

MAR 05 2024

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# SENATE CONCURRENT 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  
STATE.

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

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



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" (referred to as "employee  
9 misclassification") and hire undocumented workers to avoid  
10 compliance with labor, employment, tax, insurance and other  
11 regulatory requirements; and

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13 WHEREAS, the underground economy and, in particular, the  
14 practice of employee misclassification exploits vulnerable  
15 workers and deprives them of legal benefits and protections;  
16 gives unlawful businesses an unfair competitive advantage over  
17 lawful businesses by illegally driving down violators' taxes,  
18 wages, and other overhead costs; defrauds the government of  
19 substantial tax revenues; and harms consumers who suffer at the  
20 hands of unlicensed businesses that fail to maintain minimum  
21 levels of skills and knowledge; and

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23 WHEREAS, Hawaii faces an underground economy and employee  
24 misclassification problem which has deprived the State of  
25 valuable tax revenue; and

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27 WHEREAS, in 2016, federal and State agencies formed task  
28 forces ad-hoc that were instrumental in enforcing wage laws  
29 against employers who were found guilty for employee  
30 misclassification; and

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32 WHEREAS, it is critical to ensure that the State has a  
33 unified strategy and approach toward protecting Hawaii's  
34 economy, its workers, and its businesses from an illegal  
35 underground economy, through joint efforts to combat the  
36 underground economy and employee misclassification, ensuring  
37 safe working conditions and proper payment of wages for workers;  
38 creating an environment where legitimate businesses can thrive;  
39 and to supporting the collection of all taxes, fees, and  
40 penalties due from employers; now, therefore,

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

7  
8 BE IT FURTHER RESOLVED that the Interagency Enforcement  
9 Task Force is requested to:

- 10 (1) Serve as the State's interagency advisory and  
11 enforcement entity, with representation from state and  
12 county government agencies, to combat the underground  
13 economy and employee misclassification;  
14
- 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;  
20
- 21 (3) Identify those industries and sectors where the  
22 underground economy and employee misclassification are  
23 most prevalent and target task force members'  
24 investigative and enforcement resources against those  
25 sectors, including through the formation of  
26 interagency investigative and enforcement teams;  
27
- 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;  
31
- 32 (5) Encourage businesses and individuals to identify  
33 violators by soliciting information from the public,  
34 facilitating the filing of complaints, and enhancing  
35 the available mechanisms by which workers can report  
36 suspected violations;  
37
- 38 (6) Solicit the cooperation and participation of  
39 prosecuting attorneys at the federal, state, and  
40 county levels and other relevant federal, state and  
41 county enforcement agencies, including the United  
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- 1 States Department of Labor, and establish procedures  
2 for referring cases to prosecuting authorities as  
3 appropriate;  
4
- 5 (7) Work collaboratively with employers, labor, and  
6 community groups to diminish the size of the  
7 underground economy and reduce the number of employee  
8 misclassifications by, among other means,  
9 disseminating educational materials regarding the  
10 applicable laws, including the legal distinctions  
11 between independent contractors and employees, and  
12 increasing public awareness of the harm caused by the  
13 underground economy and employee misclassification;  
14
- 15 (8) Work collaboratively with federal, state, and local  
16 social services agencies to provide assistance to  
17 vulnerable populations that have been exploited by the  
18 underground economy and employee misclassification,  
19 including but not limited to immigrant workers;  
20
- 21 (9) Identify potential regulatory or statutory changes  
22 that would strengthen enforcement efforts, including  
23 any changes needed to resolve existing legal  
24 ambiguities or inconsistencies, and potential legal  
25 procedures for facilitating individual enforcement  
26 efforts;  
27
- 28 (10) Consult with representatives of business and labor  
29 organizations, members of the Legislature,  
30 representatives of county governments, community  
31 groups, and other agencies concerning the activities  
32 of the task force and its members, and ways of  
33 improving its effectiveness, including consideration  
34 of whether to establish an advisory panel under the  
35 Department of Labor and Industrial Relations;  
36
- 37 (11) Transmit an annual report, no later than twenty days  
38 prior to the convening of each Regular Session to the  
39 Legislature, Governor, mayor of each county, and chair  
40 of each county council summarizing the task force's  
41 activities during the preceding year; provided that  
42 the annual report is requested to:



