of the fiscal year in June, had received 1,615 release requests from public works projects worth \$629,284,739. During this same period, the two staff completed 1,059 of the requests and referred \$1,311,187 to collections for money owed to L&I, of which \$213,012 had been recovered. DOR and ESD already had similar programs in place.

New employer review -- Realizing that compliance after the fact is costly, and often results in less total effect, L&I launched a program called “New Employer Review” in FY 2010. In this program, we engage with businesses in industries that regularly show errors in reporting premiums in their first year of business. Our staff educates employers on the requirements, but will not issue a finding for past errors. The feedback has been extremely positive, with surveys showing 83% of those who received the review acknowledged that it helped them to better understand how to report.

Third Party Subpoena authority (2010 SHB 2789) -- Restored by the legislature for fraud investigations, allowing the department crucial tools to compel testimony and evidence production in the pursuit of fraud and abuse.

NAILED! Blog – The agency embraced social media as an avenue for raising public awareness through creation of a public blog, **NAILED** (<http://nailed.lni.wa.gov>). About 1,000 unique visitors go to the blog each month.

Labor & Industries: Important Results

Collections -- Collected \$126.6 million from delinquent employer premiums.

Improved audit selection -- 62 percent of employers that we referred for audit owed premiums compared to less than 50 percent in FY 2004 when the Fraud Prevention and Compliance program began.

Prosecutions (2008 2SSB 6732 Sec 11 – Vetoed but funded additional AAG for criminal prosecution) – L&I sent 25 cases to prosecutors for criminal prosecution including four employers, 3 providers, and 18 workers. Since FY 2006 we have worked with dedicated special prosecutors from the Attorney General’s Office to send 110 cases to prosecution. Of those completed, we have a 100% conviction rate.

Suspended contractor registrations -- Suspended 750 contractor registrations for failing to pay workers’ compensation, up 285 suspensions compared to last year.

Revoked Certificates of Coverage – Revoked the Certificates of Coverage for 58 employers for not paying premiums, making it a class C felony for them to hire employees.

Labor & Industries: Future Focus

New employer fraud detection system – We are building a state of the art employer premium abuse detection system aimed specifically at unregistered businesses and the underground economy. It will incorporate IRS data and advanced analytics to identify employers who are not paying into the system or who appear to be reporting significantly fewer worker hours compared to similar businesses. The new system builds upon our existing data exchanges with other programs and agencies to make the cross matches more effective and easier to use. Parts of the new system will be in place by December, 2010 with the rest completed by June, 2011.

New contact for businesses with independent contractors (2009 SHB 1555 Sec 10 provided two staff for this work and more noted in Outreach Section) – L&I partnered with the Department of Licensing to develop an updated Master Business Application that better identifies new firms that plan to use independent contractors. The new Master Business Application form rolled out in September, 2010. It directs new businesses to resources that L&I developed to determine when someone is a covered worker versus an exempt independent contractor. Additionally, businesses starting up will be required to note if they will have independent contractors, not just employees. Our staff will reach out directly to educate them on laws and rules at that time. This will ensure that more businesses sign up for coverage up front, holding down rates without requiring compliance audits years later. In September and October, the first two months of operation, 2,419 businesses indicated they plan to use independent contractors.

Electronic payments – L&I is working with the State Treasurer’s office to put into place the ability for delinquent debtors to pay us through electronic withdrawal from checking accounts when they are on a payment plan, or through debit or credit card payments. We expect to have the new process in place by December 31, 2011.

Stop-Work Orders (2009 SSB 5613) – Developed the system and process for issuing stop-work orders. Rollout of the Stop-Work program will begin November, 2010 for contractors that are non-compliant with industrial insurance coverage.

Department of Revenue: Highlights

During the past year, the Department of Revenue, Compliance Division, continued to focus on out-of-state unregistered businesses. The Department also expanded our efforts in working unregistered accounts as the Compliance and Audit Divisions will work together to identify non-compliant businesses. Also, we continue our focus on education and enforcement to reduce non-compliance.

The Department referred six criminal cases to the Attorney General’s office for prosecution. Four of the six cases have been prosecuted and two cases have been charged and are awaiting prosecution.

Several significant revenue and tax legislation bills were approved in the 2010 Legislative session. Major legislation that passed that helps to close the tax gap and address the underground economy includes economic nexus and a tax avoidance penalty. The tax avoidance penalty helps guide enforcement efforts to reduce non-compliance.

Department of Revenue: Future Focus

Our agency Strategic Business Plan for 2010-2015, outlines a strategy to close the tax gap and address the underground economy. Our goal is to help level the playing field for registered businesses that are paying their taxes. We will implement this strategy by continuing to expand our use of technology to help identify non-compliant businesses.

