Washington State Department of
Labor & Industries

2010 Annual Fraud Report to the Legislature

Targeting Fraud and Abuse

In Washington State's Workers' Compensation System

Report Summary

In fiscal 2010 (July1, 2009 to June 30, 2010), the Fraud Prevention and Compliance program demonstrated the continued effectiveness of our systematic and innovative approach to detecting and deterring fraud and abuse by employers, workers, and health care providers.

Key developments

- Launched Contract Release unit which reviews and approves requests to release retainage on public works projects, ensuring that employers pay appropriate workers' compensation premiums on all major public works projects.
- Subpoena authority 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.
- Embraced social media as a way to raise public awareness through creation of a public blog, NAILED. (See the inside back cover).
- Partnered with the Department of Licensing in updating the Master Business Application.

Important results

Our fraud-fighting activities produced substantial and measurable results:

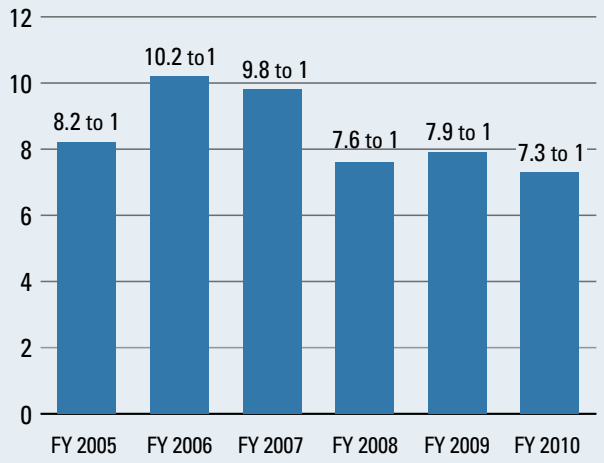
- Completed a record-setting 5,789 claimant investigations of suspected fraud or abuse.
- Collected $137.4 million in delinquent employer premiums, audit assessments, overpayments to workers, health care and vocational providers, and fraud recovery orders.
- Identified unpaid premiums for 62 percent of the employers that we targeted for audits. Employers were selected for audit based on a sophisticated screening process.
- Assessed $26.4 million through employer audits. Of that total, we assessed $7.2 million against unregistered employers – companies that hired employees but failed to open a workers' compensation account.
- Identified over $2.2 million in overpayments and questionable billing from health care and vocational service providers.
- Referred 17 cases for criminal prosecution.

Return on Investment

This year, L&I's Fraud Prevention and Compliance Program brought in over $7 for every dollar invested.

Return on investment compares the program's operating costs to the money recovered, collected and avoided during the fiscal year.

Operating costs include full-time equivalent (FTE) positions, benefits and capital outlays. For FY 2010, 248 FTEs supported the program. This figure includes the Fraud Prevention and Compliance staff — Detection and Tracking, Employer Audit, Investigations, Collections, Provider Fraud, Significant Cases, Firm Appeals and program administration — and the Provider Review and Vocational Program Audit sections in the Insurance Services Division.



Fighting Fraud

Accountability, Fairness and Financial Integrity

Cheating the workers' compensation system is not a victimless crime. We all pay.

Rooting out abuse of the workers' compensation system protects the *economic* health of Washington State; that means protecting investments and jobs, something important to us all.

- Fraud shifts costs, away from cheaters, to honest taxpayers.
- Cheaters gain a competitive advantage over honest players, using lower prices to steal business and forcing others to pay for their employee's benefits.
- Benefits are guaranteed by the state, regardless of a dishonest employer's failure to pay into the system.
- Individual workers are responsible for about one quarter of the total cost of their insurance, which means dishonest workers cheat their co-workers too.
- Corrupt health care providers drive up costs, which are then passed on to ratepayers—you and me.

Preventing abuse and protecting jobs is a compelling responsibility, but our goal is even more basic. Fighting fraud is about fairness and accountability.

- Fairness – because honest people have to shoulder the burden when cheaters get away with it.
- Accountability – because it is the people's money–yours and mine–that cheaters use to commit the crime.

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Key Developments in FY 2010

Background

In 2004, the Fraud Prevention and Compliance Program brought together Audit, Investigations, and Collections to enhance fraud-fighting through coordinated efforts.

The new program strengthened our ability to find and stop fraud by workers, employers and health care providers by building on past results. Major legislative changes have significantly improved our ability to go after individuals or companies that owe L&I money — prime contractor and corporate officer liability, successorship, and provider collection authority.

> Combating the underground economy with new tools.

Legislation implemented in FY 2010

- Implemented Contract Release process (see below).
- Required registered construction contractors to maintain a list of subcontractors with copies of their contractor registration available on site.
- Required L&I to educate employers on reporting issues for workers' compensation insurance, with specific emphasis on differentiating between exempt independent contractors and covered workers.

Legislation being implemented in FY 2011

- Restored authority to issue administrative subpoenas for investigations of underground economy activity.
- Implementing Stop Work Order process

Contract Release Pays Dividends

L&I can now recover industrial insurance debt owed by contractors who are working on public works projects, through collecting these debts from the portion of each contract that the awarding agency retains. Similar to processes already implemented by the Departments of Revenue and Employment Security, L&I must certify that contractors have paid industrial insurance premiums on public works projects over $35,000. Until this is certified, the public entity cannot pay the final 5 percent of the contract amount to the prime contractor.

Underground Economy Task Force

Our feasibility study helped secure funding for a new computer system focused on detecting unregistered and underreporting employers.

Stop Work Orders

Stop work orders, authorized by the Legislature in 2009, to allow L&I to intervene swiftly when contractors do not have industrial insurance coverage. A stop work order requires the business to immediately cease operations. Depending upon a variety of factors, we may require a business to cease operations at a single jobsite, or cease operations statewide.

