

MAR 05 2024

SENATE 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

11
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
32 required wages, carry workers' compensation insurance, comply
33 with health, safety, and licensing requirements, or pay income
34 taxes and payroll taxes that fund unemployment insurance,



1 disability insurance, and Medicare and Social Security benefits;
2 and

3
4 WHEREAS, certain businesses also improperly classify their
5 employees as "independent contractors" (referred to as "employee
6 misclassification") and hire undocumented workers to avoid
7 compliance with labor, employment, tax, insurance and other
8 regulatory requirements; and

9
10 WHEREAS, the underground economy and, in particular, the
11 practice of employee misclassification exploits vulnerable
12 workers and deprives them of legal benefits and protections;
13 gives unlawful businesses an unfair competitive advantage over
14 lawful businesses by illegally driving down violators' taxes,
15 wages, and other overhead costs; defrauds the government of
16 substantial tax revenues; and harms consumers who suffer at the
17 hands of unlicensed businesses that fail to maintain minimum
18 levels of skills and knowledge; and

19
20 WHEREAS, Hawaii faces an underground economy and employee
21 misclassification problem which has deprived the State of
22 valuable tax revenue; and

23
24 WHEREAS, in 2016, federal and State agencies formed task
25 forces ad-hoc that were instrumental in enforcing wage laws
26 against employers who were found guilty for employee
27 misclassification; and

28
29 WHEREAS, it is critical to ensure that the State has a
30 unified strategy and approach toward protecting Hawaii's
31 economy, its workers, and its businesses from an illegal
32 underground economy, through joint efforts to combat the
33 underground economy and employee misclassification, ensuring
34 safe working conditions and proper payment of wages for workers;
35 creating an environment where legitimate businesses can thrive;
36 and to supporting the collection of all taxes, fees, and
37 penalties due from employers; now, therefore,

38
39 BE IT RESOLVED by the Senate of the Thirty-second
40 Legislature of the State of Hawaii, Regular Session of 2024,
41 that the Department of Labor and Industrial Relations is
42 requested to convene an Interagency Enforcement Task Force to



1 combat the underground economy and employee misclassification in
2 the State; and

3
4 BE IT FURTHER RESOLVED that the Interagency Enforcement
5 Task Force is requested to:

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

6 (c) Propose, after consultation with representatives
7 of business and labor organizations, members of
8 the Legislature, representatives of county
9 governments, community groups and other agencies,
10 the appropriate administrative, legislative, or
11 regulatory changes to strengthen the task force's
12 operations and enforcement efforts and reduce or
13 eliminate any barriers to those efforts; and
14

15 (d) Identify successful preventative mechanisms for
16 reducing the extent of the underground economy
17 and employee misclassification, thereby reducing
18 the need for greater enforcement; and
19

20 (12) Take appropriate steps to publicize its activities;
21 and
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23 BE IT FURTHER RESOLVED that to the extent permitted by law,
24 every agency within the State and counties' executive branch is
25 requested to make all reasonable efforts to cooperate with the
26 task force and to furnish information and assistance as the task
27 force reasonably deems necessary to accomplish its purposes; and
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29 BE IT FURTHER RESOLVED that the Interagency Enforcement
30 Task Force is requested to regularly hold meetings closed to the
31 public when task force members plan to discuss sensitive matters
32 related to its investigations, potential criminal referrals, and
33 public safety and security topics; and
34

35 BE IT FURTHER RESOLVED that the Director of Labor and
36 Industrial Relations or Deputy Director of Labor and Industrial
37 Relations is requested to serve as chairperson of the
38 Interagency Enforcement Task Force and to invite the following
39 to serve as members:
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- 1 (1) A representative from the United States Department of
2 Labor Wage and Hour Division, Honolulu District
3 Office;
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- 5 (2) Director of Taxation or the Director's designee;
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- 7 (3) Administrator of the Hawaii Occupational Safety and
8 Health Division of the Department of Labor and
9 Industrial Relations or the Administrator's designee;
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- 11 (4) Administrator of the Disability Compensation Division
12 of the Department of Labor and Industrial Relations or
13 the Administrator's designee;
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- 15 (5) Administrator of the Unemployment Insurance Division
16 of the Department of Labor and Industrial Relations or
17 the Administrator's designee;
- 18
- 19 (6) Administrator of the Wage Standard Division of the
20 Department of Labor and Industrial Relations or the
21 Administrator's designee;
- 22
- 23 (7) Division Administrator of the Professional and
24 Vocational Licensing Division of the Department of
25 Commerce and Consumer Affairs or the Division
26 Administrator's designee;
- 27
- 28 (8) Complaints and Enforcement Officer of the Regulated
29 Industries Complaints Office of the Department of
30 Commerce and Consumer Affairs or the Complaints and
31 Enforcement Officer's designee;
- 32
- 33 (9) Executive Director of the Office of Consumer
34 Protection of the Department of Commerce and Consumer
35 Affairs or the Executive Director's designee;
- 36
- 37 (10) Director of each county's planning and permitting
38 department or the Director's designee;
- 39
- 40 (11) The Attorney General; and
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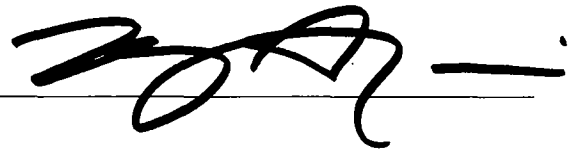


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1 (12) Additional members from federal, state, or county
2 agencies as deemed appropriate by the chairperson of
3 the Interagency Enforcement Task Force; and
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5 BE IT FURTHER RESOLVED that certified copies of this
6 Resolution be transmitted to the District Director of the
7 Honolulu District Office of the United States Department of
8 Labor Wage and Hour Division; Governor; Director of Labor and
9 Industrial Relations; Director of Taxation; Director of Commerce
10 and Consumer Affairs; Attorney General; Mayors of the City and
11 County of Honolulu, County of Maui, County of Kauai, and County
12 of Hawaii; and Chairpersons of the Honolulu City Council, Maui
13 County Council, Kauai County Council, and Hawaii County Council.
14
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16

OFFERED BY: _____

A handwritten signature in black ink, appearing to be 'M. J. ...', is written over a horizontal line that serves as a signature line.