

## HB 4022 -3 STAFF MEASURE SUMMARY

### House Committee On Business and Labor

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**Prepared By:** Jan Nordlund, LPRO Analyst

**Meeting Dates:** 2/10

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#### **WHAT THE MEASURE DOES:**

Removes exemption from requirement to have workers' compensation insurance for sole proprietor and partners licensed as construction contractors unless they qualify as an independent contractor.

Permits Construction Contractors Board (CCB) to revoke, suspend, or refuse to issue contractor's license to person who assisted or contracted with unlicensed contractor to perform work in Oregon or when number of licensed contractors exceeded specific number when working together on same scope of work on the same project.

Provisions become operative January 1, 2021. Takes effect 91st day following adjournment *sine die*.

#### **ISSUES DISCUSSED:**

##### **EFFECT OF AMENDMENT:**

-3 Deletes proposed provision exempting sole proprietor who is licensed as construction contractor from requirement to have workers' compensation insurance unless they qualify as independent contractor.

Requires licensed residential contractor who is in exempt class (i.e., has no employees) to obtain and maintain workers' compensation insurance.

Authorizes CCB to sanction licensee who assisted or contracted with a person the licensee reasonably should have known was unlicensed.

Establishes harsher sanctions for both parties when licensee knowingly assisted or contracted with unlicensed person or licensed person who did not hold proper CCB endorsement.

##### **BACKGROUND:**

Under current law, workers are presumed to be subject to workers' compensation laws unless otherwise exempt. There is an exemption for sole proprietors and partners licensed by the Construction Contractors Board (CCB) as they are presumed to be independent contractors when involved in activities subject to the contractor's license. Even if the CCB licensee who is a sole proprietor or partner wished to elect to purchase coverage, they would not be entitled to coverage because they are presumed to be an independent contractor. House Bill 4022 eliminates the presumption and requires sole proprietors and partners who are licensed with the CCB to qualify as independent contractors in order to be exempt from workers' compensation insurance requirements.

The CCB has two classes of independent contractors: exempt and nonexempt. The nonexempt are those businesses with one or more employees or who utilize one or more workers supplied by a worker leasing company. All other businesses are exempt (i.e., they have no employees). To discourage a contractor treating their workers as exempt contractors rather than employees, the Contractors Board may impose sanctions when the number of contractors who worked together on the "same task" on the same job site exceeded two sole proprietors, one partnership, one corporation, or one limited liability company, and at least one contractor was classed as exempt (i.e., having no employees). House Bill 4022 replaces "same task" with "same scope of work." The measure also clarifies that a licensee can be sanctioned for knowingly contracting with an unlicensed contractor or other person.