The Department of Revenue will share information with Labor and Industries on contractor accounts that apply for or renew a reseller permit when DOR cannot find a valid contractor’s license on the account.

Employment Security Department: Highlights

During the past year the Employment Security Department expanded our efforts to focus on employers who fail to report or underreport their employees for Unemployment Insurance purposes. In July 2009, ESD had four full time employees dedicated to these activities, one in our headquarters office and four located in our local district tax offices (two offices had half of an FTE each). During the spring of 2010 we added an additional seven full time employees making a total of one employee in our headquarters office and one in each of our local tax offices.

In FY 2010, ESD found:

	Audited Businesses	New Workers Found
Businesses w/misclassifying workers	721	6,530
All audited businesses	4,006	11,613 (Total of Unreported & Misclassified)

Record audit year: (2008 2SSB 6732 Sec 11 – Vetoed but funding added for one additional ESD auditor) ESD conducted a record 4,006 audits in FY2010 with an associated \$2.51 million in assessments from worker misclassification, unreported wages and unregistered businesses. The audit efforts in the last three years identified more than \$5.1 million in taxes and 26,828 unreported workers.

Third Party Subpoena authority: (2010 SHB 2789) Restored by the legislature, this tool is being used for Underground Economy effort. It allows the department to issue a third-party subpoena simultaneously with the first-party subpoena, or immediately following the employer's failure to comply with the first-party subpoena.

Enhanced internet data access: The ESD Internet presence has been redesigned to make it more accessible to small businesses and enlists small businesses and others in assisting us in our fraud detection efforts with a Tips & Leads link which includes several optional ways to report Underground Economy Businesses who are not playing by the rules.

Electronic payments: ESD has three options for paying UI Taxes electronically. Currently, better than 80% of businesses file their quarterly report using one of these three options and an effort is underway to make contact with the remaining paper filers to show them the benefits of electronic filing.

The Next Generation Tax System: The Next Generation Tax System (NGTS) has been initiated to replace the aging Tax Information System (TAXIS). NGTS will provide consistent application of business rules and flexibility to modify rules and processing to accommodate changes in the law, regulation and business practice. With the data compilation capabilities of NGTS we are hoping to be able to develop an algorithm during a later phase of the systems development which could be used to select audits with more accuracy.

Improved audit selection: Audit outcome data gathered over the past 24 months has led to more effective audit selection. The results have been increased findings of misclassified workers and unreported taxes. It has also resulted in a higher percentage of change audits which have increased from 40% in FY2008 to 62% in FY 2010. Another improved audit selection tool to come from this audit outcome analysis has been the ESD Audit Calendar. Benchmarking with L&I and DOR, ESD has developed their own audit calendar of planned audits of employers by industries which had a high number of audits resulting in changes to the employee wages and hours reported over the past 24 months. This audit outcome information gave us data which is included on focused audit letters mailed out to businesses in each industry. ESD will only audit a portion of those businesses and will concentrate on identifying misclassified workers.

The schedule of ESD audits:

Focused Audit Industries for 2011

Industry	Month Assigned	Month Letter Goes Out
Construction	January	October
Schools	February	November
Florists	March	December
Advertising	May	January
Services to Buildings	June	February
Contractors	July	March
Employment Services	August	April
Research	September	May
Business Support Services	October	June
Couriers	November	July
Manufacturing	December	August
Freight Trucking	April	September

Agency Results from Auditing Unregistered Businesses

In FY 2010, DOR, ESD and L&I found and audited a total of 1,677 unregistered or previously registered businesses that were involuntarily reregistered. The three agencies assessed a total of \$35,453,727 in taxes, penalties, and interest on these previously unregistered firms. Because of differences in the regulatory authority of the three agencies, they each naturally tend to audit different types of businesses. DOR audits all businesses in the state regardless of whether they have workers. DOR also has a much stronger role in auditing out of state businesses that do business in Washington. Both L&I and ESD are limited to auditing only employers with covered workers. L&I tends to focus on industries with a high injury rate and has specific additional regulatory authority over the construction industry. ESD tends to focus on industries with higher unemployment rates.

