

# Measure: HB 4089 to the House Committee On Labor and Workforce Development

Presented by  
Sussman Shank LLP

The logo for Sussman Shank LLP is centered within a light teal circle. The circle is surrounded by a dotted orange line. Below the circle is a blue architectural graphic consisting of overlapping rectangular planes, creating a sense of depth and perspective.

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# \$120-\$150 MILLION DOLLAR ANNUALLY IN UNCOLLECTED PAYROLL TAXES ALONE

- The trades at issue are largely concrete, roofing, framing, drywall and siding
- The portion of those trades that contribute to a unit of housing in Oregon on the average home is about \$100,000
- Total labor cost for that is about \$25,000
- Payroll on that is about \$7500
- At 20,000-25,000 units per year, that is \$120-150 MILLION in potential uncollected state and federal payroll taxes every year
- Conservative estimates are that 80% of the work of the five trades mentioned above are done by subcontractors and labor brokers who currently have no reporting obligations at the state level at the time of the contracting of the work. This Bill would fix that.

**Another way to break down these numbers to show to show how harmful the practice is to show the effect on the businesses that are complying with the law and operating legally and paying taxes as they should.**

- The vast majority of subcontractors in Oregon operate on profit margins of 4% or less.
- For a comparable statement of work (job bid) for an foundation for a unit of housing in Oregon, of say \$180/cubic yard, the companies that are not paying taxes are able to do the work for up to 30% less, or \$120/cubic yard.
- There is no way for local subcontractors to compete at 30% loss margins, and the vast majority of subs that pay taxes will be out of business in the next 18-24 months without some fix to the system to level the playing field.

# NATIONAL HOME BUILDERS

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graph TD; A[NATIONAL HOME BUILDERS] --> B[SUBCONTRACTORS AND UNLICENSED LABOR BROKERS CONSTITUTE AS MUCH AS 80% OF THIS LABOR MARKET. THE VAST MAJORITY OF THOSE COMPANIES SIMPLY DO NOT HAVE ENOUGH EMPLOYEES TO DO THE WORK THEY CONTRACT TO DO]; A --> C[SELF PERFORMING SUBCONTRACTORS -CONSTITUTE APPROXIMATELY 20% OF THE MARKET; THEY EMPLOY W-2 EMPLOYEES, AND TAX REVENUE FLOWS TO THE STATE AND FEDERAL GOVERNMENTS AUTOMATICALLY]; B --> D[THEY DO THIS SPECIFICALLY TO AVOID PAYROLL TAXES, HEALTH INSURANCE, WORKERS COMP AND OTHER EMPLOYEE COSTS, THERE IS NO OTHER REASON];
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SELF PERFORMING SUBCONTRACTORS -CONSTITUTE APPROXIMATELY 20% OF THE MARKET; THEY EMPLOY W-2 EMPLOYEES, AND TAX REVENUE FLOWS TO THE STATE AND FEDERAL GOVERNMENTS AUTOMATICALLY

# Q: WHAT IS THE ADDED COST TO THE SUBCONTRACTORS?

## A: VERY LITTLE

1. When a general contractor hires a subcontractor they would have a one page, state generated form that asked the subcontractor if they self performed the work they were being awarded.
2. If the answer was “Yes, we self perform.” then both parties would sign the form and continue with the work
3. If the answer was “No, we do not self perform the work we are being awarded and we are going to subcontract all or some of this work to a labor broker, second tier subcontractor or subcontractors.” then those subcontractors would need to be listed on that form and they would need to provide all the same documentation that the general contractor required from the first tier subcontractor.
4. The final piece would be consistent with what the Carpenter’s Union wants and that is if anybody lies on this form it becomes a felony. Meaning, if the first year subcontractor, subcontracts the work to illegal labor brokers or unlicensed second tier subcontractors then they would be responsible for any unpaid taxes and also be responsible at a criminal level. That same liability would exist for the general contractor.

Something along those lines would solve this problem, purchasing agents for general contractors will not be willing to sign their name on a document and commit a felony to save a few dollars by using subcontractors that are in all likelihood not paying taxes.