Social Media

The program created a blog, called NAILED, featuring our work fighting fraud and abuse, as well as highlighting others' work around the country. The blog also serves to facilitate public dialog on issues relevant to the program's mission.

Fraud-Fighting Resources on Target

The financial integrity of the workers' compensation system is threatened by employers who fail to report, underreport hours, or misreport in a class with better rates.

Workers abuse the system when they knowingly seek benefits they are not entitled to receive. Examples are filing a claim when no work-related injury occurred, participating in activities that are inconsistent with the alleged injury, and working for one employer while receiving workers' compensation benefits from another.

Fraud by health care and vocational service providers includes inappropriate, overpriced, and sometimes harmful treatments to injured workers; billing for more expensive services than actually provided; and billing for treatment not provided.

The Department of Labor & Industries targets each of these hazards with specific fraud-fighting resources.

FAST FACT!

Nearly 100,000 people have registered with L&I to use the online search tool, *Verify Workers' Comp Premium Status* since it was created in 2004. There were 15,138 new registrations in 2010.

Purpose: Detect non-compliance and fraud by workers, employers, and providers.

Staffing: 11 FTE

The Detection and Tracking Unit (DTU) uses a variety of tools and methods to:

- Identify misreporting and fraudulent activity, using technology and cross-agency data sharing.
- Evaluate tips from the public, other L&I programs, and other government agencies to identify potential fraud and abuse.
- Track results and provide information to management and stakeholders for informed decision-making.
- Build public awareness of our fraud-fighting activities through outreach and education.

Efficiencies and Outcomes

- In FY 2010, 62 percent of the employers selected for audit owed premiums;
  - — Tips from the public resulted in 249 employer audits worth nearly $1.1 million in assessments!
- Identified over $800,000 in fraudulent claims from tips and data sharing efforts, plus saved an additional $270,000 in cost avoidance on claims that otherwise would have continued.
- Began reviewing all public works construction jobs over $35,000 to ensure premiums were paid;
  - — From October 2009, when the program began, through June 30, 2010, we reviewed records on over 1,000 projects with a total value of nearly $630 million. As a result, we referred over $1.3 million in unpaid premiums to our collections program for recovery.

Public awareness is critical to fighting fraud.

In order to increase the visibility of our fraud prevention efforts, and make it more difficult for cheaters to hide, we:

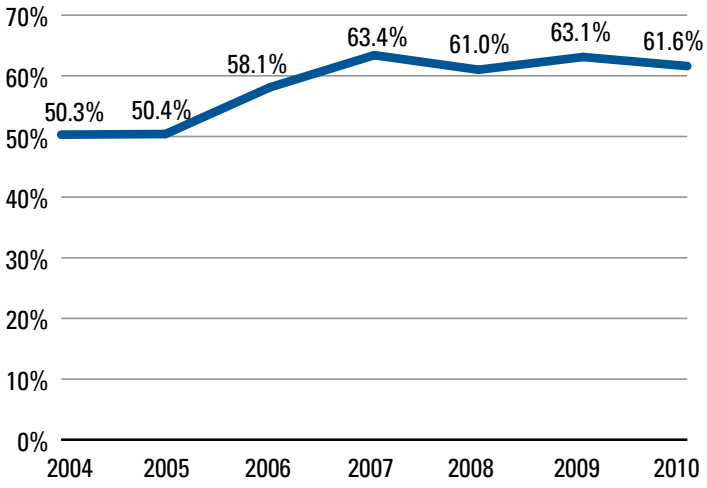
- Operate the report fraud telephone hotline and web site (1-888-811-5974 / **www.Lni.wa.gov**).
- Manage the *Verify Workers' Comp Premium Status* online search (**https://fortress.wa.gov/lni/crpsi/**), which allows the public to determine whether a business is paying its workers' compensation premiums and is in good standing. The system also provides other critical information about the business and allows users to sign up for notification, should the business fall out of compliance.
- In FY 2010 we conducted eight workshops covering prime contractor liability and how to determine whether a subcontractor is a covered worker or an exempt independent contractor.

New technology ramps up targeting capabilities

- In FY 2010, we began working on new state-of-the-art software, incorporating IRS data and advanced analytics to identify employers who are not paying workers' compensation premiums, or who appear to be reporting significantly fewer worker hours than similar businesses. The new system builds upon our existing data exchanges to make the cross-matches more effective and easier to use.
- Portions of the new system will be implemented in fall 2010. The full system will be operational in spring 2011.

Debit Audit Ratio

Percentage of targeted audits that result in a premium assessment



Employer Audit

Purpose: Identify unpaid employer premiums.

Staffing: 75 FTE

The premium rate employers pay to L&I is based on the type of work their employees perform and the job related injuries their employees experience. Hazardous work, such as logging or construction, requires a higher rate than work in less hazardous fields, such as real estate and retail sales.

Our auditors examine employers' business records and conduct fact-finding interviews to ensure employers are reporting correctly and paying the right premiums. The examination involves, but is not limited to, verifying that:

- Employers report all covered workers.
- All workers' hours are reported in the correct risk classification.

Auditors often help determine whether fraudulent behavior is taking place.

Improving efficiency

In FY 2010, we enhanced resources for both the auditor and for the employer. We developed an online questionnaire that allows the auditor to send specific industry-related questions to firms the auditor identifies as being related to the audit.

If a general contractor is being audited, the auditor may need information from many subcontractors. Until now, the auditor would have scheduled interviews with each subcontractor; that information can now be gathered electronically.

With the new online questionnaire, the auditor identifies the information needed, the subcontractors identified, and the system generates letters for each subcontractor. The letter provides instructions to complete the questionnaire online. The answers are forwarded directly to the auditor. This reduces the burden for the subcontractor and provides time saving efficiency for the auditor.

Proactive customer contact

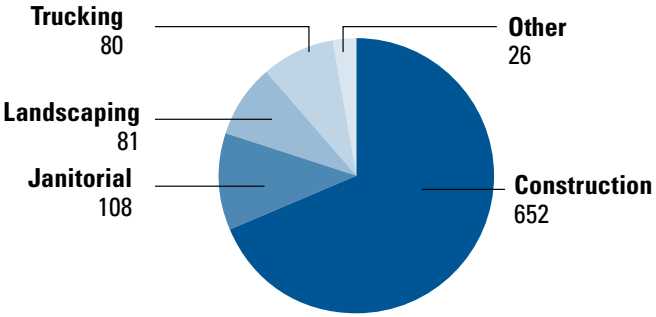
The New Employer Review program, implemented in FY 2010, is based on the success of a pilot project in FY 2009. The program is aimed at instructing newer firms – those reporting for their first two quarters of operation – on reporting and recordkeeping rules specific to their industry. The reviews are educational in nature and do not result in any cost to the firm.

The benefits provided to the firm by this program are: establishing a point of contact with the department, education on industry reporting requirements, answers to questions many new businesses have shortly after inception, and avoiding long-term misreporting and potentially large audit assessments in the future.

We have periodically surveyed the employers who participated in the reviews, and the response has been overwhelmingly positive.

We have completed 947 of these reviews over the past year. We targeted specific industries with complex reporting requirements to take a proactive role to stop misreporting before it starts.

Proactive Employer Contacts
by Industry



CASE IN POINT

New Employer Review

The owner of Knotty by Nature (hair styling) commented – "This program makes sense. We learned things we were doing wrong and corrected them. I have two other separate businesses and I wish this program was available when I opened my first business. This was very helpful."

FY 2010 Audit Results

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

* An unregistered business is one that hires employees but fails to open a workers' compensation account.

Industry-focused education

Over the past two years the audit program has been working to identify industries with compliance issues or rapidly increasing rates.

Once the research is completed and the industry has been identified, we launch an educational campaign through the industry associations, and businesses registered with the department. We provide education to the industry first, focusing on broad and voluntary reporting compliance. Then we inform the industry of the audit focus to follow.

Employers in the selected industry get the chance to amend their reporting for the previous four quarters with a one-time waiver of certain penalties. Firms appearing to be out of compliance at the end of the educational effort are targeted for audit.

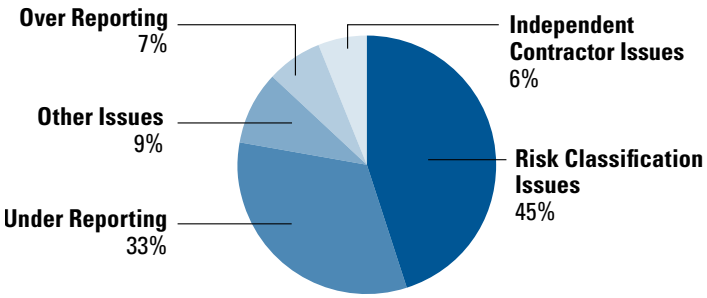
This industry-focused program has benefited the department in two ways.

- Where claims in a subclass seem to be out of line with the parent risk class, causing rates for the entire risk class to rise, the subclass is identified as needing reclassification.
- Industries with a high incident of misreporting are identified, educated, and brought into compliance.

During FY 2010 the audit focus on the towing industry was completed. The most common error found was misclassification of workers.

Industry-Focused Audits

Towing



Outreach after the audit

A new self-serve webpage contains publications on record-keeping requirements, reporting instructions, exemptions and exceptions to coverage, and optional coverage. The post-audit letter to the firm contains specific instructions for the firm and informs the firm of the information available at any time at **www.Lni.wa.gov/Main/Fraud/AuditDocs.**

CASE IN POINT

A Truck Load of ...

In April of 2010, L&I completed an audit of a Spokane trucking company. The assignment was created because the firm was not reporting any hours in the trucking risk classification.

The auditor discovered the firm had 26 unreported truck drivers. The drivers drove trucks owned by the firm, therefore did not meet the exemption criteria as required by RCW 51.08.180 – the essence of their contract was primarily labor. The auditor also discovered the firm was reporting its mechanic in the clerical/office risk classification.

The previously reported premiums were $455. The audit resulted in a recovery in premiums of $125,661.

FAST FACT!

During FY 2010, the audit program completed 5,846 employer audits; the highest number of audits in department history.

Investigations

Purpose: Stop improper workers' compensation benefit payments.

Staffing: 60 FTE

This program investigates workers and employers for potential abuse of the workers' compensation system, with a primary focus on workers. Staff investigates the validity of claims and the activities of claimants who appear to be exceeding the physical limitations used to justify their benefits.

The program also fulfills requests for assistance from other agencies, including checking on business records and providing documentation and notification when claims have been stopped.

Efficiencies and outcomes

In FY 2010, the number of investigations increased by 12 percent. However, assessments from investigations were down compared to the previous year. As a result of the decrease in dollars associated with the assessments, cost avoidance also decreased compared to the previous year.