Industry sector description was determined by North American Industry Classification System (NAICS) codes as follows:

NAICS Sector Code	NAICS Sector Description
23	CONSTRUCTION
31,32,33	MANUFACTURING
0,11,21,22,48,49,53,55,62,92,99	OTHER
44,45,51,71,72	RETAIL
52,54,56,61,81	SERVICE
42	WHOLESALE

FY2010 Audit Assessments on Unregistered Accounts or Previously Registered Accounts that were Involuntarily Reregistered Totals by NAICS Sector Code

Labor & Industries

Industry Sector Desc.	Total Accounts Assessed	Total Dollars Assessed
CONSTRUCTION	292	\$3,979,550
MANUFACTURING	7	\$30,277
OTHER	87	\$1,372,649
RETAIL	92	\$498,199
SERVICE	161	\$1,222,558
WHOLESALE	11	\$96,826
Grand Total	650	\$7,200,059

*Assessments include tax, penalties, and interest.

**FY2010 Assessments on Unregistered Accounts
that were Involuntarily Registered
Totals by NAICS Sector Code**

**Department of Revenue
Compliance Division**

Industry Sector Desc.	Total Accounts Assessed	Total Dollars Assessed
CONSTRUCTION	22	\$532,357
MANUFACTURING	105	\$1,863,132
OTHER	30	\$661,881
RETAIL	157	\$14,169,837
SERVICE	97	\$1,904,662
WHOLESALE	471	\$10,586,814
Grand Total	882	\$29,718,684

*Assessments include tax, penalties, and interest.

**FY2010 Assessments on Unregistered Accounts
that were Involuntarily Registered
Totals by NAICS Sector Code**

Employment Security

Industry Sector Desc.	Total Accounts Assessed	Total Dollars Assessed
CONSTRUCTION	25	\$167,500
MANUFACTURING	1	\$398
OTHER	28	\$723,356
RETAIL	15	\$44,887
SERVICE	74	\$932,417
WHOLESALE	2	\$9,770
Grand Total	145	\$1,878,328

* In the first three quarters of FY 2010, ESD had three FTEs conducting audits of unregistered businesses. In April 2010, seven additional FTEs were added so central office and each district town office now have one full time underground economy auditor. In the first quarter of FY 2011, July-September 2010, with eight underground economy auditors fully trained, the department completed 70 underground economy audits, found 1888 employees who had not been covered for Unemployment Benefits and assessed \$303, 687 in Unemployment Taxes.

Contractor Registration Enforcement Efforts

The Department of Labor and Industries (L&I) protects consumers through the registration of construction contractors, which provides a minimum level of bonding and insurance coverage for homeowners, companies supplying labor, materials or equipment, from fraudulent or incompetent construction contractors. Since 2004, all contractors must have a valid Unified Business Identifier Number (UBI) in order to register. During Fiscal Year 2010, the department registered or reregistered 53,993 contractors.

Year-end Contractor Registrations

Fiscal Year	With UBI
2004	51,938
2005	54,172
2006	56,181
2007	59,323
2008	60,769
2009	56,685
<u>2010</u>	53,993

L&I will deny registration or suspend the contractor's registration if they do not comply with the contractor registration laws and rules. During Fiscal Year 2010, contractors were suspended for the following:

- Unsatisfied Judgments : 1,359
- Cancelled insurance: 26,938
- Cancelled bond: 11,858
- Bond impaired: 129
- Outstanding contractor registration infractions: 23

Contractor Penalties

L&I is committed to improving consumer protection and leveling the playing field for legitimate contractors by informing and educating consumers, providing timely and customer focused services such as Internet registration, and actively enforcing the law. Last year, the program issued 1,341 infractions to unregistered contractors. The Contractor Registration Program also has the authority to penalize individuals up to \$10,000 for submitting false information on the application to become a registered contractor. The program did not issue infractions to contractors for falsifying information on an application.

L&I has been tracking companies who violate registration laws, misrepresenting payroll or employee hours, business without L&I certificate of coverage, or second violation of contractor registration and can prohibit them from bidding on public works contracts for one year due to specific violations.

During Fiscal Year 2010, the program issued 535 strikes and debarred 39 companies from bidding on public works contracts. A company is debarred from participating in public works projects for one to two years after receiving two strikes for the same reason or a combination of one contractor registration and one industrial insurance violation. Several contractors were debarred for violations of contractor registration laws and failure to obtain a certificate of coverage for Industrial Insurance as well as for failure to abide by prevailing wage requirements.

Reasons for issuing a Prevailing Wage Strike or Debarment

Reason	Number of Strikes	Number of Debarments
Contractor Registration Violation	344	6
Industrial Insurance Violation	146	10
Contractor Registration <u>and</u> Industrial Insurance Violation	N/A	3
Prevailing Wage Violation: Failure to file wage report / false filing	31	14
Prevailing Wage Violation: Failure to pay prevailing wage	14	3
Total	535	36

The Contractor Registration Program is working with the Attorney General’s Office and local county prosecutors to prosecute contractors who violate contractor registration laws and rules.

