
A BILL FOR AN ACT

RELATING TO CONSTRUCTION SITES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Act 121, Session Laws of Hawaii 2010, created a
2 construction site inspection task force to analyze the
3 feasibility and potential complications of implementing a task
4 force to investigate and inspect construction sites for
5 unlicensed contractors, undocumented workers, and workplace
6 safety violations, and to submit a report of its findings to the
7 2011 legislature. The task force submitted its report to the
8 legislature in November 2010, including a number of
9 recommendations for further action. The task force determined
10 that, of the varied issues assigned to the task force for
11 consideration, that of unlicensed contractor activity has the
12 greatest direct effect on Hawaii consumers. Accordingly, the
13 task force recommended that the scope of the task force's duties
14 be narrowed to focus particularly on deterring unlicensed
15 contractor activity and enforcing licensure requirements. The
16 legislature finds that construction industry representatives
17 have expressed agreement with the task force's focus on



1 unlicensed activity and have expressed a willingness to help
2 fund its activities.

3 The purpose of this Act is to enact the findings of the
4 construction site inspection task force by continuing its work
5 for one year, directing it to focus on issues relating to
6 license enforcement, and appropriating moneys from the
7 compliance resolution fund to support its activities.

8 SECTION 2. Section 444-12, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§444-12 Application; fees.** (a) Every applicant for a
11 license under this chapter shall complete and file an
12 application provided by the board and shall furnish any
13 additional information bearing upon the issuance of the license
14 as the board shall require. In the case of a partnership, joint
15 venture, or corporation, any partner, member, or officer thereof
16 may sign the application on behalf of the applicant.

17 (b) Every applicant who is required by the board to be
18 examined shall pay, directly to the testing agency, an
19 examination fee~~[-]~~ to be determined by the director by rules
20 adopted pursuant to chapter 91.

21 ~~(c) [These fees shall be as provided in rules adopted by~~
22 ~~the director pursuant to chapter 91.]~~ Every application



1 submitted pursuant to this section shall include a fee of \$10 to
2 be deposited in the compliance resolution fund established by
3 section 26-9(o) for the purpose of offsetting costs incurred by
4 the construction site inspection task force created pursuant to
5 Act 121, Session Laws of Hawaii 2010."

6 SECTION 3. Section 444-15, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 "(a) The biennial renewal fee or inactive license fee, and
9 the recovery fund, education fund, and compliance resolution
10 fund fees shall be paid to the board on or before September 30
11 of each even-numbered year. These fees shall be as provided in
12 rules adopted by the director pursuant to chapter 91[-] and
13 shall include a \$10 surcharge to be deposited into the
14 compliance resolution fund established by section 26-9(o) for
15 the purpose of offsetting costs incurred by the construction
16 site inspection task force created pursuant to Act 121, Session
17 Laws of Hawaii 2010. Failure, neglect, or refusal of any
18 licensee to pay these fees and to submit all documents required
19 by the board on or before September 30 of each even-numbered
20 year shall constitute a forfeiture of the licensee's license."

21 SECTION 4. Act 121, Session Laws of Hawaii 2010, is
22 amended by amending sections 2 and 3 to read as follows:



1 "SECTION 2. The director of commerce and consumer affairs
2 (director) shall convene a construction site inspection task
3 force. The director or the director's designee shall serve as
4 chairperson of the construction site inspection task force. The
5 task force shall include at least two representatives each from
6 the office of the attorney general, the department of commerce
7 and consumer affairs, the disability compensation division of
8 the department of labor and industrial relations, the
9 occupational safety and health division of the department of
10 labor and industrial relations, the unemployment insurance
11 division of the department of labor and industrial relations,
12 and the department of taxation[-] and three representatives from
13 the construction industry. The task force also shall request
14 that a representative from each county permitting department be
15 included in the task force. All proceedings of the task force
16 shall be public proceedings subject to chapter 92F; provided
17 that proceedings of the task force related to sensitive matters
18 of law enforcement or public safety shall be exempt from the
19 public meetings requirements of chapter 92, as provided in
20 section 92-5.

21 The construction site inspection task force shall:



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

21 The task force shall have the authority to:



- 1 (1) Form joint discussion teams to discuss ways to utilize
2 the existing investigation and enforcement
3 capabilities of the participating members, including
4 the appointment of inspectors by the director or by
5 participating members[~~—The~~]; provided that joint
6 discussion teams shall evaluate the efficiencies of
7 conducting site inspections on sites suspected of
8 engaging in [~~tax evasion,~~] unlicensed contractor
9 activity[~~, workplace safety violations, and violations~~
10 ~~of other labor laws~~] as well as random site
11 inspections to ensure compliance with existing laws;
- 12 (2) Solicit the future cooperation and participation of
13 other state and local agencies in carrying out the
14 objectives of the task force;
- 15 (3) Establish potential procedures, including but not
16 limited to an advertised telephone hotline, for
17 soliciting referrals of suspected violations from the
18 public;
- 19 (4) Develop procedures to enable the use of civil
20 sanctions in lieu of criminal actions wherever
21 possible;



- 1 (5) Evaluate the need for statutory changes to achieve the
- 2 purposes of this section, including:
- 3 (A) Eliminating barriers to interagency information
- 4 sharing;
- 5 (B) Improving the ability of the participating
- 6 agencies to audit, investigate, and prosecute
- 7 violations;
- 8 (C) Deterring violations and improving voluntary
- 9 compliance;
- 10 (D) Establishing centralized, automated data
- 11 collection services for the participating
- 12 agencies; and
- 13 (E) ~~[Emphasizing civil penalties instead of criminal~~
- 14 ~~ones whenever possible; and]~~ Implementing
- 15 effective criminal and civil sanctions to enforce
- 16 licensing requirements and deter unlicensed
- 17 activity;
- 18 (6) Evaluate the need for the authority to enter at
- 19 reasonable times and without prior notice, any
- 20 property, public or private, for the purpose of
- 21 investigating and inspecting the ~~[condition or~~
- 22 ~~operation of a construction site.]~~ licensure of all



1 contractors and subcontractors at a construction site;

2 and

3 (7) Consult with outside experts, including regulatory
4 specialists from other jurisdictions, for assistance
5 in achieving the objectives of the task force.

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

- 14 (1) The scope of potential cases of violations and
15 noncompliance with tax laws that could be identified,
16 audited, investigated, prosecuted through civil
17 action, or referred for criminal prosecution;
- 18 (2) Actions and authority needed by the task force to
19 undertake and publicize its activities;
- 20 (3) Recommendations for any legislation needed to
21 accomplish the goals and to implement the



Report Title:

Construction Site Task Force; Appropriation

Description:

Reauthorizes the construction site task force and narrows its focus to unlicensed activity; establishes a fee to offset the costs of task force activities to be added to license application and renewal fees; requires report; appropriates funds from the compliance resolution fund. (SD1)

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