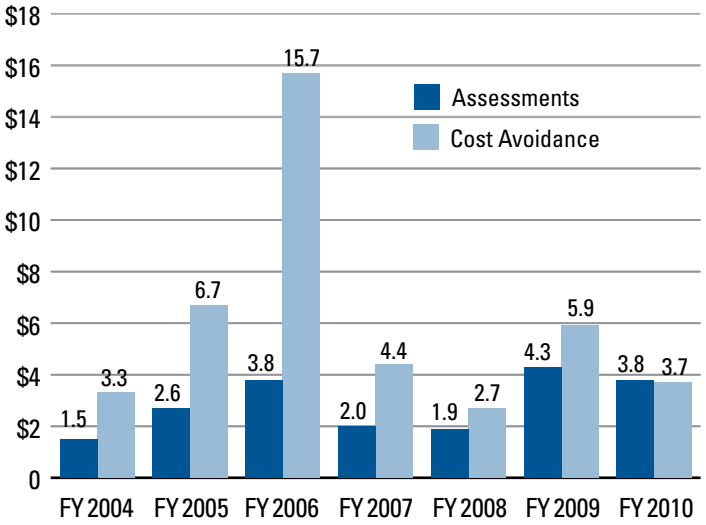
Case-Load Trends

Investigations shoulders a growing burden yet staffing remains static. Claim-investigation case loads increased by 31 percent in just two years, with completions rising by 25 percent for the same period.

Investigators are overloaded, completing between 12-13 investigations a month, on average, significantly more than the expected 10. This leaves little time for tougher cases that require additional surveillance, or hard cases that have a significant dollar return but require time to complete.

Referrals received on our toll-free hotline and Internet referral forms doubled again in the last year, further increasing case loads. Notwistanding, staffing has remaind static for the last six years, and is still below the level of 1994.

Dollars Assessed and Costs Avoided
(in millions)



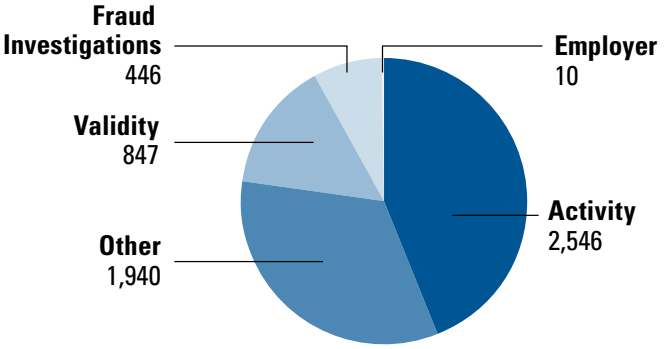
The information above does not capture the results of our employer discrimination investigations. We investigate allegations that an employer discriminated against an injured worker for filing a claim with the department or expressing the intent to file a claim. We also investigate allegations that an employer intentionally discouraged an injured worker from filing a claim with L&I.

FAST FACT!

As a result of investigations in FY 2010, L&I issued 184 fraud orders totaling $3.8 million.

Investigations Conducted

by Type



Types of Investigations

Activity — Determine whether a claimant's actual activities match the reported physical limitations that justified the claim.

Employer — Help determine if an employer knowingly fails to report, misclassifies, or underreports worker hours to avoid paying premiums.

Fraud — Gather evidence to determine whether a claimant has received benefits through fraud or willful misrepresentation.

Other — Miscellaneous investigatory activities such as determining incarceration dates, verifying addresses, and verifying whether a claimant has died.

Validity — Help the claims adjudicator decide if a claim is allowable.

FAST FACT!

Avoided costs due to investigations totaled $3.7 million in FY 2010.

CASE IN POINT

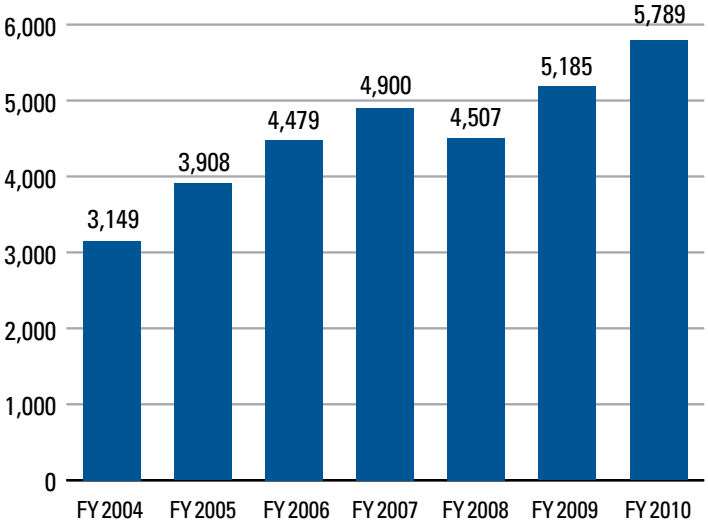
Climber in the hole

L&I obtained a conviction in the high-altitude case of Christopher Robin Briejer, who posted photos of his repeated climbs up Mt. Rainier. In 2003 he used the pretext of an earlier work-related injury to fraudulently obtain treatment for a serious injury while working without insurance in self-employment. A jury found him guilty of 56 counts of theft and the judge gave him 43 months as a guest of the Department of Corrections to consider how to repay L&I $364,000.

Pictures posted on the Internet, of Briejer on Mt. Rainier, helped L&I investigators prove their case.

Investigations Completed

All Types



Provider Fraud and Abuse

Purpose: Ensure quality services to injured workers and stop improper payments to providers.

Staffing: 19.25 FTE

Health-care Reviews: 7.5 FTE
Vocational Audits: 6.75 FTE
Provider Fraud: 5 FTE

L&I paid out more than $616 million for health care and vocational services in FY 2010. To ensure quality and prevent fraud, we constantly monitor and review the services and billing practices of health care providers and vocational counselors.
We also receive information about potential fraud from other providers and the public.

Based on new efficiencies and new technology, these units were able to increase their identification of overpayments and questionable billings by over 56 percent compared to the previous year.

