



**BILL:** HB 2908  
**Committee:** House Committee on Business and Labor  
**Date:** March 4, 2013  
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## Interagency Compliance Network Review of Statutes

### Introduction:

HB 2908 directs the Interagency Compliance Network (ICN) to review all Oregon statutes for their usage of the terms “employee,” “employer,” “employment” and “independent contractor.” The ICN is to determine if those terms, and any statutory exceptions to them, are being used accurately, appropriately, effectively and whether they are still relevant. The ICN is to report to the Legislative Assembly by September 15 of each even numbered year.

The ICN is a statutory network comprised of seven specific agencies; other agencies are also permitted to participate. The seven required agency members are the Departments of Justice, Revenue and Consumer and Business Services, Employment Department, Bureau of Labor and Industries, Construction Contractors Board, and State Landscape Contractors Board. The ICN is currently required by ORS 670.700 to:

- Establish consistency in agency determinations regarding how workers are classified, including the classification of workers as independent contractors.
- Gather and share information about people who pay workers in cash and do not comply with laws relating to taxation or employment.
- Gather and share information about misclassification of workers, including those who are misclassified as independent contractors.
- Develop investigative methods for auditing people who pay workers in cash, misclassify workers or do not comply with laws regarding taxation or employment.
- Conduct joint audits of people who pay workers in cash, misclassify workers or do not comply with laws regarding taxation or employment.
- Educate the public about the distinctions between employees and independent contractors and the laws governing the classification of workers.
- Identify opportunities for, and obstacles to, improving compliance with laws relating to the classification of workers, taxation or employment.
- Create a coordinated enforcement process for laws regarding the classification of workers.
- Take other appropriate action to improve compliance with laws regarding taxation or employment.

### Discussion:

The ICN is statutorily charged with several activities designed to improve the compliance with and administration of the laws regarding how workers are classified. A significant focus of the ICN’s work

relates to the misclassification of employees as independent contractors. Those misclassifications can result in some employers not paying taxes they are obligated to pay. This creates an uneven playing field for businesses and subverts statutory employee protections such as worker compensation and unemployment insurance coverage.

HB 2908 requires the ICN to do a comprehensive review of Oregon statutes, looking at how laws potentially impacting the misclassification of workers are operating, including whether exemptions in the laws are still relevant and serving their purpose. The agencies that are members of the ICN together have responsibility for administering a large number of statutes that would need to be reviewed under this legislation. As currently written, there are also many other Oregon statutes that the ICN would need to review under HB 2908. ICN member agencies typically deal only with their own statutes so would need to obtain help from other agencies to do the statutory review required by HB 2908. Some of those statutes likely do not relate to the misclassification of workers.

Reviewing all of the statutes with the terms specified in the bill and making the required report will be a significant undertaking. It will require analyzing the statutes and additional coordination among the ICN member agencies. For statutes related to agencies that are not members of the ICN, the bill will require a higher level of coordination and effort amongst state agencies since the ICN does not have the background and experience dealing with those statutes and the issues they address.

As described in the bill, the report to the Legislative Assembly must include conclusions about whether existing statutory language is being used accurately, appropriately and effectively and whether it is relevant. The report must also state whether the ICN believes statutes should be amended, repealed immediately or repealed at some future date.

The first report under HB 2908 would be due by September 15, 2014. The initial statutory review and report are likely to take more effort and time than later ones. The ICN will have to establish the framework and methodology to be used in reviewing the statutes and will have to reach out to impacted agencies and stakeholders to do an appropriate statutory review. Although it will take less time than the first statutory review, it will still be a significant undertaking to review all of these statutes and make the required report every two years. The ICN member agencies would need to perform the work, and incur the expense, of doing this work.

HB 2908 does not identify who would coordinate the review and reporting effort. The ICN is composed of member agencies that presumably would be required to do the work. Because the ICN does not have its own budget, unless separate funding is provided for this work effort, it will impact the ability of member agencies to perform their current enforcement and education activities. Regardless of who coordinates the statutory review and report, it would require cooperation among the ICN member agencies and coordination with other agencies that are not part of the ICN but that administer statutes being reviewed under HB 2908.

### Summary:

HB 2908 requires the ICN, every two years, to review statutes that contain certain words. The ICN can apply its collective experience to provide insight on the statutes directly related to the ICN's current charge. The ICN will be less able to provide insight regarding those statutes that are not within its current scope of expertise or experience.