
HOUSE CONCURRENT RESOLUTION

REQUESTING THE DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS TO
CONVENE AN INTERAGENCY ENFORCEMENT TASK FORCE TO COMBAT THE
UNDERGROUND ECONOMY AND EMPLOYEE MISCLASSIFICATION IN THE
CONSTRUCTION INDUSTRY.

1 WHEREAS, the "underground economy" generally refers to
2 those individuals and businesses that use various schemes to
3 conceal or misrepresent their employee population to avoid one
4 or more of their employer responsibilities related to wages,
5 payroll taxes, insurance, licensing, safety, or other regulatory
6 requirements; and

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8 WHEREAS, the underground economy also encompasses other
9 activities, such as tax evasion, payroll fraud, under-the-table
10 work, and wage theft; and

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12 WHEREAS, these activities may include but are not limited
13 to paying wages in cash, skimming some or all of the cash
14 takings, not paying overtime, paying sub-minimum wages, charging
15 individuals for transportation and supplies essential to the
16 work, underreporting the number of employees, misclassifying
17 employees as independent contractors, forcing employees to set
18 up shell subcontractor entities, running a part of normal
19 business activities off-the-books, and not registering a
20 business in order to avoid tax obligations or avoid obtaining
21 the necessary licenses and insurance policies; and

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23 WHEREAS, the health of Hawaii's economy, its workers, and
24 its businesses are harmed by the existence of an illegal
25 underground economy in which individuals and businesses conceal
26 their activities from government licensing, regulatory, and
27 taxing authorities; and
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1 WHEREAS, individuals and businesses that operate in the
2 underground economy do so in violation of labor, employment,
3 tax, insurance, and occupational-safety laws by failing to pay
4 required wages; carry workers' compensation insurance; comply
5 with health, safety, and licensing requirements; or pay income
6 taxes and payroll taxes that fund unemployment insurance,
7 disability insurance, and Medicare and Social Security benefits;
8 and

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10 WHEREAS, certain businesses also improperly classify their
11 employees as independent contractors and hire undocumented
12 workers to avoid compliance with labor, employment, tax,
13 insurance, and regulatory requirements; and

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15 WHEREAS, the underground economy, particularly the practice
16 of employee misclassification:

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18 (1) Exploits vulnerable workers and deprives them of legal
19 benefits and protections;
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21 (2) Gives unlawful businesses an unfair competitive
22 advantage over lawful businesses by illegally lowering
23 violators' taxes, wage costs, and other overhead
24 costs;
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26 (3) Defrauds the government of substantial tax revenues;
27 and
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29 (4) Harms consumers, who suffer at the hands of unlicensed
30 businesses that fail to maintain minimum levels of
31 skills and knowledge; and
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33 WHEREAS, in 2016, federal and state agencies formed ad hoc
34 task forces that were instrumental in enforcing wage laws
35 against employers who were found guilty of misclassifying
36 employees; and

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38 WHEREAS, Hawaii faces an underground economy that has
39 deprived the State of significant amounts of tax revenue; and
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41 WHEREAS, the State needs a comprehensive, unified strategy
42 and approach toward protecting Hawaii's economy, its workers,
43 and its businesses from the illegal underground economy; now,
44 therefore,



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BE IT RESOLVED by the House of Representatives of the Thirty-second Legislature of the State of Hawaii, Regular Session of 2024, the Senate concurring, that the Department of Labor and Industrial Relations is requested to convene an interagency enforcement task force to combat the underground economy and employee misclassification in the construction industry; and

BE IT FURTHER RESOLVED that the interagency enforcement task force is requested to be established within the Department of Labor and Industrial Relations for administrative purposes; and

BE IT FURTHER RESOLVED that the Director of Labor and Industrial Relations is requested to serve as the chairperson of the interagency enforcement task force and to invite the following individuals to serve as members of the task force:

- (1) A representative of the United States Department of Labor's Wage and Hour Division's Honolulu District Office;
- (2) The Director of Taxation, or the Director's designee;
- (3) The Attorney General, or the Attorney General's designee;
- (4) The Administrator of the Disability Compensation Division of the Department of Labor and Industrial Relations, or the Administrator's designee;
- (5) The Administrator of the Hawaii Occupational Safety and Health Division of the Department of Labor and Industrial Relations, or the Administrator's designee;
- (6) The Administrator of the Unemployment Insurance Division of the Department of Labor and Industrial Relations, or the Administrator's designee;
- (7) The Administrator of the Wage Standards Division of the Department of Labor and Industrial Relations, or the Administrator's designee;



- 1 (8) The Division Administrator of the Professional and
- 2 Vocational Licensing Division of the Department of
- 3 Commerce and Consumer Affairs, or the Division
- 4 Administrator's designee;
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- 6 (9) The Complaints and Enforcement Officer of the
- 7 Regulated Industries Complaints Office of the
- 8 Department of Commerce and Consumer Affairs, or the
- 9 Complaints and Enforcement Officer's designee;
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- 11 (10) The Executive Director of the Office of Consumer
- 12 Protection of the Department of Commerce and Consumer
- 13 Affairs, or the Executive Director's designee;
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- 15 (11) The Insurance Commissioner of the Department of
- 16 Commerce and Consumer Affairs;
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- 18 (12) The director of the planning and permitting department
- 19 of each county, or their respective designees; and
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- 21 (13) Any additional representatives from federal, state, or
- 22 county agencies as deemed appropriate by the
- 23 chairperson; and
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25 BE IT FURTHER RESOLVED that the Department of Labor and
 26 Industrial Relations is requested to serve as the lead agency to
 27 coordinate joint efforts to combat the underground economy and
 28 employee misclassification in the construction industry to:

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- 30 (1) Ensure safe working conditions for and proper payment
- 31 of wages to workers;
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- 33 (2) Create an environment where legitimate businesses can
- 34 thrive; and
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- 36 (3) Support the collection of all taxes, fees, and
- 37 penalties due from employers; and
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39 BE IT FURTHER RESOLVED that the interagency enforcement
 40 task force is requested to serve as an advisory and enforcement
 41 body to combat the underground economy and employee
 42 misclassification in the construction industry to:

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- 1 (1) Strengthen compliance with the law by educating
2 business owners and employees about applicable
3 requirements;
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- 5 (2) Conduct interagency, targeted investigations and
6 enforcement actions against violators;
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- 8 (3) Protect the health, safety, and rights of workers; and
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- 10 (4) Restore an environment of equal competition for law-
11 abiding businesses; and
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13 BE IT FURTHER RESOLVED that the interagency enforcement
14 task force is requested to:

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- 16 (1) Serve as the State's interagency advisory and
17 enforcement entity, with representation from state and
18 county government agencies, to combat the underground
19 economy and employee misclassification in the
20 construction industry;
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- 22 (2) Facilitate the timely sharing of information between
23 and among task force members, including through the
24 establishment of protocols by which participating
25 agencies will advise or refer to other agencies
26 matters of potential investigative interest;
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- 28 (3) Identify areas within the construction industry where
29 the underground economy and employee misclassification
30 are most prevalent and target task force members'
31 investigative and enforcement resources against those
32 areas, including through the formation of interagency
33 investigative and enforcement teams;
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- 35 (4) Assess existing investigative and enforcement methods,
36 in Hawaii and other jurisdictions, and develop and
37 recommend strategies to improve those methods;
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- 39 (5) Solicit the cooperation and participation of
40 prosecutors at the federal, state, and county levels
41 and other relevant federal, state, and county
42 enforcement agencies, including the United States
43 Department of Labor, and establish procedures for



1 referring cases to prosecuting authorities as
2 appropriate;

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6 (6) Identify potential regulatory or statutory changes
7 that would strengthen enforcement efforts, including
8 any changes needed to resolve existing legal
9 ambiguities or inconsistencies as well as potential
10 legal procedures for facilitating individual
11 enforcement efforts;

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13 (7) Consult with representatives of business and organized
14 labor, members of the Legislature, representatives of
15 county governments, community groups, and other
16 agencies concerning the activities of the task force
17 and its members and ways of improving its
18 effectiveness, including whether to establish an
19 advisory panel under the Department of Labor and
20 Industrial Relations;

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22 (8) Submit an annual report, no later than twenty days
23 prior to the convening of each Regular Session, to the
24 Governor, Legislature, mayor of each county, and
25 chairperson of each county council that summarizes the
26 task force's activities during the year; provided that
27 the annual report:

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29 (A) Describes the task force's efforts and
30 accomplishments during the year;

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32 (B) Identifies any administrative or legal barriers
33 that impede the more effective operation of the
34 task force, including any barriers to
35 information-sharing or joint action;

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37 (C) Proposes, after consultation with representatives
38 of business and organized labor, members of the
39 Legislature, representatives of county
40 governments, community groups, and other
41 agencies, the appropriate administrative,
42 legislative, or regulatory changes to strengthen
43 the task force's operations and enforcement



1 efforts and to reduce or eliminate any barriers
2 to those efforts; and

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4 (D) Identifies successful preventive mechanisms to
5 reduce the extent of the underground economy and
6 employee misclassification in the construction
7 industry, thereby lessening the need for greater
8 enforcement; and

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10 (9) Take appropriate steps to publicize its activities;
11 and

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13 BE IT FURTHER RESOLVED that to the extent permitted by law,
14 every agency within the State's and each county's executive
15 branch is requested to make all reasonable efforts to cooperate
16 with the interagency enforcement task force and to furnish any
17 information and assistance as the task force reasonably deems
18 necessary to accomplish its purposes; and

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20 BE IT FURTHER RESOLVED that the interagency enforcement
21 task force is requested to regularly hold meetings that are
22 closed to the public when task force members plan to discuss
23 sensitive matters related to its investigations, potential
24 criminal referrals, and public safety and security topics; and

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26 BE IT FURTHER RESOLVED that certified copies of this
27 Concurrent Resolution be transmitted to the head of the United
28 States Department of Labor's Wage and Hour Division's Honolulu
29 District Office, Governor, Director of Labor and Industrial
30 Relations, Director of Taxation, Attorney General, Director of
31 Commerce and Consumer Affairs, Insurance Commissioner mayor of
32 each county, chairperson of each county council, and director of
33 the planning and permitting department of each county.

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