

2SSB 6575 - H COMM AMD

By Committee on Ways & Means

NOT ADOPTED 03/05/2010

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 18.27.340 and 1997 c 314 s 17 are each amended to
4 read as follows:

5 (1) Except as otherwise provided in subsection (3) of this section,
6 a contractor found to have committed an infraction under RCW 18.27.200
7 shall be assessed a monetary penalty of not less than two hundred
8 dollars and not more than five thousand dollars.

9 (2) The director may waive collection in favor of payment of
10 restitution to a consumer complainant.

11 (3) A contractor found to have committed an infraction under RCW
12 18.27.200 for failure to register shall be assessed a fine of not less
13 than one thousand dollars, nor more than five thousand dollars. For a
14 first offense, the director may reduce the penalty for failure to
15 register, but in no case below five hundred dollars, if the person:
16 Becomes registered within ten days of receiving a notice of infraction
17 ((and the notice of infraction is for a first offense)); and registers
18 for a department-approved contractor training class under section 2 of
19 this act within ten days of receiving a notice of infraction, completes
20 the class within one hundred twenty days of receiving the notice of
21 infraction, and pays any required class fees upon class registration.

22 (4) Until July 1, 2011, monetary penalties collected under this
23 chapter shall be deposited in the general fund. Beginning July 1,
24 2011, monetary penalties and class fees collected under this chapter
25 shall be deposited in the contractor registration account created in
26 section 4 of this act.

27 NEW SECTION. Sec. 2. A new section is added to chapter 18.27 RCW
28 to read as follows:

29 The department will approve or conduct contractor training classes

1 and charge a fee, payable upon class registration, that covers the
2 costs of administering the class. The department may adopt rules
3 relating to the number of classes to be offered by the department, the
4 locations of these classes, class fees, and curriculum. In determining
5 the locations of these classes, the department may consider offering
6 online classes and ensure that classes are reasonably accessible in
7 eastern and western Washington. The department shall deposit all fees
8 in the contractor registration account created in section 4 of this
9 act.

10 **Sec. 3.** RCW 18.27.070 and 1997 c 314 s 7 are each amended to read
11 as follows:

12 (1) The department shall charge fees for issuance, renewal, and
13 reinstatement of certificates of registration; and changes of name,
14 address, or business structure. The department shall set the fees by
15 rule.

16 (2) The entire amount of the fees are to be used solely to cover
17 the full cost of issuing certificates, filing papers and notices, and
18 administering and enforcing this chapter. The costs shall include
19 reproduction, travel, per diem, and administrative and legal support
20 costs.

21 (3) The department shall deposit all fees in the contractor
22 registration account created in section 4 of this act.

23 NEW SECTION. **Sec. 4.** A new section is added to chapter 18.27 RCW
24 to read as follows:

25 The contractor registration account is created in the state
26 treasury. The department shall deposit in the account all moneys from
27 registrations, renewals, or civil penalties assessed and collected
28 under this chapter. Appropriations from the account may be made only
29 for the purposes of administration of the chapter, including conducting
30 contractor training classes under section 2 of this act.

31 **Sec. 5.** RCW 60.28.040 and 2009 c 432 s 7 and 2009 c 219 s 7 are
32 each reenacted and amended to read as follows:

33 (1) Subject to subsection (5) of this section, the amount of all
34 taxes, increases, and penalties due or to become due under Title 82
35 RCW, from a contractor or the contractor's successors or assignees with

1 respect to a public improvement contract wherein the contract price is
2 thirty-five thousand dollars or more, shall be a lien prior to all
3 other liens upon the amount of the retained percentage withheld by the
4 disbursing officer under such contract.

5 (2) Subject to subsection (5) of this section, after payment of all
6 taxes, increases, and penalties due or to become due under Title 82
7 RCW, from a contractor or the contractor's successors or assignees with
8 respect to a public improvement contract wherein the contract price is
9 (~~twenty~~) thirty-five thousand dollars or more, the amount of all
10 other taxes, increases, and penalties under Title 82 RCW, due and owing
11 from the contractor, shall be a lien prior to all other liens upon the
12 amount of the retained percentage withheld by the disbursing officer
13 under such contract.

14 (3) Subject to subsection (5) of this section, after payment of all
15 taxes, increases, and penalties due or to become due under Title 82
16 RCW, the amount of all taxes, increases, and penalties due or to become
17 due under Titles 50 and 51 RCW from the contractor or the contractor's
18 successors or assignees with respect to a public improvement contract
19 wherein the contract price is (~~twenty~~) thirty-five thousand dollars
20 or more, shall be a lien prior to all other liens upon the amount of
21 the retained percentage withheld by the disbursing officer under such
22 contract.

23 (4) Subject to subsection (5) of this section, the amount of all
24 other taxes, increases, and penalties due and owing from the contractor
25 shall be a lien upon the balance of such retained percentage remaining
26 in the possession of the disbursing officer after all other statutory
27 lien claims have been paid.

28 (5) The employees of a contractor or the contractor's successors or
29 assignees who have not been paid the prevailing wage under such a
30 public improvement contract shall have a first priority lien against
31 the bond or retainage prior to all other liens.

32 NEW SECTION. **Sec. 6.** A new section is added to chapter 18.27 RCW
33 to read as follows:

34 (1) A contractor commits a violation under this chapter and is
35 subject to an infraction if on a single job site, work is performed
36 together on the same task by more than two contractors which have no
37 workers subject to coverage of Title 51 RCW on that job site.

1 (2) If contractors are working in the same trade or craft on a
2 single job site, the contractors have the burden of proof to show that
3 they are not working together on the same task.

4 (3) The violation under subsection (1) of this section is committed
5 by all parties to the contract.

6 (4) A contractor found to have committed an infraction under this
7 section shall be assessed a fine of not less than one thousand dollars,
8 nor more than five thousand dollars. For a first offense, the director
9 may reduce the penalty to no less than five hundred dollars if the
10 contractor registers for a department-approved training class under
11 section 2 of this act within ten days of receiving a notice of
12 infraction, completes the class within one hundred twenty days of
13 receiving the notice of infraction, and pays any required class fees
14 upon class registration. For a second or subsequent offense under this
15 section, the director may suspend the registration of the contractor.

16 (5) For purposes of this section, a "job site" is a single physical
17 address.

18 NEW SECTION. **Sec. 7.** Sections 3 and 4 of this act take effect
19 July 1, 2011."

20 Correct the title.

EFFECT: Creates a Contractor Registration Account (Account)
beginning July 1, 2011. Requires all registration fees, penalties, and
class fees to be deposited into the Account, and provides that moneys
may be appropriated from the Account only for purposes of administering
the contractor registration provisions.

Creates a contractor registration infraction if, on a single job
site (same physical address), work is performed together on same task
by more than two contractors with no covered workers on the job site.

Provides that if contractors are working in the same trade or craft
on a single job site, the contractors have the burden of proof to show
that they are not working together on the same task.

Provides that all parties to the contract commit the violation.
Establishes penalties of not less than \$1000 nor more than \$5000.

Provides that for a first offense, the director may reduce the
penalty to no less than \$500 if the contractor registers for and
completes a training class.

Provides that for a second or subsequent violation, the director
may suspend the contractor's registration.

Strikes section creating a class C felony for certain unregistered contractor activity after a third or subsequent infraction for such activity.

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