

ACT 121

S.B. NO. 2220

A Bill for an Act Relating to Construction Sites.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that Hawaii's economy is driven by thousands of businesses that provide essential goods, services, and jobs. However, an underground economy exists that threatens the ability of legitimate businesses to effectively compete in the marketplace. Underground business operations typically:

- (1) Avoid licensing requirements;
- (2) Pay wages in cash, therefore avoiding payroll tax, unemployment insurance, disability insurance, personal income tax, and paid family leave requirements;
- (3) Employ vulnerable workers, new immigrants, and economically disadvantaged individuals;
- (4) Fail to pay minimum wages required by state and federal law;
- (5) Fail to carry workers' compensation insurance; and
- (6) Avoid worker and workplace safety requirements.

The legislature further finds that underground business operations drive down wages, create harsh working conditions, and undercut legitimate business' profit margins. Underground business operations are a threat to the State's economy, workforce, and consumers.

The purpose of this Act is to create a construction site inspection task force to analyze the feasibility and potential complications of implementing a task force to investigate and inspect construction sites for unlicensed contractors, undocumented workers, and workplace safety violations.

SECTION 2. The director of commerce and consumer affairs (director) shall convene a construction site inspection task force. The director or the director's designee shall serve as chairperson of the construction site inspection task force. The task force shall include at least two representatives each from the office of the attorney general, the department of commerce and consumer affairs, the disability compensation division of the department of labor and industrial relations, the occupational safety and health division of the department of labor and industrial relations, the unemployment insurance division of the department of labor and industrial relations, and the department of taxation. The task force also shall request that a representative from each county permitting department be included in the task force.

The construction site inspection task force shall:

- (1) Discuss, research, and report on the advantages of sharing among the participating agencies information necessary to combat unlicensed contracting, the use of undocumented workers, and workplace safety violations, including a discussion of the potential advantages and disadvantages of a shared automated information database systems, common case numbers, and a centralized debt collection system;
- (2) Discuss, research, and report on ways to improve the coordination of activities among the participating agencies;
- (3) Discuss, research, and report on ways to develop methods to pool, focus, and target the enforcement resources of the participating agencies to deter tax evasion, unlicensed contractor activity, and workplace safety violations and to maximize recovery of penalties for violations of laws and rules; and
- (4) Discuss, research, and report on ways to reduce enforcement costs wherever possible by eliminating duplicative audits and investigations.

The task force shall have the authority to:

- (1) Form joint discussion teams to discuss ways to utilize the existing investigation and enforcement capabilities of the participating members, including the appointment of inspectors by the director or by participating members. The joint discussion teams shall evaluate the efficiencies of conducting site inspections on sites suspected of engaging in tax evasion, unlicensed contractor activity, workplace

- safety violations, and violations of other labor laws as well as random site inspections to ensure compliance with existing laws;
- (2) Solicit the future cooperation and participation of other state and local agencies in carrying out the objectives of the task force;
 - (3) Establish potential procedures, including but not limited to an advertised telephone hotline, for soliciting referrals of suspected violations from the public;
 - (4) Develop procedures to enable the use of civil sanctions in lieu of criminal actions wherever possible;
 - (5) Evaluate the need for statutory changes to achieve the purposes of this section, including:
 - (A) Eliminating barriers to interagency information sharing;
 - (B) Improving the ability of the participating agencies to audit, investigate, and prosecute violations;
 - (C) Deterring violations and improving voluntary compliance;
 - (D) Establishing centralized, automated data collection services for the participating agencies; and
 - (E) Emphasizing civil penalties instead of criminal ones whenever possible; and
 - (6) Evaluate the need for the authority to enter at reasonable times and without prior notice, any property, public or private, for the purpose of investigating and inspecting the condition or operation of a construction site.

SECTION 3. The construction site inspection task force shall submit a report to the legislature no later than sixty days before the commencement of the 2011 regular session on its findings and recommendations on implementing a task force to investigate and inspect construction sites for unlicensed contractors, undocumented workers, and workplace safety violations. The report shall include but not be limited to:

- (1) The scope of potential cases of violations and noncompliance with tax laws that could be identified, audited, investigated, prosecuted through civil action, or referred for criminal prosecution;
- (2) Actions and authority needed by the task force to undertake and publicize its activities;
- (3) Recommendations for any legislation needed to accomplish the goals and to implement the recommendations of the construction site inspection task force; and
- (4) Identification of funding streams and estimated expenditures needed in order to fully implement the recommendations of the construction site inspection task force.

SECTION 4. This Act shall take effect on July 1, 2010.

(Approved May 19, 2010.)