Provider overpayments and fraudulent billings may not always be recoverable, but the Fraud Prevention and Compliance Program is increasingly effective at uncovering billing issues earlier, thus preventing ongoing overpayments and possible fraud.[1]

The Provider Review and Education Unit performs quality-of-care reviews and billing audits of health care providers. The Vocational Audit Unit carries out the same responsibilities for vocational-services providers. In FY 2010, these units' audits identified $707,190 in overpayments to providers.[2]

FY 2010 Provider Review Results

Type of Reviews	Completed Reviews	Assessments
Health-care	60	$561,755
Vocational	133	$156,410
Total	**193**	**$718,165**

1 Recoveries or collections for these units are included in the section on Collections.

2 Both the Provider Review and Education Unit and the Vocational Audit Unit are part of L&I's compliance and anti-fraud efforts, but they reside in L&I's Insurance Services Division.

The Provider Fraud Unit audits and investigates health care and vocational providers suspected of criminal fraud. During FY 2010, the Provider Fraud Unit identified over $1 million in questionable billings. If substantiated, the providers could be ordered to repay any monies received and charged over $400,000 in penalties. In addition, by uncovering the fraud, L&I avoided paying an additional $735,000 to the same providers over the following year.

FY 2010 Provider Fraud Results

Investigations Conducted	Questionable Billings	Possible Penalties	Costs Avoided
27	$1.5 million	$0.5 million	$0.7 million

CASE IN POINT

"Speaking of Doubletalk"

Charges are pending in the case of a Snohomish county interpreter who fraudulently billed L&I for 152 assignments. L&I discovered the work in question was in fact performed by another interpreter. Curiously, during the period in question, the actual interpreter was injured and on time-loss with L&I and reportedly unable to work!

FAST FACT!

In FY 2010, the L&I units involved with provider reviews and provider fraud identified over $2.2 million in overpayments and questionable billings.

Collections

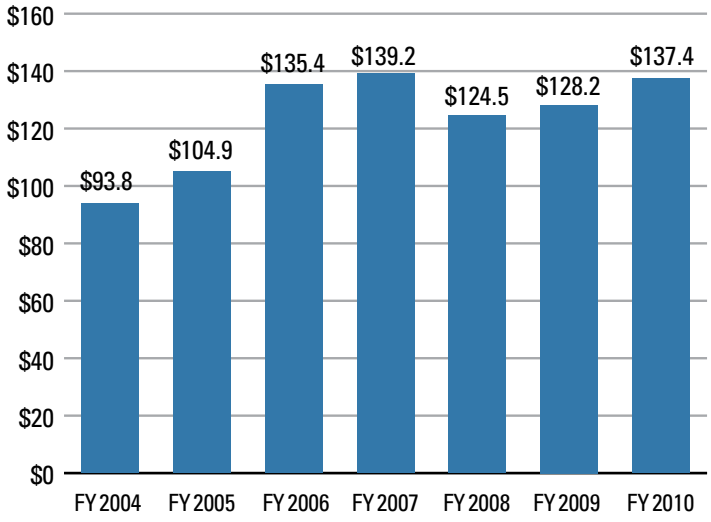
Purpose: Collect debts owed to the workers' compensation system and to workers under the Wage Payment Act.

Staffing: 82 FTE

Monies owed to L&I include: delinquent employer premiums; audit assessments; overpayments to workers and to health care and vocational providers; fraud recovery orders; penalties for safety citations or contractor infractions; and other penalties and fees. In this report, we focus on collections pertaining to workers' compensation.

The Collections program has the legal authority to assess penalties and interest and to recover monies through civil action. For example, we can file tax warrants in superior court to seize bank accounts or property, and garnish wages. In addition, when there are unpaid premiums for work performed by contract, we may pass the debt to the person, firm, public entity or corporation letting the contract.

Total Collections
(in millions)



Programs to help Washington businesses

We continue to promote the Employer Assistance Program to help business owners extend payment of their balances over time, allowing them to manage precious cash flow while adjusting to the down economy. For employers not in collections in the last four years, we offer "90 days same as cash" options to pay premiums without any late penalties or interest. We offer the same plan to businesses owing less than $5,000.

We have continued other temporary initiatives to address the recession, including:

- Increasing the maximum length of a standard payment agreement from 12 to 18 months.
- Eliminating the requirement on businesses to submit full financial disclosure for a payment agreement of 18 months or less, while any payment agreement over 18 months will still require approval.
- Offering to waive penalties and interest upon payment of the premiums owed — for businesses with revenue drops of 30 percent or more.

There were 6,267 active payment agreements at the end of FY 2010, a 10 percent increase over FY 2009.

New electronic options for debt payment

We are working on processes to accept electronic payments on debts owed to L&I via Automated Clearing House (ACH) and bank cards in the near future. Our goal is to have processes in place to take these payments over the internet, telephone or in person.

Dollars Collected in FY 2010

Action	What It Means	Amount Collected
Employer		
Premiums collected	Collection actions taken on unpaid premiums from employers.	$126,649,844
Retrospective premiums collected	Collection actions taken on unpaid amounts billed by the Retrospective Rating program.	$ 2,340,220
Health-care and Vocational Providers		
Overpayments collected *(fraud and other overpayments)*	Collection actions taken on unpaid provider overpayments identified through reviews.	$618,762
Injured Workers		
Overpayments collected *(fraud and other overpayments)*	Collection actions taken to recover monies from injured workers who were overpaid and no longer entitled to benefits.	$ 5,551,064
	Total Workers' Compensation collected (under Title 51)	**$ 135,159,890**

Other Collections

Action	What It Means	Amount Collected
Employer		
Other agency debts collected (infractions, citations, etc.)	Collection actions taken on contractor infractions, safety & health citations, Right-to-Know billings, and other agency debts.	$ 2,148,918
Employees		
Unpaid or underpaid wages	When employees have unpaid or underpaid wages that employers have not remitted after initial billings, Revenue Agents take collection actions to recover those monies and return them to employees under the Wage Payment Act.	$ 75,817
	Total	**$ 2,224,735**

Contractor registrations suspended

A contractor's registration can be suspended for failing to pay workers' compensation premiums. Contractors who continue to work after being suspended are subject to fines under contractor registration laws. Anyone who hires an unregistered contractor can be held responsible for their unpaid workers' compensation premiums. In FY 2010, L&I suspended a total of 750 contractor registrations, 285 more than FY 2009.

