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# HOUSE 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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29           WHEREAS, individuals and businesses that operate in the  
30 underground economy do so in violation of labor, employment,  
31 tax, insurance, and occupational-safety laws by failing to pay



1 required wages; carry workers' compensation insurance; comply  
2 with health, safety, and licensing requirements; or pay income  
3 taxes and payroll taxes that fund unemployment insurance,  
4 disability insurance, and Medicare and Social Security benefits;  
5 and

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

11  
12 WHEREAS, the underground economy, particularly the practice  
13 of employee misclassification:

- 14  
15 (1) Exploits vulnerable workers and deprives them of legal  
16 benefits and protections;
- 17  
18 (2) Gives unlawful businesses an unfair competitive  
19 advantage over lawful businesses by illegally lowering  
20 violators' taxes, wage costs, and other overhead  
21 costs;
- 22  
23 (3) Defrauds the government of substantial tax revenues;  
24 and
- 25  
26 (4) Harms consumers, who suffer at the hands of unlicensed  
27 businesses that fail to maintain minimum levels of  
28 skills and knowledge; and

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30 WHEREAS, in 2016, federal and state agencies formed ad hoc  
31 task forces that were instrumental in enforcing wage laws  
32 against employers who were found guilty of misclassifying  
33 employees; and

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35 WHEREAS, Hawaii faces an underground economy that has  
36 deprived the State of significant amounts of tax revenue; and

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38 WHEREAS, the State needs a comprehensive, unified strategy  
39 and approach toward protecting Hawaii's economy, its workers,  
40 and its businesses from the illegal underground economy; now,  
41 therefore,

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43 BE IT RESOLVED by the House of Representatives of the  
44 Thirty-second Legislature of the State of Hawaii, Regular



1 Session of 2024, that the Department of Labor and Industrial  
2 Relations is requested to convene an interagency enforcement  
3 task force to combat the underground economy and employee  
4 misclassification in the construction industry; and

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

10  
11 BE IT FURTHER RESOLVED that the Director of Labor and  
12 Industrial Relations is requested to serve as the chairperson of  
13 the interagency enforcement task force and to invite the  
14 following individuals to serve as members of the task force:

- 15  
16 (1) A representative of the United States Department of  
17 Labor's Wage and Hour Division's Honolulu District  
18 Office;
- 19  
20 (2) The Director of Taxation, or the Director's designee;
- 21  
22 (3) The Attorney General, or the Attorney General's  
23 designee;
- 24  
25 (4) The Administrator of the Disability Compensation  
26 Division of the Department of Labor and Industrial  
27 Relations, or the Administrator's designee;
- 28  
29 (5) The Administrator of the Hawaii Occupational Safety  
30 and Health Division of the Department of Labor and  
31 Industrial Relations, or the Administrator's designee;
- 32  
33 (6) The Administrator of the Unemployment Insurance  
34 Division of the Department of Labor and Industrial  
35 Relations, or the Administrator's designee;
- 36  
37 (7) The Administrator of the Wage Standards Division of  
38 the Department of Labor and Industrial Relations, or  
39 the Administrator's designee;
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41 (8) The Division Administrator of the Professional and  
42 Vocational Licensing Division of the Department of  
43 Commerce and Consumer Affairs, or the Division  
44 Administrator's designee;



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(9) The Complaints and Enforcement Officer of the Regulated Industries Complaints Office of the Department of Commerce and Consumer Affairs, or the Complaints and Enforcement Officer's designee;

(10) The Executive Director of the Office of Consumer Protection of the Department of Commerce and Consumer Affairs, or the Executive Director's designee;

(11) The Insurance Commissioner of the Department of Commerce and Consumer Affairs;

(12) The director of the planning and permitting department of each county, or their respective designees; and

(13) Any additional representatives from federal, state, or county agencies as deemed appropriate by the chairperson; and

BE IT FURTHER RESOLVED that the Department of Labor and Industrial Relations is requested to serve as the lead agency to coordinate joint efforts to combat the underground economy and employee misclassification in the construction industry to:

(1) Ensure safe working conditions for and proper payment of wages to workers;

(2) Create an environment where legitimate businesses can thrive; and

(3) Support the collection of all taxes, fees, and penalties due from employers; and

BE IT FURTHER RESOLVED that the interagency enforcement task force is requested to serve as an advisory and enforcement body to combat the underground economy and employee misclassification in the construction industry to:

(1) Strengthen compliance with the law by educating business owners and employees about applicable requirements;



- 1 (2) Conduct interagency, targeted investigations and  
2 enforcement actions against violators;  
3  
4 (3) Protect the health, safety, and rights of workers; and  
5  
6 (4) Restore an environment of equal competition for law-  
7 abiding businesses; and  
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9 BE IT FURTHER RESOLVED that the interagency enforcement  
10 task force is requested to:

- 11  
12 (1) Serve as the State's interagency advisory and  
13 enforcement entity, with representation from state and  
14 county government agencies, to combat the underground  
15 economy and employee misclassification in the  
16 construction industry;  
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18 (2) Facilitate the timely sharing of information between  
19 and among task force members, including through the  
20 establishment of protocols by which participating  
21 agencies will advise or refer to other agencies  
22 matters of potential investigative interest;  
23  
24 (3) Identify areas within the construction industry where  
25 the underground economy and employee misclassification  
26 are most prevalent and target task force members'  
27 investigative and enforcement resources against those  
28 areas, including through the formation of interagency  
29 investigative and enforcement teams;  
30  
31 (4) Assess existing investigative and enforcement methods,  
32 in Hawaii and other jurisdictions, and develop and  
33 recommend strategies to improve those methods;  
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35 (5) Solicit the cooperation and participation of  
36 prosecutors at the federal, state, and county levels  
37 and other relevant federal, state, and county  
38 enforcement agencies, including the United States  
39 Department of Labor, and establish procedures for  
40 referring cases to prosecuting authorities as  
41 appropriate;  
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- 1 (6) Identify potential regulatory or statutory changes  
2 that would strengthen enforcement efforts, including  
3 any changes needed to resolve existing legal  
4 ambiguities or inconsistencies as well as potential  
5 legal procedures for facilitating individual  
6 enforcement efforts;  
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- 8 (7) Consult with representatives of business and organized  
9 labor, members of the Legislature, representatives of  
10 county governments, community groups, and other  
11 agencies concerning the activities of the task force  
12 and its members and ways of improving its  
13 effectiveness, including whether to establish an  
14 advisory panel under the Department of Labor and  
15 Industrial Relations;  
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- 17 (8) Submit an annual report, no later than twenty days  
18 prior to the convening of each Regular Session, to the  
19 Governor, Legislature, mayor of each county, and  
20 chairperson of each county council that summarizes the  
21 task force's activities during the year; provided that  
22 the annual report:  
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- 24 (A) Describes the task force's efforts and  
25 accomplishments during the year;  
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- 27 (B) Identifies any administrative or legal barriers  
28 that impede the more effective operation of the  
29 task force, including any barriers to  
30 information-sharing or joint action;  
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- 32 (C) Proposes, after consultation with representatives  
33 of business and organized labor, members of the  
34 Legislature, representatives of county  
35 governments, community groups, and other  
36 agencies, the appropriate administrative,  
37 legislative, or regulatory changes to strengthen  
38 the task force's operations and enforcement  
39 efforts and to reduce or eliminate any barriers  
40 to those efforts; and  
41
- 42 (D) Identifies successful preventive mechanisms to  
43 reduce the extent of the underground economy and  
44 employee misclassification in the construction



1 industry, thereby lessening the need for greater  
2 enforcement; and

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4 (9) Take appropriate steps to publicize its activities;  
5 and

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7 BE IT FURTHER RESOLVED that to the extent permitted by law,  
8 every agency within the State's and each county's executive  
9 branch is requested to make all reasonable efforts to cooperate  
10 with the interagency enforcement task force and to furnish any  
11 information and assistance as the task force reasonably deems  
12 necessary to accomplish its purposes; and

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14 BE IT FURTHER RESOLVED that the interagency enforcement  
15 task force is requested to regularly hold meetings that are  
16 closed to the public when task force members plan to discuss  
17 sensitive matters related to its investigations, potential  
18 criminal referrals, and public safety and security topics; and

19  
20 BE IT FURTHER RESOLVED that certified copies of this  
21 Concurrent Resolution be transmitted to the head of the United  
22 States Department of Labor's Wage and Hour Division's Honolulu  
23 District Office, Governor, Director of Labor and Industrial  
24 Relations, Director of Taxation, Attorney General, Director of  
25 Commerce and Consumer Affairs, Insurance Commissioner mayor of  
26 each county, chairperson of each county council, and director of  
27 the planning and permitting department of each county.

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