
HOUSE 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

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

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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

6
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

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

- 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
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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,

42
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 Underground Economy
3 Interagency Task Force to combat the underground economy and
4 employee misclassification in the construction industry; and
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6 BE IT FURTHER RESOLVED that the Underground Economy
7 Interagency Task Force is requested to be established within the
8 Department of Labor and Industrial Relations for administrative
9 purposes; and
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11 BE IT FURTHER RESOLVED that the Director of Labor and
12 Industrial Relations is requested to serve as the chairperson of
13 the Underground Economy Interagency Task Force and to invite the
14 following individuals to serve as members of the task force:
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- 16 (1) A representative of the United States Department of
17 Labor's Wage and Hour Division's Honolulu District
18 Office;
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- 20 (2) The Director of Taxation, or the Director's designee;
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- 22 (3) The Attorney General, or the Attorney General's
23 designee;
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- 25 (4) The Administrator of the Disability Compensation
26 Division of the Department of Labor and Industrial
27 Relations, or the Administrator's designee;
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- 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;
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- 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;



- 1 (9) The Complaints and Enforcement Officer of the
- 2 Regulated Industries Complaints Office of the
- 3 Department of Commerce and Consumer Affairs, or the
- 4 Complaints and Enforcement Officer's designee;
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- 6 (10) The Executive Director of the Office of Consumer
- 7 Protection of the Department of Commerce and Consumer
- 8 Affairs, or the Executive Director's designee;
- 9
- 10 (11) The Insurance Commissioner of the Department of
- 11 Commerce and Consumer Affairs;
- 12
- 13 (12) The director of the planning and permitting department
- 14 of each county, or their respective designees; and
- 15
- 16 (13) Any additional representatives from federal, state, or
- 17 county agencies as deemed appropriate by the
- 18 chairperson; and
- 19

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

- 24
- 25 (1) Ensure safe working conditions for and proper payment
- 26 of wages to workers;
- 27
- 28 (2) Create an environment where legitimate businesses can
- 29 thrive; and
- 30
- 31 (3) Support the collection of all taxes, fees, and
- 32 penalties due from employers; and
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34 BE IT FURTHER RESOLVED that the Underground Economy
 35 Interagency Task Force is requested to serve as an advisory body
 36 to combat the underground economy and employee misclassification
 37 in the construction industry to:

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- 39 (1) Strengthen compliance with the law by educating
- 40 business owners and employees about applicable
- 41 requirements;
- 42
- 43 (2) Conduct interagency, and targeted investigations
- 44 actions against violators;



1 (3) Protect the health, safety, and rights of workers; and

2
3 (4) Restore an environment of equal competition for law-
4 abiding businesses; and

5
6 BE IT FURTHER RESOLVED that the Underground Economy
7 Interagency Task Force is requested to:

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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 in the construction
13 industry;

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15 (2) Facilitate the timely sharing of information between
16 and among task force 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 areas within the construction industry where
22 the underground economy and employee misclassification
23 are most prevalent and target task force members'
24 investigative resources against those areas, including
25 through the formation of interagency investigative
26 teams;

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28 (4) Assess existing investigative methods, in Hawaii and
29 other jurisdictions, and develop and recommend
30 strategies to improve those methods;

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32 (5) Solicit the cooperation and participation of
33 prosecutors at the federal, state, and county levels
34 and other relevant federal, state, and county
35 agencies, including the United States Department of
36 Labor, and establish procedures for referring cases to
37 prosecuting authorities as appropriate;

38
39 (6) Identify potential regulatory or statutory changes,
40 including any changes needed to resolve existing legal
41 ambiguities or inconsistencies as well as potential
42 legal procedures for facilitating individual efforts;
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1 (7) Consult with representatives of business and organized
2 labor, members of the Legislature, representatives of
3 county governments, community groups, and other
4 agencies concerning the activities of the task force
5 and its members and ways of improving its
6 effectiveness, including whether to establish an
7 advisory panel under the Department of Labor and
8 Industrial Relations;
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10 (8) Submit an annual report, no later than twenty days
11 prior to the convening of each Regular Session, to the
12 Governor, Legislature, mayor of each county, and
13 chairperson of each county council that summarizes the
14 task force's activities during the year; provided that
15 the annual report:
16

17 (A) Describes the task force's efforts and
18 accomplishments during the year;
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20 (B) Identifies any administrative or legal barriers
21 that impede the more effective operation of the
22 task force, including any barriers to
23 information-sharing or joint action;
24

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

34 (D) Identifies successful preventive mechanisms to
35 reduce the extent of the underground economy and
36 employee misclassification in the construction
37 industry; and
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39 (9) Take appropriate steps to publicize its activities;
40 and
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42 BE IT FURTHER RESOLVED that to the extent permitted by law,
43 every agency within the State's and each county's executive
44 branch is requested to make all reasonable efforts to cooperate



1 with the Underground Economy Interagency Task Force and to
2 furnish any information and assistance as the task force
3 reasonably deems necessary to accomplish its purposes; and
4

5 BE IT FURTHER RESOLVED that the Underground Economy
6 Interagency Task Force is requested to regularly hold meetings
7 that are closed to the public when task force members plan to
8 discuss sensitive matters related to its investigations,
9 potential criminal referrals, and public safety and security
10 topics; and
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12 BE IT FURTHER RESOLVED that certified copies of this
13 Concurrent Resolution be transmitted to the head of the United
14 States Department of Labor's Wage and Hour Division's Honolulu
15 District Office, Governor, Director of Labor and Industrial
16 Relations, Director of Taxation, Attorney General, Director of
17 Commerce and Consumer Affairs, Insurance Commissioner mayor of
18 each county, chairperson of each county council, and director of
19 the planning and permitting department of each county.