- The program initiated prosecution for three contractor gross misdemeanor cases.
- The prosecution resulted in one conviction on three counts; the remaining two cases are still in the court process.
- The program also referred over a dozen cases to the local county prosecutors.

FAIR TEAM Enforcement (2008 2SSB 6732 – Vetoed but funding added for three additional FAIR Team members)

L&I’s FAIR (Fraud/Audit/Infraction/Revenue) Team started in March 2006 with three members. On January 1, 2009, the Team expanded to six members located throughout the state. This field-based compliance team conducts job-site inspections, including on nights and weekends, in an attempt to put pressure on the underground economy by identifying unlicensed contractors and electricians as well as on any employers who are underreporting industrial insurance premiums or who have significant unpaid debt owed to the Department. They work closely with other sections of L&I, other state agencies, and with many other constituent groups.

During FY 2010 the Team issued 241 Infractions to unlicensed contractors (200 in FY 2009). They also made 300 referrals to L&I revenue agents in FY 2010 who collected over \$1. 14 million owed to the Department (\$1.11 million actually collected in FY 2009). In addition, the team made 696 referrals in FY 2010 to the workers’ compensation employer audit program (436 in FY 2009) who completed 399 audit assignments and had actual audit dollars assessed of \$2. 76 million and actual dollars collected totaling \$757,655 (\$737,447 collected in FY 2009) in addition to future audits to be completed and collected in later periods.

FAIR Team Results

Fiscal Year 2010	FTE	Infractions	Collections Referrals	Dollars Collected from Collection Referrals	Audit Referrals	Dollars Collected from Industrial Insurance Audit Referrals
1st Quarter	5.5	65	63	\$ 282,074.74	165	\$ 210,123.55
2nd Quarter	5.5	53	57	\$ 206,657.85	158	\$ 159,626.75
3rd Quarter	5.5	60	95	\$ 287,394.36	189	\$ 155,144.69
4th Quarter	5.5	63	85	\$ 366,307.17	184	\$ 232,760.26
FY 2010 Total	-	241	300	\$ 1,142,434.12	696	\$ 757,655.25

(Dollars collected from Collection referrals are from firms with pre-existing debts that were found working by the FAIR TEAM. Dollars Collected from Industrial Insurance Audit Referrals are the result of audits performed as a result of tips and leads from the FAIR Team to the industrial insurance audit program. These dollars represent a subset of the total amounts reported by L&I in other parts of this report.)

Education and Outreach Efforts

Cross-Agency Education and Outreach Effort

Labor & Industries worked with Employment Security and the Department of Revenue to launch a marketing campaign in October, 2010 to discourage consumers from using non-compliant businesses, including independent contractors. One indication that the ad campaign is working is an increase in the number of calls from the public to our fraud reporting toll-free line. L&I alone had 496 calls to the fraud line in October, which was an increase of 31% compared to September and up 17% compared to October, 2009. Another indicator was an increased number of page views on DOR's SuspectFraud.com fraud reporting system. There were 1712 Report Fraud page views in October 2009 compared to 2236 in October 2010, an increase of 31%.

Construction Contractor Education and Outreach

In April 2011, L&I will launch a statewide social marketing campaign to raise awareness of the importance of using registered contractors. This campaign is scheduled to coincide with the beginning of the home remodeling season and run through the end of June.

At this time, the campaign includes:

- Stakeholder outreach using both building industry and labor associations to spread the message.
- Free coverage from news outlets covering contractor issues.
- Paid radio and TV advertising spots.
- Keyword searches on-line.
- Speaker engagements, using L&I spokespeople.
- Maximizing outreach on L&I's existing social media tools.

During the past year L&I has reached more than 26,000 Washington state homeowners and 1,100 contractors to ensure that:

- Consumers are aware of their rights; and
- Contractors know their responsibilities under the law.

In the last six years, the program has spoken directly to over 150,000 consumers! There has been a 600 percent increase of consumers checking the department's website before hiring a contractor.

We have reached these numbers by:

- Increasing the number of public and consumer awareness campaigns.
- Attending and participating in 26 home shows and more than a dozen other consumer events.
- Collaborating with other consumer protection agencies and organizations.
- Working with the media to warn consumers about the dangers of using unregistered contractors.
- Buying advertisements on Washington radio stations to encourage consumers to use registered contractors and inform them of the "contractor lookup" feature on the L&I website.

L&I developed and distributed a registered contractor marketing card to over 40,000 contractors. The card explains how to verify registration, gives a place for the contractor’s name and registration number, and contact information for the BBB and the AG’s office. Several users have told us the cards made a huge difference in combating lost jobs to unregistered contractors.

