

Honolulu, Hawaii

APR 03 2024

RE: S.C.R. No. 33
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
Regular Session of 2024
State of Hawaii

Sir:

Your Committee on Labor and Technology, to which was referred S.C.R. No. 33 entitled:

"SENATE CONCURRENT 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,"

begs leave to report as follows:

The purpose and intent of this measure is to request 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.

Your Committee received testimony in support of this measure from the Department of Labor and Industrial Relations, Pacific Resource Partnership, Hawaii Regional Council of Carpenters, and Hawai'i State AFL-CIO.

Your Committee received comments on this measure from the Department of the Attorney General.

Your Committee finds that the "underground economy" refers to those individuals and businesses that utilize schemes to conceal or misrepresent their employee population to avoid one or more of their employer responsibilities related to wages, payroll taxes, insurance, licensing, safety, or other regulatory requirements,



including other activities such as tax evasion, payroll fraud, under-the-table work, and wage theft. Your Committee further finds that it is critical to ensure that the State has a unified strategy and approach toward protecting the State's economy, its workers, and its businesses from an illegal underground economy. This measure's Interagency Task Force will assist in ensuring safe working conditions and proper payment of wages for workers, creating an environment where legitimate businesses can thrive, and supporting the collection of all taxes, fees, and penalties due from employers.

Your Committee acknowledges that the task force requested to be convened by this measure will not have enforcement authority, and therefore, the term "Interagency Enforcement Task Force" may be misleading. Your Committee also notes testimony requesting that the scope of the task force be narrowed to the construction industry, where most of the employee misclassification is occurring. Your Committee further notes requests made during the public hearing for this measure to include the Insurance Commissioner or the Commissioner's designee as a member of the task force, to enable the task force to recommend solutions to prevent workers' compensation premium fraud from being committed by employers who misclassify their employees as independent contractors, thereby avoiding payment of workers' compensation premiums and resulting in increased premiums for other employers who lawfully pay the premiums. Your Committee also notes the request from the Department of the Attorney General that the Attorney General be allowed to have a designee participate in the task force on behalf of the Attorney General, in line with other agency heads listed as members to be invited to serve on the task force. Therefore, there is a need to amend this measure to address these matters.

Accordingly, your Committee has amended this measure by:

- (1) Deleting certain references to the term "enforcement" to clarify that the Interagency Task Force will not be engaging in any enforcement activities;
- (2) Inserting language to narrow the scope of the Interagency Task Force to the State's construction industry;



- (3) Deleting language that would have requested the Interagency Task Force to:
 - (A) Encourage businesses and individuals to identify violators by soliciting information from the public, facilitating the filing of complaints, and enhancing the available mechanisms by which workers can report suspected violations;
 - (B) Work collaboratively with employers, labor, and community groups to diminish the size of the underground economy and reduce the number of employee misclassifications by, among other means, disseminating educational materials regarding the applicable laws, including the legal distinctions between independent contractors and employees, and increasing public awareness of the harm caused by the underground economy and employee misclassification; and
 - (C) Work collaboratively with federal, state, and local social services agencies to provide assistance to vulnerable populations that have been exploited by the underground economy and employee misclassification, including but not limited to immigrant workers;
- (4) Inserting language to request the Interagency Task Force to identify the number and types of positions required to restore the capacity of the Department of Labor and Industrial Relations to meaningfully administer applicable existing laws;
- (5) Clarifying that the Director of Labor and Industrial Relations is requested to serve as the chairperson of the Interagency Task Force;
- (6) Inserting language that allows the Attorney General's designee to be invited to serve as a member of the Interagency Task Force on behalf of the Attorney General;



- (7) Inserting language to add the Insurance Commissioner or the Commissioner's designee to be invited to serve as a member of the Interagency Task Force;
- (8) Amending its title to reflect its amended purpose;
- (9) Amending the list of recipients of certified copies to include the Insurance Commissioner; and
- (10) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Labor and Technology that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 33, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 33, S.D. 1.

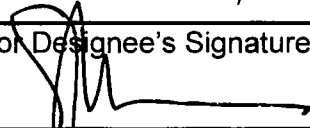
Respectfully submitted on
behalf of the members of the
Committee on Labor and
Technology,


HENRY J.C. AQUINO, Chair



The Senate
 Thirty-Second Legislature
 State of Hawai'i

Record of Votes
Committee on Labor and Technology
LBT

Bill / Resolution No.:*	Committee Referral:	Date:		
5LR33	LBT	3/27/24		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
AQUINO, Henry J.C. (C)	X			
MORIWAKI, Sharon Y. (VC)	X			
IHARA, Jr., Les				X
LEE, Chris	X			
FEVELLA, Kurt				X
TOTAL	3			2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes