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# 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, unlicensed contractor activity has the greatest  
12 direct effect on Hawaii consumers. Accordingly, the task force  
13 recommended that the scope of the task force's duties be  
14 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  
 2 \$ \_\_\_\_\_ to be deposited in the compliance resolution fund  
 3 established by section 26-9(o) for the purpose of offsetting  
 4 costs incurred by the construction site inspection task force  
 5 created pursuant to 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 \$ \_\_\_\_\_ 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  
13 from the construction industry. The task force also shall  
14 request that a representative from each county permitting  
15 department be included in the task force. All proceedings of  
16 the task force shall be public proceedings subject to chapter  
17 92F; provided that proceedings of the task force related to  
18 sensitive matters of law enforcement or public safety shall be  
19 exempt from the public meetings requirements of chapter 92, as  
20 provided in 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~~] penalty 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 Inspection Task Force; Appropriation

**Description:**

Reauthorizes the construction site inspection task force and narrows its focus to unlicensed contractor activity. Establishes a fee and surcharge 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. Effective 07/01/2050. (SD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