Revocations

If efforts to bring an employer into compliance fail, L&I may revoke that employer's Certificate of Coverage. It is a Class C felony to hire employees without such a certificate. In FY 2010, L&I revoked 58 Certificates of Coverage, 32 more than FY 2009.

Criminal & Civil Proceedings

Purpose: Take action to stop blatant disregard of the law.

Significant Employer Cases

Significant Employer Cases (SEC) is a statewide program created to address the worst employer abuses of Industrial Insurance.

The program coordinates actions across all fraud-prevention programs and Office of the Attorney General (AGO) to successfully resolve cases, including civil and criminal remedies. The efforts of the Significant Employer Cases program resulted in revenue of $248,793 collected during FY 2010.

CASE IN POINT

"License & Registration, please"

A 2008 injury claim from an unreported worker was the latest in a series of violations that brought Randy Stewart, owner of All Construction Services, to SEC's attention. With SEC assistance, Stewart pled guilty to unregistered contracting and engaging in business without a certificate of workers' compensation coverage. The judge sentenced Stewart to two years jail time and a $10,000 fine, suspended, subject to payment of over $12,000 in restitution and no additional criminal violations.

Criminal Prosecutions

Two Assistant Attorney Generals (AAG's) work closely with county prosecutors, supporting them in the development of criminal cases or acting as co-counsel, or — when local authorities already have their hands full — prosecuting the cases from the AGO.

In FY 2010, there were 17 cases referred for criminal prosecution. Charged cases that were resolved this year resulted in a 100-percent conviction rate. The AGO also provided other important support, including advising on subpoenas, reviewing search warrants and helping obtain them, and training investigators.*

FY 2010 Cases Referred for Prosecution

Type	Number
Employer	2
Provider	0
Worker	15
Total	**17***

* Of the 17 cases referred for criminal prosecution in FY 2009, not all were SEC cases.

Program Partnerships

Education and Outreach

Purpose: Conduct individual outreach to employers and mass education campaigns.

Staffing: 2 FTEs

Employer Services maintains the industrial insurance accounts for more than 175,000 employers, underwriting (issuing policies) and classifying employers according to the degree of hazard in their business operations. In FY 2010, Employer Services conducted education and outreach with campaigns focused on:

- Worker's compensation reporting requirements.
- Premium responsibilities.
- Independent contractor issues.

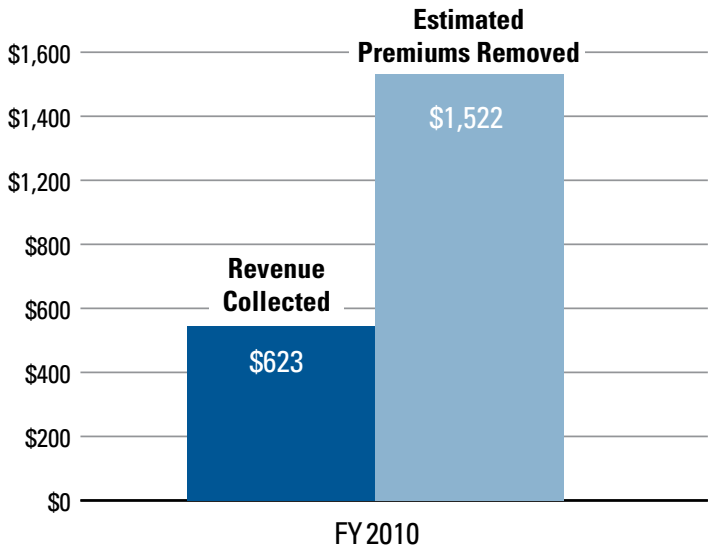
These efforts educational outreach accomplished the following goals:

- Current businesses now reporting correctly in appropriate risk classification(s).
- New businesses educated on how to report their workers.
- New businesses educated on how to file their quarterly reports correctly.
- New businesses opened accounts and are reporting (who wouldn't otherwise have opened an account).

Each of these approaches resulted in L&I collecting additional premiums.

Outreach efforts are conducted outside the formal audit process and rely on voluntary reporting and compliance. This focuses on working with employers to "get it right the first time", reporting in the correct risk class, either when the account is opened or with employers contracted for public works projects.

Education and Outreach Results
(in thousands)



Education for New Employers

New employers are usually unaware of reporting requirements; and some have not yet hired workers. Estimated premiums are then assessed when an employer fails to file a quarterly report. Reporting instructions and other pertinent information about independent contractors was sent to over 5,000 newly opened accounts who didn't file their first quarterly report. Almost 2,000 businesses filed their report after we educated them, removing $1,522,000 in estimated premiums and collecting $623,000 in actual premiums owed, for a total value of $2.15 million.

FAST FACT!

During FY 2010, over 34,000 businesses were contacted and educated on different aspects of reporting – of those, close to 3,000 (8 percent) had a change in their reporting.

Independent Contractor Reporting

Education for new employers regarding independent contractor definitions was accomplished through:

- Presentations at Contractor Workshops throughout the state.
- Mailings 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.

FY 2010 Independent Contractor Results

Businesses Contacted	Businesses Who Changed Reporting	Premiums Collected
17,508	644 (approx. 3%)	$2.3 million

Outreach on Prevailing Wage

Bidders on public works contracts received education on Prevailing Wage reporting requirements and appropriate classifications. We looked at 3,142 employer accounts and found that 6% of these firms were not classified properly for the work they were bidding on.