L&I continues its partnership with the building industry by presenting Contractor Training events around the state. These are in conjunction with Employment Security and the Department of Revenue; along with Associated General Contractors (AGC), Associated Builders and Contractors (ABC), Building Industry Association of Washington (BIAW), Northwest Independent Contractors Association (NICA) and the Better Business Bureau.

Ninety-nine percent of attendees rate the contractor training program as “average” or “above average”. L&I offers more than 25 different classes to contractors to assist them in running their business safer, more profitably and with the consumer in mind.

Year	# of Contractor Training Events	Average Contractor Attendance per event	Total # of Contractors Trained
2004	3	84	258
2005	7, plus 2 mini trainings	134	Over 950
2006	7	158	Over 1,000
2007	8	157	Over 1,100
2008	8	165	Over 1,320
2009	10	130	Over 1,300
2010	8	142	Over 1,100

Education on Industrial Insurance Reporting (2009 SHB 1555 Sec 10 – Added two staff performing this work and new employer independent contractor contact noted in L&I Future Focus section)

Labor & Industries made contact with approximately 12,000 contractors bidding on prevailing wage jobs encouraging them to contact L&I to verify appropriate use of construction classifications.

Labor & Industries identified the janitorial industry for audit focus. A pre-audit education letter was sent to 2,697 employers in that industry advising them of the records they need to keep for employees. Employers are now reporting correctly and paying the right amount of premiums.

Education was provided to 17,508 new employers on independent contractor issues. This was accomplished through:

- Presentations at Contractor Workshops throughout the state.
- Mailing to new employers who opened accounts in industries with a high usage of independent contractors.
- Contacts with employers who indicated they were using independent contractors.

L&I began mailing educational materials to construction business owners that filed an application for a business license but did not open a workers’ compensation account.

Suspectfraud.com

The Department of Revenue (DOR) led efforts to coordinate a state consumer protection promotion effort with Labor and Industries (L&I), Employment Security Department (ESD), and other key state agencies and business associations. Department of Revenue worked with the Governor's Office to proclaim March 1-7 Washington State Consumer Protection Week to coincide with the annual National Consumer Protection Week.

During March 1-7, 2009 Department of Revenue launched SuspectFraud.com, populated with links to Revenue's Business Records Database, Reporting Fraud section, Voluntary Disclosure Program, Delinquent Taxpayer List, and other state agencies' fraud reporting sites and consumer services.

SuspectFraud.com was promoted in the Puget Sound area through news releases and radio and web advertising using the "Check with the State Before it's Too Late" and "Your Pain is Their Gain" ad slogans. In partnership, Labor and Industries covered eastern Washington with similar radio advertising focusing on unlicensed contractors. Revenue's efforts resulted in coverage from 12 statewide media outlets including various television, radio and print media. The following data shows DOR's current results of the SuspectFraud.com campaign:

SuspectFraud.com Page Views	
February 2010	1,025
March 2010	8,374
April 2010	1,784

Other Web Page Views			
	March 2008	March 2009	March 2010
Business Records Database (These stats are for page views <i>and</i> search results)	509,011	565,884	597,845
Report Fraud	310	668	8,375
Voluntary Disclosure	105	82	173
Delinquent Taxpayer List	2,778	4,441	4,088

Other Results			
	March 2008	March 2009	March 2010
Compliance referrals:			
• Internet	50	119	88
• Mail	7	6	1
800 number	12	6	32
Voluntary Disclosure Agreements	23	31	17

DOR, L&I and ESD continue to look for opportunities like SuspectFraud.com to increase consumer awareness about tax discovery and fraud prevention.

Nailed – L&I’s Fraud Prevention & Compliance’s Blog

The screenshot shows a Mozilla Firefox browser window displaying the homepage of the 'Nailed' blog. The browser's address bar shows the URL 'http://nailed.lni.wa.gov/'. The page header includes the Washington State Department of Labor & Industries logo and navigation links for Safety, Claims & Insurance, Workplace Rights, and Trades & Licensing. The main content area features the 'NAILED' logo, a photo of Carl Hammersburg, and a bio stating he is the Fraud Prevention and Compliance manager at L&I. Below this is a navigation bar with links for 'BLOG', 'PODCASTS', 'REPORT FRAUD', 'SUBSCRIBE', and 'FOLLOW'. A featured podcast entry is dated 'Sep. 24, 2010' and includes a photo of Carl and Doric at a recording desk. The text of the podcast entry discusses various types of fraud and scams, such as concrete paving, medical fraud, and sketchy employers. To the right of the podcast entry is a 'RECENT COMMENTS' section with a comment from Debbie Mead of All Thermal Insulation, Inc. Below that is a 'TWITTER TALK' section with a Twitter logo and the text 'loading tweet...'. The browser's status bar at the bottom shows 'Done'.

