
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.

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

7
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

11
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

22
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

28
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

5

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

10

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

13

14 (1) Exploits vulnerable workers and deprives them of legal
15 benefits and protections;

16

17 (2) Gives unlawful businesses an unfair competitive
18 advantage over lawful businesses by illegally lowering
19 violators' taxes, wage costs, and other overhead
20 costs;

21

22 (3) Defrauds the government of substantial tax revenues;
23 and

24

25 (4) Harms consumers, who suffer at the hands of unlicensed
26 businesses that fail to maintain minimum levels of
27 skills and knowledge; and

28

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

33

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

36

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

41



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, that the Department of Labor and Industrial
4 Relations is requested to convene an interagency enforcement
5 task force to combat the underground economy and employee
6 misclassification; and
7

8 BE IT FURTHER RESOLVED that the interagency enforcement
9 task force is requested to be established within the Department
10 of Labor and Industrial Relations for administrative purposes;
11 and
12

13 BE IT FURTHER RESOLVED that the Director of Labor and
14 Industrial Relations, or the Deputy Director of Labor and
15 Industrial Relations, is requested to serve as the chairperson
16 of the interagency enforcement task force and to invite the
17 following individuals to serve as members of the task force:
18

- 19 (1) A representative of the United States Department of
20 Labor's Wage and Hour Division's Honolulu District
21 Office;
22
- 23 (2) The Director of Taxation, or the Director's designee;
24
- 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;
35
- 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;



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41

- (8) The Division Administrator of the Professional and Vocational Licensing Division of the Department of Commerce and Consumer Affairs, or the Division Administrator's designee;
- (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 director of the planning and permitting department of each county, or their respective designees; and
- (12) 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 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 to:



- 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 and
6 enforcement actions against violators;
- 7
- 8 (3) Protect the health, safety, and rights of workers; and
9
- 10 (4) Restore an environment of equal competition for law-
11 abiding businesses; and
12

13 BE IT FURTHER RESOLVED that the interagency enforcement
14 task force is requested to:

- 15
- 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;
- 20
- 21 (2) Facilitate the timely sharing of information between,
22 and among task force members, including through the
23 establishment of protocols by which participating
24 agencies will advise or refer to other agencies
25 matters of potential investigative interest;
- 26
- 27 (3) Identify industries and sectors where the underground
28 economy and employee misclassification are most
29 prevalent and target task force members' investigative
30 and enforcement resources against those industries and
31 sectors, including through the formation of
32 interagency investigative and enforcement teams;
- 33
- 34 (4) Assess existing investigative and enforcement methods,
35 in Hawaii and other jurisdictions, and develop and
36 recommend strategies to improve those methods;
- 37
- 38 (5) Encourage businesses and individuals to identify
39 violators by soliciting information from the public,
40 facilitating the filing of complaints, and enhancing
41 the available mechanisms by which workers can report
42 suspected violations;



- 1
- 2 (6) Solicit the cooperation and participation of
- 3 prosecutors at the federal, state, and county levels
- 4 and other relevant federal, state, and county
- 5 enforcement agencies, including the United States
- 6 Department of Labor, and establish procedures for
- 7 referring cases to prosecuting authorities as
- 8 appropriate;
- 9
- 10 (7) Work collaboratively with employers, labor, and
- 11 community groups to diminish the size of the
- 12 underground economy and reduce the incidences of
- 13 employee misclassification by, among other means:
- 14
- 15 (A) Disseminating educational materials regarding
- 16 applicable laws, including the legal distinctions
- 17 between independent contractors and employees;
- 18 and
- 19
- 20 (B) Increasing public awareness of the harm caused by
- 21 the underground economy and employee
- 22 misclassification;
- 23
- 24 (8) Work collaboratively with federal, state, and county
- 25 social-services agencies to provide assistance to
- 26 vulnerable populations that have been exploited by the
- 27 underground economy and employee misclassification,
- 28 including but not limited to immigrant workers;
- 29
- 30 (9) Identify potential regulatory or statutory changes
- 31 that would strengthen enforcement efforts, including
- 32 any changes needed to resolve existing legal
- 33 ambiguities or inconsistencies as well as potential
- 34 legal procedures for facilitating individual
- 35 enforcement efforts;
- 36
- 37 (10) Consult with representatives of business and organized
- 38 labor, members of the Legislature, representatives of
- 39 county governments, community groups, and other
- 40 agencies concerning the activities of the task force
- 41 and its members and ways of improving its
- 42 effectiveness, including whether to establish an



1 advisory panel under the Department of Labor and
2 Industrial Relations;

3
4 (11) Submit an annual report, no later than twenty days
5 prior to the convening of each Regular Session, to the
6 Governor, Legislature, mayor of each county, and
7 chairperson of each county council that summarizes the
8 task force's activities during the year; provided that
9 the annual report:

10
11 (A) Describes the task force's efforts and
12 accomplishments during the year;

13
14 (B) Identifies any administrative or legal barriers
15 that impede the more effective operation of the
16 task force, including any barriers to
17 information-sharing or joint action;

18
19 (C) Proposes, after consultation with representatives
20 of business and organized labor, members of the
21 Legislature, representatives of county
22 governments, community groups, and other
23 agencies, the appropriate administrative,
24 legislative, or regulatory changes to strengthen
25 the task force's operations and enforcement
26 efforts and to reduce or eliminate any barriers
27 to those efforts; and

28
29 (D) Identifies successful preventive mechanisms to
30 reduce the extent of the underground economy and
31 employee misclassification, thereby lessening the
32 need for greater enforcement; and

33
34 (12) Take appropriate steps to publicize its activities;
35 and
36

37 BE IT FURTHER RESOLVED that to the extent permitted by law,
38 every agency within the State's and each county's executive
39 branch is requested to make all reasonable efforts to cooperate
40 with the interagency enforcement task force and to furnish any
41 information and assistance as the task force reasonably deems
42 necessary to accomplish its purposes; and



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18

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

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

OFFERED BY:  _____
MAR 06 2024