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- (a) Describe the task force's efforts and accomplishments during the year;
- (b) Identify any administrative or legal barriers impeding the more effective operation of the task force, including any barriers to information sharing or joint action;
- (c) Propose, after consultation with representatives of business and labor organizations, members of the Legislature, representatives of county governments, community groups and other agencies, the appropriate administrative, legislative, or regulatory changes to strengthen the task force's operations and enforcement efforts and reduce or eliminate any barriers to those efforts; and
- (d) Identify successful preventative mechanisms for reducing the extent of the underground economy and employee misclassification, thereby reducing the need for greater enforcement; and

(12) Take appropriate steps to publicize its activities; and

BE IT FURTHER RESOLVED that to the extent permitted by law, every agency within the State and counties' executive branch is requested to make all reasonable efforts to cooperate with the task force and to furnish information and assistance as the task force reasonably deems necessary to accomplish its purposes; and

BE IT FURTHER RESOLVED that the Interagency Enforcement Task Force is requested to regularly hold meetings 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 the Director of Labor and Industrial Relations or Deputy Director of Labor and Industrial Relations is requested to serve as chairperson of the

1 Interagency Enforcement Task Force and to invite the following  
2 to serve as members:

- 3  
4 (1) A representative from the United States Department of  
5 Labor Wage and Hour Division, Honolulu District  
6 Office;
- 7  
8 (2) Director of Taxation or the Director's designee;
- 9  
10 (3) Administrator of the Hawaii Occupational Safety and  
11 Health Division of the Department of Labor and  
12 Industrial Relations or the Administrator's designee;
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14 (4) Administrator of the Disability Compensation Division  
15 of the Department of Labor and Industrial Relations or  
16 the Administrator's designee;
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18 (5) Administrator of the Unemployment Insurance Division  
19 of the Department of Labor and Industrial Relations or  
20 the Administrator's designee;
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22 (6) Administrator of the Wage Standard Division of the  
23 Department of Labor and Industrial Relations or the  
24 Administrator's designee;
- 25  
26 (7) Division Administrator of the Professional and  
27 Vocational Licensing Division of the Department of  
28 Commerce and Consumer Affairs or the Division  
29 Administrator's designee;
- 30  
31 (8) Complaints and Enforcement Officer of the Regulated  
32 Industries Complaints Office of the Department of  
33 Commerce and Consumer Affairs or the Complaints and  
34 Enforcement Officer's designee;
- 35  
36 (9) Executive Director of the Office of Consumer  
37 Protection of the Department of Commerce and Consumer  
38 Affairs or the Executive Director's designee;
- 39  
40 (10) Director of each county's planning and permitting  
41 department or the Director's designee;
- 42



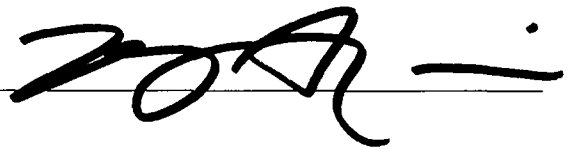
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1 (11) The Attorney General; and

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3 (12) Additional members from federal, state, or county  
4 agencies as deemed appropriate by the chairperson of  
5 the Interagency Enforcement Task Force; and  
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7 BE IT FURTHER RESOLVED that certified copies of this  
8 Concurrent Resolution be transmitted to the District Director of  
9 the Honolulu District Office of the United States Department of  
10 Labor Wage and Hour Division; Governor; Director of Labor and  
11 Industrial Relations; Director of Taxation; Director of Commerce  
12 and Consumer Affairs; Attorney General; Mayors of the City and  
13 County of Honolulu, County of Maui, County of Kauai, and County  
14 of Hawaii; and Chairpersons of the Honolulu City Council, Maui  
15 County Council, Kauai County Council, and Hawaii County Council.  
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OFFERED BY: \_\_\_\_\_

A handwritten signature in black ink, appearing to be "J. A. I.", written over a horizontal line.