Washington State Department of Labor & Industries

Safety Claims & Insurance Workplace Rights Trades & Licensing

NAILED

A FRAUD PREVENTION AND COMPLIANCE BLOG

Written by Carl Hammersburg, Fraud Prevention and Compliance manager at L&I.

BLOG PODCASTS REPORT FRAUD SUBSCRIBE FOLLOW

Sep. 24, 2010 Podcast

RECENT COMMENTS

Thanks for the ear, Carl. We had a couple of builders go bankrupt the last few years and they have nicer trucks and homes than we do -- except we pay our bills.
– **Debbie Mead**, All Thermal Insulation, Inc.

TWITTER TALK

loading tweet...

RECOMMENDED READS

Done

L&I's How to Report Fraud Web Page

We can all help stop workers' comp fraud by reporting situations that may be fraudulent and letting others know how to report. These leads will help the Department of Labor & Industries track down and stop workers' comp fraud.

- Fraud reporting hotline at 1-888-811-5974.
- Fraud reporting Web site: Fraud.Lni.wa.gov.

Employers can help detect workers' comp **and** unemployment insurance fraud by reporting newly hired workers at www.dshs.wa.gov/newhire/.

The screenshot shows the 'Fraud Prevention and Compliance' section of the Washington State Department of Labor & Industries website. The page features a navigation menu with tabs for 'About', 'Employer Verification', 'Resources', 'Training', 'News', 'Updates & Reports', and 'Contact Us'. The main content area is titled 'What L&I is doing to combat fraud' and is divided into several sections:

- Report Fraud Here**
 - Employer Fraud**
 - What is Employer Fraud?
 - Report Employer Premium Fraud.
 - Report Workers' Compensation Discrimination.
 - Injured Worker Fraud**
 - What is Injured Worker Fraud?
 - Report Injured Worker Fraud.
 - Provider Fraud**
 - What is Provider Fraud?
 - Report Provider Billing Fraud.
 - File Complaints About Provider.
 - Contractor Fraud**
 - What is Contractor Fraud?
 - Report Unregistered Contractors.
- Current News and Features**
 - Nailed: A fraud prevention and compliance blog
- Look for these signs of fraud**
 - Employers not paying L&I premiums owed.
 - Overcharging L&I for medical services.
 - Working while collecting time-loss from L&I.
 - Filing a false L&I claim or falsifying a condition.
 - Not registering as a contractor.
- Other agencies' fraud resources**
 - Department of Revenue.
 - Employment Security Department.
 - Report Newly Hired Workers. Aids in the detection of workers' compensation and unemployment insurance fraud.

A central graphic features a red octagonal 'STOP' sign with the text 'Workers' Compensation FRAUD' and 'It's your money.' Below the sign, the phone number '1-888-811-5974' and a 'Contact Us' link are provided.

The footer of the page includes a copyright notice: '© Washington State Dept. of Labor and Industries. Use of this site is subject to the laws of the state of Washington.' and links to 'Access Agreement', 'Privacy & Security Statement', 'Intended Use/External Content Policy', and 'Staff Only'. The 'Access Washington' logo is also present.

Appendix A:

Department of Revenue Reseller Permit Status Report November 2010

Washington State Underground Economy Task Force

2009 – The state Legislature passes ESHB 6173 to improve sales tax compliance. The bill replaces self-issued resale certificates with Department of Revenue issued reseller permits. The process changes from “honor system with audits” to a managed system.

As a result of ESHB 6173:

- Department automatically issue permits to about 155,000 qualifying businesses before the January 1, 2010, effective date.
- About 325,000 businesses are informed of the change and the permit application process.
- Wholesalers are educated to obtain copies of customers’ reseller permits before making sales. In turn, they inform customers of the new permit requirements.

2010 – The Department works with stakeholders to deploy an online “batch verification” process for wholesalers to validate reseller permits instantly. Through business stakeholder work, process improvements are proposed, many of which are enacted via HB 2758:

Effects of HB 2758:

- For Contractors:
 - Department may auto-issue permits
 - Contractor permits *may be* issued for 2-year periods instead of 1-year periods as of July 2011 (2-year periods are required as of July 2013)
 - Aligns “contractor” definition with other state agencies
- For all businesses
 - Allows annual data matching in lieu of keeping paper documents on file
 - Identifies data elements to verify electronically in lieu of paper

In October, the Department auto-renews more than 20,000 reseller permits (1-year period) to qualifying contractors. More than 3,000 other contractors are notified of the December 31, 2010, permit expiration and advised to reapply with updated retailing/wholesaling costs for 2010.

