
SENATE RESOLUTION

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

1 WHEREAS, the "underground economy" refers to those
2 individuals and businesses that utilize schemes to conceal or
3 misrepresent their employee population to avoid one or more of
4 their employer responsibilities related to wages, payroll taxes,
5 insurance, licensing, safety, or other regulatory requirements;
6 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 the cash takings,
14 not paying overtime wages, paying sub-minimum wages, charging
15 individuals for transportation and supplies essential to the
16 work, underreporting employees, misclassifying employees as
17 independent contractors, forcing employees to set up shell
18 subcontractor entities, running a part of normal business
19 activities off-the-books, not registering a business to avoid
20 tax obligations or to avoid obtaining the necessary licenses and
21 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
32 required wages; carry workers' compensation insurance; comply



1 with health, safety, and licensing requirements; or pay income
2 taxes and payroll taxes that fund unemployment insurance,
3 disability insurance, and Medicare and Social Security benefits;
4 and
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6 WHEREAS, certain businesses also improperly classify their
7 employees as "independent contractors" (referred to as "employee
8 misclassification") and hire undocumented workers to avoid
9 compliance with labor, employment, tax, insurance and other
10 regulatory requirements; and
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12 WHEREAS, the underground economy and, in particular, the
13 practice of employee misclassification exploits vulnerable
14 workers and deprives them of legal benefits and protections;
15 gives unlawful businesses an unfair competitive advantage over
16 lawful businesses by illegally driving down violators' taxes,
17 wages, and other overhead costs; defrauds the government of
18 substantial tax revenues; and harms consumers who suffer at the
19 hands of unlicensed businesses that fail to maintain minimum
20 levels of skills and knowledge; and
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22 WHEREAS, Hawaii faces an underground economy and employee
23 misclassification problem which has deprived the State of
24 valuable tax revenue; and
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26 WHEREAS, in 2016, federal and State agencies formed task
27 forces ad-hoc that were instrumental in enforcing wage laws
28 against employers who were found guilty for employee
29 misclassification; and
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31 WHEREAS, it is critical to ensure that the State has a
32 unified strategy and approach toward protecting Hawaii's
33 economy, its workers, and its businesses from an illegal
34 underground economy, through joint efforts to combat the
35 underground economy and employee misclassification, ensure safe
36 working conditions and proper payment of wages for workers;
37 create an environment where legitimate businesses can thrive;
38 and support the collection of all taxes, fees, and penalties due
39 from employers; now, therefore,
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41 BE IT RESOLVED by the Senate of the Thirty-second
42 Legislature of the State of Hawaii, Regular Session of 2024,



1 that the Department of Labor and Industrial Relations is
2 requested to convene an Interagency Task Force to combat the
3 underground economy and employee misclassification in the
4 State's construction industry; and

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6 BE IT FURTHER RESOLVED that the Interagency Task Force is
7 requested to:

- 8
- 9 (1) Serve as the State's interagency advisory entity with
10 representation from state and county government
11 agencies to combat the underground economy and
12 employee misclassification within the State's
13 construction industry;
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15 (2) Facilitate timely information sharing between and
16 among taskforce members, including through the
17 establishment of protocols by which participating
18 agencies will advise or refer to other agencies
19 matters of potential investigative interest;
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21 (3) Identify those sectors in the construction industry
22 where the underground economy and employee
23 misclassification are most prevalent and target task
24 force members' investigative resources against those
25 sectors, including through the formation of
26 interagency investigative teams;
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28 (4) Assess existing investigative and enforcement methods,
29 both in Hawaii and in other jurisdictions, and develop
30 and recommend strategies to improve those methods;
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32 (5) Solicit the cooperation and participation of
33 prosecuting attorneys at the federal, state, and
34 county levels and other relevant federal, state and
35 county enforcement agencies, including the United
36 States Department of Labor, and establish procedures
37 for referring cases to prosecuting authorities as
38 appropriate;
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40 (6) Identify potential regulatory or statutory changes
41 that would strengthen enforcement efforts, including
42 any changes needed to resolve existing legal



1 ambiguities or inconsistencies, and potential legal
2 procedures for facilitating individual enforcement
3 efforts;

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5 (7) Consult with representatives of business and labor
6 organizations, members of the Legislature,
7 representatives of county governments, community
8 groups, and other agencies concerning the activities
9 of the task force and its members, and ways of
10 improving its effectiveness, including consideration
11 of whether to establish an advisory panel under the
12 Department of Labor and Industrial Relations;

