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# SENATE CONCURRENT 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,



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

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 8 WHEREAS, certain businesses also improperly classify their  
 9 employees as "independent contractors" (referred to as "employee  
 10 misclassification") and hire undocumented workers to avoid  
 11 compliance with labor, employment, tax, insurance and other  
 12 regulatory requirements; and

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

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

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

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 33 WHEREAS, it is critical to ensure that the State has a  
 34 unified strategy and approach toward protecting Hawaii's  
 35 economy, its workers, and its businesses from an illegal  
 36 underground economy, through joint efforts to combat the  
 37 underground economy and employee misclassification, ensure safe  
 38 working conditions and proper payment of wages for workers;  
 39 create an environment where legitimate businesses can thrive;  
 40 and support the collection of all taxes, fees, and penalties due  
 41 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 Task Force to combat the underground economy and  
6 employee misclassification in the State's construction industry;  
7 and

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9 BE IT FURTHER RESOLVED that the Interagency Task Force is  
10 requested to:

- 11  
12 (1) Serve as the State's interagency advisory entity with  
13 representation from state and county government  
14 agencies to combat the underground economy and  
15 employee misclassification within the State's  
16 construction industry;
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18 (2) Facilitate timely information sharing between and  
19 among taskforce 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 those sectors in the construction industry  
25 where the underground economy and employee  
26 misclassification are most prevalent and target task  
27 force members' investigative resources against those  
28 sectors, including through the formation of  
29 interagency investigative teams;
- 30  
31 (4) Assess existing investigative and enforcement methods,  
32 both in Hawaii and in other jurisdictions, and develop  
33 and recommend strategies to improve those methods;
- 34  
35 (5) Solicit the cooperation and participation of  
36 prosecuting attorneys at the federal, state, and  
37 county levels and other relevant federal, state and  
38 county enforcement agencies, including the United  
39 States Department of Labor, and establish procedures  
40 for 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, and potential legal  
5           procedures for facilitating individual enforcement  
6           efforts;  
7
- 8           (7) Consult with representatives of business and labor  
9           organizations, members of the Legislature,  
10          representatives of county governments, community  
11          groups, and other agencies concerning the activities  
12          of the task force and its members, and ways of  
13          improving its effectiveness, including consideration  
14          of whether to establish an advisory panel under the  
15          Department of Labor and Industrial Relations;  
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- 17          (8) Transmit an annual report, no later than twenty days  
18          prior to the convening of each Regular Session to the  
19          Legislature, Governor, mayor of each county, and chair  
20          of each county council summarizing the task force's  
21          activities during the preceding year; provided that  
22          the annual report is requested to:  
23
- 24                (A) Describe the task force's efforts and  
25                accomplishments during the year;  
26
- 27                (B) Identify any administrative or legal barriers  
28                impeding the more effective operation of the task  
29                force, including any barriers to information  
30                sharing or joint action;  
31
- 32                (C) Propose, after consultation with representatives  
33                of business and labor organizations, members of  
34                the 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 efforts and reduce or  
39                eliminate any barriers to those efforts; and  
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- 41                (D) Identify successful preventative mechanisms for  
42                reducing the extent of the underground economy



1 and employee misclassification, thereby reducing  
2 the need for greater enforcement;

3  
4 (9) Take appropriate steps to publicize its activities;  
5 and

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7 (10) Identify the number and types of positions required to  
8 restore the capacity of the Department of Labor and  
9 Industrial Relations to meaningfully administer  
10 applicable existing laws; and

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

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19 BE IT FURTHER RESOLVED that the Interagency Task Force is  
20 requested to regularly hold meetings closed to the public when  
21 task force members plan to discuss sensitive matters related to  
22 its investigations, potential criminal referrals, and public  
23 safety and security topics; and

24  
25 BE IT FURTHER RESOLVED that the Director of Labor and  
26 Industrial Relations is requested to serve as the chairperson of  
27 the Interagency Task Force and to invite the following to serve  
28 as members:

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30 (1) A representative from the United States Department of  
31 Labor Wage and Hour Division, Honolulu District  
32 Office;

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34 (2) Director of Taxation or the Director's designee;

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36 (3) Administrator of the Hawaii Occupational Safety and  
37 Health Division of the Department of Labor and  
38 Industrial Relations or the Administrator's designee;

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40 (4) Administrator of the Disability Compensation Division  
41 of the Department of Labor and Industrial Relations or  
42 the Administrator's designee;



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- 2 (5) Administrator of the Unemployment Insurance Division
- 3 of the Department of Labor and Industrial Relations or
- 4 the Administrator's designee;
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- 6 (6) Administrator of the Wage Standard Division of the
- 7 Department of Labor and Industrial Relations or the
- 8 Administrator's designee;
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- 10 (7) Division Administrator of the Professional and
- 11 Vocational Licensing Division of the Department of
- 12 Commerce and Consumer Affairs or the Division
- 13 Administrator's designee;
- 14
- 15 (8) Complaints and Enforcement Officer of the Regulated
- 16 Industries Complaints Office of the Department of
- 17 Commerce and Consumer Affairs or the Complaints and
- 18 Enforcement Officer's designee;
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- 20 (9) Executive Director of the Office of Consumer
- 21 Protection of the Department of Commerce and Consumer
- 22 Affairs or the Executive Director's designee;
- 23
- 24 (10) Insurance Commissioner or the Commissioner's designee;
- 25
- 26 (11) Director of each county's planning and permitting
- 27 department or the Director's designee;
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- 29 (12) The Attorney General or the Attorney General's
- 30 designee; and
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- 32 (13) Additional members from federal, state, or county
- 33 agencies as deemed appropriate by the chairperson of
- 34 the Interagency Task Force; and
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36 BE IT FURTHER RESOLVED that certified copies of this  
 37 Concurrent Resolution be transmitted to the District Director of  
 38 the Honolulu District Office of the United States Department of  
 39 Labor Wage and Hour Division; Governor; Director of Labor and  
 40 Industrial Relations; Director of Taxation; Director of Commerce  
 41 and Consumer Affairs; Insurance Commissioner; Attorney General;  
 42 Mayors of the City and County of Honolulu, County of Maui,



- 1 County of Kauai, and County of Hawaii; and Chairpersons of the
- 2 Honolulu City Council, Maui County Council, Kauai County
- 3 Council, and Hawaii County Council.