Results – Washington businesses are:

- Getting reseller permits processed within 10 days in most cases
- Better educated about sales tax compliance
- Seeing an increase in the ratio of retail sales to wholesale sales in some industries

Reseller Permit Issuance through October 2010

2010 Total Issued: 220,186

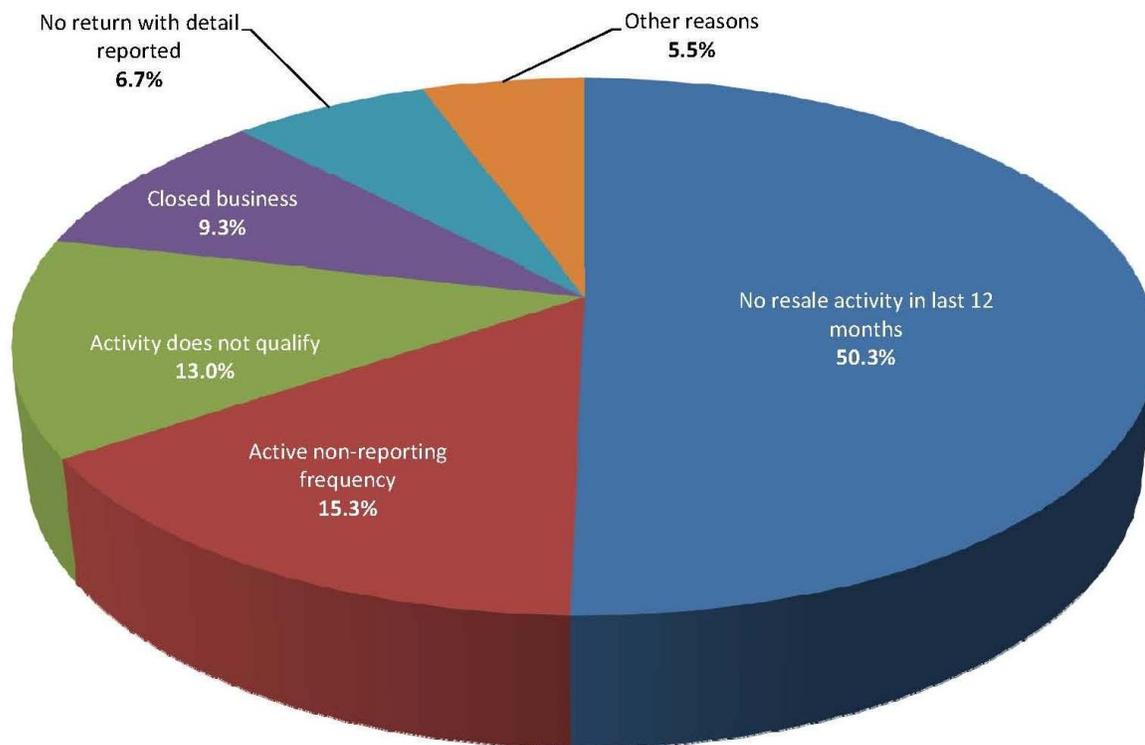
2011 Total Auto-Renewed: 20,227

Total Applications: 63,638

Approval Rate: 86%

- **Approved** – 54,776
 - Contractor – 31,286
 - Non-Contractor – 23,490
- **Denied** – 8,581
- **In Queue** – 320
- **Appealed** – 868
 - Reversed – 632
 - Upheld – 68
 - Remanded – 149
 - Appeal Queue – 9

2010 Permit Holders by NAICS Code Class	
Retail Trade	29.4%
Construction	14.4%
Other Services (except Public Administration)	10.1%
Wholesale Trade	8.8%
Accommodation & Food Services	7.7%
Professional, Scientific & Technical Services	6.4%
Administrative & Support & Waste Management & Remediation Services	6.1%
Manufacturing	6.0%
All others (less than 3% each)	11.1%



**8,581 applications denied
86% approval**

Effective January 1, 2010, the department transitioned from self- issued resale certificates to department issued reseller permits. The chart shows several sectors that saw significant increases in retail sales and decreases in wholesale sales.

NAICS	Percent increase in the ratio of retailing to wholesaling	NAICS Description
212321	26%	Construction Sand and Gravel Mining
3212	129%	Veneer, Plywood and Engineered Wood Product Manufacturing
4232	32%	Furniture and Home Furnishing Merchant Wholesalers
4441	29%	Building Material and Supplies Dealers

Appendix B:

Significant Legislation Related to the Joint Legislative Task Force on the Underground Economy

2010

SHB 2789 – Authorizing issuance of subpoenas for purposes of agency investigations of underground economic activity

- Effective date 6/10/2010.
- The bill provides authority for L&I, DOR and ESD to seek administrative subpoenas for the investigation of underground economy activity. The bill provides what must be articulated to the court in order to have the subpoena approved by the court.

SHB 3145 – Improving administration of wage complaints

- Effective date 6/10/2010.
- Establishes a civil penalty for repeat willful violators of the wage payment laws.
- Modifies the wage payment provisions with respect to tolling the statute of limitations, successor business liability, minimum penalty amounts, and the bonding authority of L&I.

2009

SHB 1555 – Addressing the recommendations of the joint legislative task force on the underground economy in the construction industry

- Effective July 26, 2009 (Governor has not signed).
- Establishes industrial insurance premiums as a priority on public works retainage, secondary to that held by employees or DOR under RCW 82. It includes L&I in the request for release process, so we will be aware of projects and amounts that may be due.
- Requires contractors licensed under RCW 18.27 to maintain a list of subcontractors used and copies of their construction registration. The information will be used by the construction compliance program and auditing/compliance efforts for workers' compensation.
- Establishes a requirement for employer education on workers' compensation reporting requirements, in particular, independent contractor issues.
- Extends the joint legislative task force on the underground economy through this year, and expands it to industries other than construction.
- Requires L&I to report yearly on efforts resulting from task force bills or recommendations, jointly with DOR and ESD.

SSB 5613 – Authorizing the Department of Labor and Industries to issue stop work orders for violations of certain workers' compensation provisions

- Effective July 26, 2009.
- Authorizes L&I to issue stop work orders to contractors that do not have any industrial insurance coverage.
- Requires business operations to cease, either at a jobsite if posted there, or statewide if served on an employer.
- There are provisions for reconsideration and appeal. During these dispute processes, the stop work order remains in effect unless the employer posts a cash deposit or bond of \$5,000, or \$1,000 per employee identified.
- Violating a stop work order is subject to a penalty of \$1,000 per day not in compliance. It remains in effect on successor entities with one or more of the same principles/officers if in the same or equivalent trade.

SHB 1055 – Requiring workers to have licenses, certificates, or permits in their possession when performing work in certain construction trades

- Effective July 26, 2009.
- Requires licensed and certified electricians, elevator mechanics, and plumbers to have their appropriate certifications or licenses and photo identification card in their possession while working.
- Gives the department the authority to adopt a rule to require electricians, plumbers, and conveyance workers to wear and visibly display their licenses, certificates, permits, and endorsements while working, and to include photo identification on these documents.

SSB 5904 – Defining independent contractor for purposes of prevailing wage

- Effective July 26, 2009.
- Defines when a worker is an independent contractor for prevailing wage purposes consistent with the definition in both the workers' compensation and unemployment insurance laws.

2008

HB 2955 – Ensuring access to criminal justice information – multi agency

- Effective June 12, 2008.
- Provides the authority for L&I, DSHS, ESD, DOL, Criminal Justice Training Commission, and the Office of the Attorney General (AGO) to access criminal history information when conducting investigations of potential fraud and abuse.

ESHB 3122 – Relating to consolidating, aligning, and clarifying exception tests for determination of independent contractor status under unemployment compensation and workers' compensation laws

- Effective June 12, 2008.
- Creates test for determining whether a construction worker is a covered worker or uncovered independent contractor for purposes of unemployment and industrial insurance laws.
- Makes the test easier to follow and brings it into close alignment with the test for other industries.

- Closes a loophole that previously allowed firms without a current business registration with DOR to meet exemption tests.

2SSB 6732 – Implementing the recommendations of the joint legislative task force on the underground economy in the construction industry

- Effective June 12, 2008.
- Implements recommendations of the Joint Legislative Task Force on the Underground Economy in the Construction Industry and extends the term of the Task Force through December 2008.
- Certain penalties are increased or established which include a civil penalty for persons who falsify information on a contractor registration application and a prohibition on contractors bidding on public works projects if they violate contractor registration laws, misrepresent payroll of employee hours to L&I, or engage in business without a workers' compensation account.
- Eight FTEs and \$1,706,000 for FY 2009 to provide additional enforcement staff, dedicated Assistant Attorney Generals, outreach, etc.

2007

SB 5926 - Creating a joint legislative task force to review the underground economy in the construction industry

- Effective May 2, 2007.
- Creates a joint legislative task force to study the impact of the underground economy in the construction industry.
- L&I have a nonvoting member on the task force and cooperate with the task force and the institute for public policy and provide information and data to them.