
HOUSE CONCURRENT RESOLUTION

REQUESTING THE DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS TO
CONVENE AN UNDERGROUND ECONOMY INTERAGENCY 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;
 20
- 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;
 25
- 26 (3) Defrauds the government of substantial tax revenues;
 27 and
 28
- 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,



1 BE IT RESOLVED by the House of Representatives of the
2 Thirty-second Legislature of the State of Hawaii, Regular
3 Session of 2024, the Senate concurring, that the Department of
4 Labor and Industrial Relations is requested to convene an
5 Underground Economy Interagency Task Force to combat the
6 underground economy and employee misclassification in the
7 construction industry; and

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9 BE IT FURTHER RESOLVED that the Underground Economy
10 Interagency Task Force is requested to be established within the
11 Department of Labor and Industrial Relations for administrative
12 purposes; and

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14 BE IT FURTHER RESOLVED that the Director of Labor and
15 Industrial Relations is requested to serve as the chairperson of
16 the Underground Economy Interagency Task Force and to invite the
17 following individuals to serve as members of the task force:

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19 (1) A representative of the United States Department of
20 Labor's Wage and Hour Division's Honolulu District
21 Office;
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23 (2) The Director of Taxation, or the Director's designee;
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25 (3) The Attorney General, or the Attorney General's
26 designee;
- 27
28 (4) The Administrator of the Disability Compensation
29 Division of the Department of Labor and Industrial
30 Relations, or the Administrator's designee;
- 31
32 (5) The Administrator of the Hawaii Occupational Safety
33 and Health Division of the Department of Labor and
34 Industrial Relations, or the Administrator's designee;
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36 (6) The Administrator of the Unemployment Insurance
37 Division of the Department of Labor and Industrial
38 Relations, or the Administrator's designee;
- 39
40 (7) The Administrator of the Wage Standards Division of
41 the Department of Labor and Industrial Relations, or
42 the Administrator's designee;
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- 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
24

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 Underground Economy
40 Interagency Task Force is requested to serve as an advisory body
41 to combat the underground economy and employee misclassification
42 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;
- 4
- 5 (2) Conduct interagency, targeted investigations actions
6 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 Underground Economy
14 Interagency Task Force is requested to:

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- 16 (1) Serve as the State's interagency advisory entity, with
17 representation from state and county government
18 agencies, to combat the underground economy and
19 employee misclassification in the construction
20 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 resources against those areas, including
32 through the formation of interagency investigative
33 teams;
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- 35 (4) Assess existing investigative methods, in Hawaii and
36 other jurisdictions, and develop and recommend
37 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 agencies, including the United States Department of
43 Labor, and establish procedures for referring cases to
44 prosecuting authorities as appropriate;



- 1 (6) Identify potential regulatory or statutory changes,
2 including any changes needed to resolve existing legal
3 ambiguities or inconsistencies as well as potential
4 legal procedures for facilitating individual efforts;
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- 6 (7) Consult with representatives of business and organized
7 labor, members of the Legislature, representatives of
8 county governments, community groups, and other
9 agencies concerning the activities of the task force
10 and its members and ways of improving its
11 effectiveness, including whether to establish an
12 advisory panel under the Department of Labor and
13 Industrial Relations;
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- 15 (8) Submit an annual report, no later than twenty days
16 prior to the convening of each Regular Session, to the
17 Governor, Legislature, mayor of each county, and
18 chairperson of each county council that summarizes the
19 task force's activities during the year; provided that
20 the annual report:
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- 22 (A) Describes the task force's efforts and
23 accomplishments during the year;
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- 25 (B) Identifies any administrative or legal barriers
26 that impede the more effective operation of the
27 task force, including any barriers to
28 information-sharing or joint action;
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- 30 (C) Proposes, after consultation with representatives
31 of business and organized labor, members of the
32 Legislature, representatives of county
33 governments, community groups, and other
34 agencies, the appropriate administrative,
35 legislative, or regulatory changes to strengthen
36 the task force's operations and to reduce or
37 eliminate any barriers to those efforts; and
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- 39 (D) Identifies successful preventive mechanisms to
40 reduce the extent of the underground economy and
41 employee misclassification in the construction
42 industry; and
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1 (9) Take appropriate steps to publicize its activities;
2 and
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4 BE IT FURTHER RESOLVED that to the extent permitted by law,
5 every agency within the State's and each county's executive
6 branch is requested to make all reasonable efforts to cooperate
7 with the Underground Economy Interagency Task Force and to
8 furnish any information and assistance as the task force
9 reasonably deems necessary to accomplish its purposes; and
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11 BE IT FURTHER RESOLVED that the Underground Economy
12 Interagency Task Force is requested to regularly hold meetings
13 that are closed to the public when task force members plan to
14 discuss sensitive matters related to its investigations,
15 potential criminal referrals, and public safety and security
16 topics; and
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18 BE IT FURTHER RESOLVED that certified copies of this
19 Concurrent Resolution be transmitted to the head of the United
20 States Department of Labor's Wage and Hour Division's Honolulu
21 District Office, Governor, Director of Labor and Industrial
22 Relations, Director of Taxation, Attorney General, Director of
23 Commerce and Consumer Affairs, Insurance Commissioner mayor of
24 each county, chairperson of each county council, and director of
25 the planning and permitting department of each county.