Future Audit Focus

The janitorial industry was identified for an audit focus. A pre-audit education letter was sent to all employers in that industry advising them of the records they need to keep for employees. Many employers are now reporting correctly and paying the right amount of premiums.

FY 2010 Future Audit Focus Results

Businesses Contacted	Businesses Who Changed Reporting	Additional Premiums Collected	Estimated Premiums Removed
2,697	78 (approx. 3%)	$518,093	$704,297

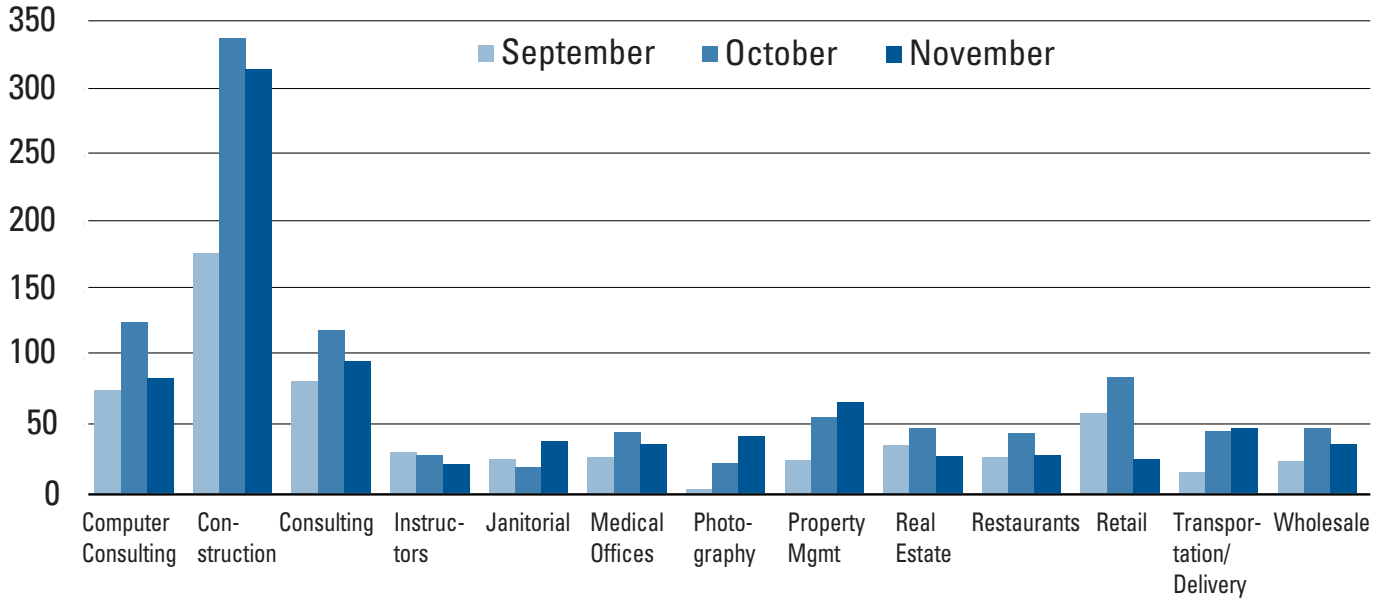
Looking Ahead

In the past, L&I did not educate newly registered businesses on the reporting rules for independent contractors unless they also planned to hire employees.

In partnership with the Department of Licensing, we revised the state's *Master Business Application* to include information on planned use of independent contractors, alerting L&I to the additional education required for these employers.

Firms reporting that they plan to use independent contractors

as reported on new 2010 Master Business Applications



FAIR Team

Purpose: Identify fraudulent employers and take action to stop illegal contractors.

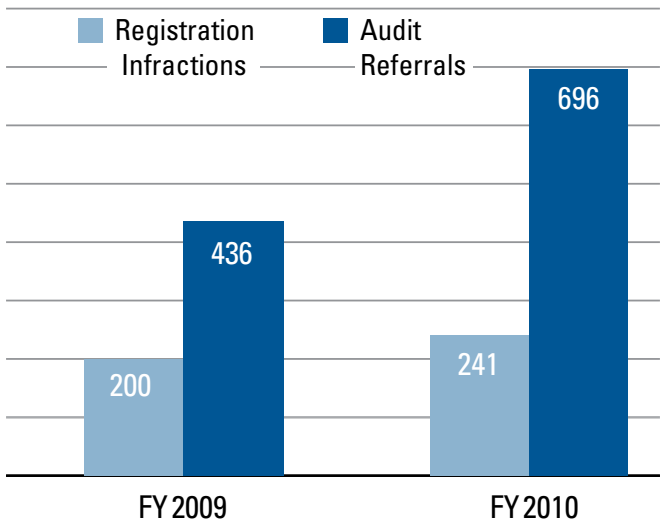
Staffing: 6 FTE

The FAIR (Fraud/Audit/Infraction/Revenue) Team started in March 2006 with three members. Halfway through FY 2009 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 unregistered contractors and electricians as well as on any employers who are underreporting industrial insurance premiums or who have significant unpaid debt owed to L&I. 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 unregistered contractors. They also made 300 referrals to L&I revenue agents in FY 2010 who collected over $1.14 million owed to the state.

In addition, in FY 2010 the team made 696 referrals to the Employer Audit program (436 in FY 2009) which then completed 399 audit assignments and had actual audits assessing of $2.8 million and totaling $757,655 actually collected.

FAIR Team Activity



Electrical Compliance

Purpose: Identify non-compliant electrical contractors.

Staffing: 3 FTE

The Electrical Program's primary performance scorecard measures the negative impacts of the underground economy. Compliance activity is focused on three specific areas:

- No electrical contractor license.
- No electrician certificate.
- No electrical permit.

Compliance is performed by the 91 electrical inspectors and the three-person Electrical-Compliance, Outreach, Regulation, & Education (E-CORE) team.

In FY 2010, the E-CORE team made 24 industrial insurance referrals for a total of $1.29 million and 81 percent – 1,285 – of their total citations and warnings were for the three targeted areas. In FY 2010, the inspection staff issued 76 percent – 3,879 – of their total citations and warnings for the three targeted areas.

Even with this amount of compliance activity, the Electrical Program's most common complaint is that the program should be even more active in this type of targeted enforcement.

CASE IN POINT

"Heavy-Duty Typing"

In July 2009 the FAIR team audited a Lynnwood firm that both underreported their workers, and was also incorrectly reporting the majority of hours for the construction workers they did report – in a clerical risk class! L&I assessed $61,921.96 in additional premiums, penalties and interest.

Progress from FY 2010

In the *2009 Annual Fraud Report to the Legislature,* we identified several specific objectives for Fiscal Year 2010.

OBJECTIVE	STATUS
Conclude implementation of identity resolution software.	**Complete** ☑
Implement legislation that establishes industrial insurance premiums as a priority on public works retainage and allows L&I to collect from that retainage.	**Complete** ☑
Implement Claims Overpayment monthly statements to debtors.	**Complete** ☑
Begin using Collections' automated dialing system to contact injured workers and leave messages regarding debt owed to the department.	**Complete** ☑
Implement the New Employer Review process, giving penalty-free guidance to newer firms on reporting and recordkeeping rules (education only, no assessments).	**Complete** ☑
Develop a comprehensive computer system for detecting employer misreporting and fraud as well as unregistered employers, a strategy supported by the Underground Economy Task Force.	**Ongoing** ☑
Implement legislation authorizing L&I to issue stop work orders to contractors that are non-compliant with industrial insurance coverage.	**Ongoing** ☑
Work in collaboration with the AGO to strengthen our ability to pursue employers that close one business and open another to avoid tax debt.	**Ongoing** ☑
Collaborate with Pierce College to develop and/or improve the Investigator Academy training and Field Training for investigators.	**Ongoing** ☑

Contact Information

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Next Year

The Department of Labor & Industries will continue to aggressively pursue fraud and abuse in the workers' compensation system.

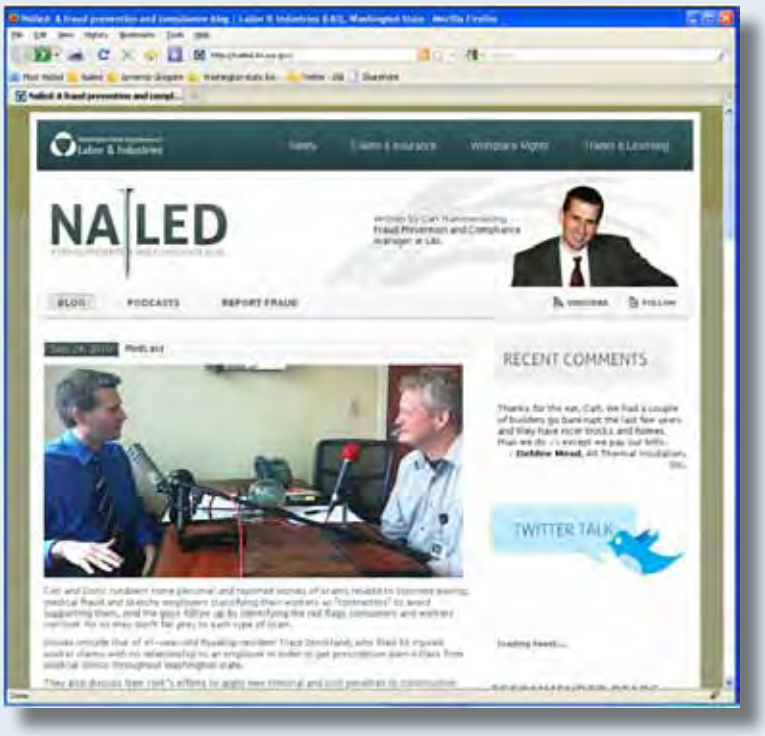
Looking ahead to FY 2011, the agency will employ the following strategies:

- Complete development of advanced fraud analysis software for detecting employer misclassification and fraud including the use of Internal Revenue Service data to identify unregistered employers.
- Implement the Investigator Training Academy in partnership with Pierce College.
- Upgrade the predictive dialer telephone system with advanced call handling upgrades.
- Enhance the provider fraud detection program using fraud detection software.
- Collaborate with Employment Security and the Department of Revenue to develop a unified form for retainage release on public works jobs.
- Issue Stop Work Orders to contractors that are non-compliant with industrial insurance coverage.
- Collaborate with Construction Compliance staff to improve processes and tools that leverage information from field inspectors for finding employers in the underground economy who are not covering their workers for workers'compensation.
- Begin accepting debit and credit card payments for workers'compensation debts.
- Work with Employment Security and the Department of Revenue to develop a marketing campaign to discourage consumers from using non-compliant businesses including unregistered contractors.

NAILED – the Fraud Prevention and Compliance Blog

Track our efforts to combat workers' comp fraud on "Nailed", our new online blog.

See surveillance video from completed investigations, get updates on major fraud prosecutions, and join the discussion.



"I'm a big fan of the Nailed Blog, and the concept behind it. I am a reader and subscriber, and frequently refer to it on our blog: **http://www.constructionlawmonitor.com**"
—Scott Wolfe, construction attorney

Visit us on the Web at **http://Nailed.Lni.wa.gov**

How to Report Fraud

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 **www.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/**.

Other formats for persons with disabilities are available on request.
Call 1-800-547-8367. TDD users, call 360-902-5797.
L&I is an equal opportunity employer.

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