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14 (8) Transmit an annual report, no later than twenty days
15 prior to the convening of each Regular Session to the
16 Legislature, Governor, mayor of each county, and chair
17 of each county council summarizing the task force's
18 activities during the preceding year; provided that
19 the annual report is requested to:

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21 (A) Describe the task force's efforts and
22 accomplishments during the year;

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24 (B) Identify any administrative or legal barriers
25 impeding the more effective operation of the task
26 force, including any barriers to information
27 sharing or joint action;

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29 (C) Propose, after consultation with representatives
30 of business and labor organizations, members of
31 the Legislature, representatives of county
32 governments, community groups, and other
33 agencies, the appropriate administrative,
34 legislative, or regulatory changes to strengthen
35 the task force's operations efforts and reduce or
36 eliminate any barriers to those efforts; and

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38 (D) Identify successful preventative mechanisms for
39 reducing the extent of the underground economy
40 and employee misclassification, thereby reducing
41 the need for greater enforcement;



1 (9) Take appropriate steps to publicize its activities;
2 and

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4 (10) Identify the number and types of positions required to
5 restore the capacity of the Department of Labor and
6 Industrial Relations to meaningfully administer
7 applicable existing laws; and
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9 BE IT FURTHER RESOLVED that to the extent permitted by law,
10 every agency within the State's and counties' executive branch
11 is requested to make all reasonable efforts to cooperate with
12 the task force and to furnish information and assistance as the
13 task force reasonably deems necessary to accomplish its
14 purposes; and
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16 BE IT FURTHER RESOLVED that the Interagency Task Force is
17 requested to regularly hold meetings closed to the public when
18 task force members plan to discuss sensitive matters related to
19 its investigations, potential criminal referrals, and public
20 safety and security topics; and
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22 BE IT FURTHER RESOLVED that the Director of Labor and
23 Industrial Relations is requested to serve as the chairperson of
24 the Interagency Task Force and to invite the following to serve
25 as members:
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27 (1) A representative from the United States Department of
28 Labor Wage and Hour Division, Honolulu District
29 Office;
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31 (2) Director of Taxation or the Director's designee;
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33 (3) Administrator of the Hawaii Occupational Safety and
34 Health Division of the Department of Labor and
35 Industrial Relations or the Administrator's designee;
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37 (4) Administrator of the Disability Compensation Division
38 of the Department of Labor and Industrial Relations or
39 the Administrator's designee;
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- 1 (5) Administrator of the Unemployment Insurance Division
2 of the Department of Labor and Industrial Relations or
3 the Administrator's designee;
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- 5 (6) Administrator of the Wage Standard Division of the
6 Department of Labor and Industrial Relations or the
7 Administrator's designee;
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- 9 (7) Division Administrator of the Professional and
10 Vocational Licensing Division of the Department of
11 Commerce and Consumer Affairs or the Division
12 Administrator's designee;
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- 14 (8) Complaints and Enforcement Officer of the Regulated
15 Industries Complaints Office of the Department of
16 Commerce and Consumer Affairs or the Complaints and
17 Enforcement Officer's designee;
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- 19 (9) Executive Director of the Office of Consumer
20 Protection of the Department of Commerce and Consumer
21 Affairs or the Executive Director's designee;
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- 23 (10) Insurance Commissioner or the Commissioner's designee;
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- 25 (11) Director of each county's planning and permitting
26 department or the Director's designee;
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- 28 (12) The Attorney General or the Attorney General's
29 designee; and
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- 31 (13) Additional members from federal, state, or county
32 agencies as deemed appropriate by the chairperson of
33 the Interagency Task Force; and
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35 BE IT FURTHER RESOLVED that certified copies of this
36 Resolution be transmitted to the District Director of the
37 Honolulu District Office of the United States Department of
38 Labor Wage and Hour Division; Governor; Director of Labor and
39 Industrial Relations; Director of Taxation; Director of Commerce
40 and Consumer Affairs; Insurance Commissioner; Attorney General;
41 Mayors of the City and County of Honolulu, County of Maui,
42 County of Kauai, and County of Hawaii; and Chairpersons of the



- 1 Honolulu City Council, Maui County Council, Kauai County
- 2 Council, and Hawaii County Council.

