

California

16 Percent of State's Construction Industry Falls into 'Informal Economy,' Report Says

One out of six construction workers in California in 2011 became victims of payroll fraud when employers either misclassified them as independent contractors or illegally paid them off-the-books to avoid complying with tax and labor law requirements, according to a report released Aug. 31 by the Economic Roundtable.

In the report, "Sinking Underground: The Growing Informal Economy in California Construction," researchers looked at labor force statistics from 1972 to 2012. They found the federal government lost about \$300 million in tax revenue because 143,900 California construction jobs in 2011 fell into the "informal economy," an area of the labor force that is unregulated because employers misclassified workers or failed to file accurate payroll records.

Workers in the informal economy earn half of what the average worker in a legal or formal construction job does, while federal and state governments lose millions of dollars in taxes, unemployment insurance, disability insurance and workers compensation, the report said.

"Construction once provided livelihoods for many workers to live the Californian dream. That dream has unfortunately turned into a nightmare as informality increases and many are pushed into contingent work. Construction is a low-road model of an industry sinking underground. Informality threatens to become the new normal," Yvonne Yen Liu, the report's lead researcher, said in an Aug. 31 statement.

The report's authors, Liu, Daniel Fleming and Patrick Barns, called for better enforcement of labor, tax, employment and payroll laws; legislative reforms that focus on restricting growth of the underground economy; and additional policies that support contractors that do comply with the law.

The report was funded by the Carpenters and Joiners of America.

Lost Taxes, Lower Earnings. California's construction industry is a \$152 billion dollar industry that employed 895,000 workers in 2012, the report said. But as the industry has grown, the informal employment in construction has increased from 6 percent to 16 percent of the industry over the past 40 years, according to the report.

As a result, in 2011 the state lost a total of \$473 million in workers' compensation, disability insurance, and unemployment insurance, the report said.

Researchers found that in 2011, more than 104,000 workers in California's construction industry weren't reported by their employers and 39,800 workers were misclassified as independent contractors.

Employees who work in specialty trades, such as dry-wall or roofing construction, are misclassified and go unreported more than workers in any other sector of the construction industry, the report said. Over 25 percent of workers in specialty construction and 20 percent in building construction were informally employed in 2012, the report said.

One detriment of cash-pay and misclassification systems is the depletion of the middle class, the report

said. About 30 percent of workers in the informal economy live in poverty, earning an average of 52 cents to 67 cents for every dollar paid to a formal employee, the report said.

"Safeguarding working people and providing a level playing field for honest employers to prosper is essential for the vitality of California's economy. A just day's pay for a hard day's work should be a reality in every workplace," California Labor Commissioner Julie Su said in an Aug. 31 statement.

Misclassification and off-the-books systems also allow contractors to successfully underbid employers that comply with the law on major projects, the report said. Bruce Wick, risk management director at California Professional Association of Specialty Contractors (CALPASC), said in a statement that those types of employers steal jobs from "high-road contractors, and their employees' families."

"All parties suffer, except the bad actor, and the project owner gets an unfairly low bid price," Wick said.

Call for Reform, Enforcement. The report's authors offered several suggestions for catching employers participating in the informal economy by boosting enforcement of labor and employment laws and strengthening collaborative enforcement efforts.

The authors suggested legislative and regulatory reforms focused not only on violations by subcontractors, but also cracking down on more general contractors and developers that participate in payroll fraud.

"Enforcement agencies need to adopt or use joint employer criteria to place accountability up the contract chain to discourage illegal employment practices and the use of law-breaking subcontractors or labor brokers," the report said.

According to the report, noncitizen immigrants are a "major component of the informal labor force." Therefore, comprehensive immigration reform would also help to reduce labor law violations, the authors said.

Finally, raising the minimum wage would ensure that workers in the formal sector are paid fairly while stimulating the economy and fostering job creation, they said.

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Text of the report is available at <http://op.bna.com/clr.nsf/r?Open=jeds-9nknds>.

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Citations, Stop Work Orders Issued In California Construction Labor Sweep

A California Labor Enforcement Task Force sweep of work sites has resulted in 81 citations and four stop work orders at construction sites statewide for workers' compensation and other violations related to the underground economy, the agency announced Aug. 28.

Operation Underground is a statewide enforcement effort focused on curbing common practices such as wage theft, tax evasion and fraud. The California De-