

Testimony for
SB2901

Original Sent Via Priority Mail

11 February 2008

The Honorable Linda Lingle, Governor
Office of the Governor
Executive Chambers
State Capitol
415 S. Beretania Street
Honolulu, HI 96813

Re: HB500 Appropriated Funds for Repairs to Veterans Cemeteries Statewide

Dear Governor Lingle:

Thank you for your letter of January 31st on the above referenced subject. You are correct; your previous correspondence and my conversations with Office of Veterans Services Director Major Mark Moses, USMC (Retired) have not satisfactorily addressed my concerns in this matter.

As you may be aware, on Monday, 28 January 2008, I testified at the Hawaii State Senate public hearing on SB2901, a bill which further clarifies the intent as to the disbursement of legislatively appropriated funds for the repair of veterans cemeteries that was enacted into law during the Twenty-Fourth Session of the Hawaii State Legislature in 2007.

An extraordinary thing happened when I returned to Kauai that evening. I received a telephone call from Commander Albert G. Moe, USN (Retired), the president of the Kauai Council of the Navy League. I was ordered to cease and desist using the Navy League letterhead stationary and Navy League logo in my strongly worded correspondence to you in this matter. Apparently Commander Moe received a telephone call from Rear Admiral Joseph J. (Jim) McClelland, USCG (Retired), the Hawaii Area President of the Navy League advising Commander Moe that he (RADM McClelland) had received a telephone call from a member of your administration complaining about my letters to you. Although the Board of Directors of the Kauai Council of the Navy League at its February meeting passed a motion in support of my advocacy on behalf of the deceased veterans interred at the Kauai Veterans Cemetery, the views expressed herein are my own, and do not represent those of the Navy League or any other organization that I am a member of, or in which I hold a leadership position.

While I do not speak or write on behalf of the 165 members of the Kauai Council of the Navy League, I do speak for the over 1,600 deceased veterans and military dependents who are interred in the Kauai Veterans Cemetery. As I pointed out in my written testimony last year on the failed SB725 bill which would have provided repair funds for urgently needed repairs to the Kauai Veterans Cemetery, these deceased veterans no

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longer have a voice. By default, because no else has stepped forward to speak on their behalf, I have become their voice. They are my true constituency in this matter, not the Navy League. I intend to continue my strong advocacy on their behalf with or without the official blessing of the Navy League.

I have carefully read your letter. Let me start with the positive aspects. On behalf of the families of our deceased veterans, let me express my appreciation to you for providing the burial vaults for our deceased veterans on the Neighbor Islands. As you are aware from my previous correspondence, these casket liners have been available for some time for the burial of our deceased veterans at the Hawaii State Veterans Cemetery at Kaneohe. OVS Director Major Mark Moses should be complimented on his efforts to procure these items for our Neighbor Island veterans cemeteries, and for having them transported to Kauai. They will go far in helping to ameliorate the "sinking graves" problem that all of our state veterans cemeteries suffer from.

As for my use of the term "casket liners", I think if you will read the HB1065 bill that was introduced by Representatives Cindy Evans and Sharon Har at the last legislative session of the Hawaii State Legislature, you will find that "casket liners" is the term that they use. I have never met Representatives Evans or Har, nor have I spoken to them. I have no idea how they came up with the term "casket liners". Far be it from me to tell them that their terminology is incorrect. I would suggest that either you or Major Moses do that. Incidentally, the same HB1065 bill contains the original legislative language that provides the Legislature's intended use of the funds appropriated for repairs to veterans cemeteries statewide. I cannot help but feel that Representatives Evans and Har would be greatly disappointed to learn that their patriotic concerns over the deteriorated condition of our state veterans cemeteries on the Neighbor Islands have been ignored by your administration, and that the intended use of these statewide veterans cemetery repair funds had been converted to a use and for a purpose for which they were never intended and that needed repairs to our veterans cemeteries statewide continue to go unfunded in spite of the Legislature appropriating funds for that purpose.

Your suggestion that that the VA had pre-approved the Hawaii State Veterans Cemetery's columbarium niche addition CIP project as a rationale and justification for converting the HB500 appropriated funds for repairs to veterans cemeteries statewide to that particular CIP project is wide of the mark. One has nothing to do with the other. The Department of Veteran Affairs (VA) approves state veterans cemeteries CIP projects, which, when completed within federal specifications and parameters, are fully reimbursable to the state with federal funds from the VA veterans cemetery program. The VA does not provide or reimburse the cost of veterans cemetery repairs. To take these legislatively appropriated veterans cemetery repair funds that are unreimbursable by the federal government and

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that were intended for repairs to all veterans cemeteries statewide which are, in fact, in urgent need of repair, and to convert all of these repair funds for use in a VA reimbursable CIP project at a single cemetery is inappropriate, if not unconscionable. These funds were legislatively appropriated for veterans cemetery repairs statewide. There is not one word in the entire legislative history of the Twenty-Fourth Session of the Hawaii State Legislature that even mentions the word "columbarium" in regards to state veterans cemeteries, let alone appropriates funds to build more columbarium niches at the State Veterans Cemetery at Kaneohe. I mentioned in my previous correspondence that I am not the sharpest tool in the shed, and I obviously missed the civics lesson that states that federal approval of a federally reimbursable state CIP project authorizes a state gubernatorial administration, *ipso facto*, to convert all of the funds in a state legislatively approved appropriations bill intended and specified for another use, for use in the federal-ly approved CIP project. That dog won't hunt.....even if I did miss the civics lesson!

There are several other dogs that won't hunt as well. The Director of OVS, when requested by Senator Gary Hooser's office to provide him with the repair needs and repair cost estimates for the Kauai Veterans Cemetery, advised Senator Hooser's office that he (the Director of OVS) has not received any requests. Senator Hooser needed these data for the preparation of SB 2901. The Director's response was disingenuous. By statute, the Director of OVS is required to inspect the state's veterans cemeteries on a triennial basis and to report repair needs to the adjutant general, the comptroller, and to the state legislature at their next regular session. The Director of OVS inspected the Kauai Veterans Cemetery on 07 January 2008, some nine days before the legislature convened. He was accompanied by a DOD engineer who is also a contracting officer. The Director of OVS, by statute, should have known the repair needs of the Kauai Veterans Cemetery and the DOD engineer/contracting officer should have been able to provide him with cost estimates for repair. I supplied Senator Hooser's office with the needed information.

I also heard the Director of OVS testify at the public hearing on SB2901 suggesting that the \$300 federal plot allowance provided by the VA for veteran burials at our veterans cemeteries could be used by the Neighbor Island counties for repairs to their respective veterans cemeteries. That dog won't hunt either! The VA provides these funds to reimburse the state for the cost of interring a deceased veteran, not for repairs to the veterans cemeteries. The Director of OVS knows full well that the \$300 federal plot allowance does not cover even half of the cost to the Neighbor Island counties for burying a deceased veteran. In addition, there is no VA plot allowance for the burial of deceased military dependents and the counties bear the full cost of these burials.

I will not go into challenging your interpretation of Chapter 363 of the Hawaii Revised

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Statutes in this letter. Suffice it to say that I respectfully disagree with you. The Director of OVS made these same interpretations of HRS Chapter 363 at the public hearing on SB2901. I submitted rebuttal testimony to Senator Lorraine Inouye challenging the Director's interpretation. Rather than plowing that same field over again in this letter, I will send you a copy of my rebuttal testimony under separate cover.

At the end of the day, Chapter 363 of the Hawaii Revised Statutes (HRS) is not relevant in this case. HB500, which you signed into law on 10 July 2007, is now the law of the land as far as the appropriation of money for repairs to veterans cemeteries statewide is concerned. HB500 appropriated \$200,000 in FY 2007-2008 and \$1,000,000 in FY 2008-2009 for repairs to veterans cemeteries statewide. Chapter 363 of the HRS and HB500 are not mutually exclusive; they are complementary. There is nothing in HRS Chapter 363 that even mentions funding for maintenance and repairs to our state's veterans cemeteries. The Legislature, in its wisdom, and in its patriotic concern, and in its desire to correct the multitude of maintenance and repair problems that our veterans cemeteries are faced with, is certainly within its statutory legislative prerogative to appropriate funds for repairs to these state veterans cemeteries. Nothing in HRS Chapter 363, in what that chapter currently states, would prohibit it from doing so. Although by the powers vested in you by the state, you could have vetoed HB500 if you disagreed with that appropriation of state funds and for the intended use of those funds, you did not do so. As I mentioned above, you signed that piece of legislation. It is now the law, and your administration can reasonably be expected to comply with the law as it is written and as it was intended.

The intent of the legislation is quite clear. You even wrote me a letter last year advising me of this appropriation of veterans cemetery repair funds for repairs to our veterans cemeteries *statewide*. Let me quote from your letter of July 18th, 2007 a copy of which I submitted two weeks ago during my Senate hearing testimony in support of SB2901:

“However, I would like to inform you that the recently passed State Budget includes additional funds for veterans' cemeteries statewide. With these lump sum CIP funds, the decision falls on the Director of the State Office of Veterans Services, Mr. Mark Moses, to divide and provide funds according to each cemetery's needs.”

Obviously, by the wording of your letter, you were and are aware of the meaning and intent of the state veterans cemetery repair funding legislation. Why would you use the term “to divide and provide funds according to each cemetery's needs” if you did not understand that these funds were to be divided and provided to each of our veterans cemeteries according to their individual needs?

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Senator Hooser wrote me a similar letter stating that a portion of the HB500 funds were intended for repairs to the Kauai Veterans Cemetery. As the Hawaii State Senate Majority Leader responsible for shepherding this legislation through the Senate, one would reasonably think that he would know the intent of the state veterans cemetery repair appropriations in the HB500 bill, which is the state's budget. A copy of that letter was also submitted with my testimony in support of SB2901. Even more pertinently, your former Director of the Office of Veterans Services, Colonel Edward Cruickshank, USA (Retired) personally assured Senator Hooser that a portion of these funds would go to Kauai. If Colonel Cruickshank knew the legislative intent for the allocation of these funds, and he was part of your administration, why doesn't the new Director of OVS understand the legislative intent of the cemetery repair fund portion of that same HB500 appropriations bill?

Late last year, after Senator Baker and her Senate Committee on Ways and Means inspected the Kauai Veterans Cemetery, she also personally assured me that it was the Legislature's intent to have the state veterans cemetery repair funds distributed to all of the state's veterans cemeteries as needed. That did not happen. It is for that very reason that Senator Hooser and Senator Baker sponsored SB2901, which clarified the Legislature's intent in this matter, and specifies what each county is to receive from the remaining FY 2008-2009 appropriation of \$1,000,000 originally appropriated in HB500.

Although I testified in support of the SB2901 bill which clarifies the intent of the original legislation, that bill is actually redundant. You already know the meaning and intent of the original legislation, Senator Hooser, the Senate Majority Leader, knows the intent of the original legislation, Senator Baker, the Chairperson of the Senate Ways and Means Committee, knows the intent of the original legislation, your former Director of OVS, Colonel Cruickshank understood the intent of the original legislation, and any 10 year old reading the original bill would understand the meaning and intent of the original cemetery repair funding legislation. Be that as may, in view of the adamant refusal of the current Director of OVS to provide funds for repairs to our state veterans cemeteries as appropriated and intended by the Twenty-Fourth Session of the Hawaii State Legislature in 2007, and as signed into law by you, it was necessary to generate the current SB2901 bill in order to rein in your administration's deliberate disregard of the Legislature's clear legislative intent in this matter.

And that is why I am writing to you. Your current Director of OVS has a mindset, which was readily apparent during his testimony against SB2901, not only not to distribute any of the legislatively appropriated funds for repairs to state veterans cemeteries on any of the Neighbor Islands for FY 2007-2008 as intended by law, but not to distribute any of

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the legislatively appropriated veterans cemetery repair funds for our Neighbor Island veterans cemeteries for the coming fiscal year either!

I am appealing to your better sense and judgment to comply with the intent of the SB500 legislatively appropriated state veterans cemetery repair funds and distribute these repair funds to our Neighbor Island veterans cemeteries for urgently needed repairs as the Legislature clearly intended for your administration to do.

But don't distribute these veterans cemetery repair funds just because it is the law and, as the governor, you are sworn to uphold the law;

Don't distribute these funds just because our deceased veterans are worthy of having a dignified final resting place consistent with their honorable service to our nation;

Don't distribute these funds just because it is the legal, moral, ethical, fair, equitable and reasonable thing to do;

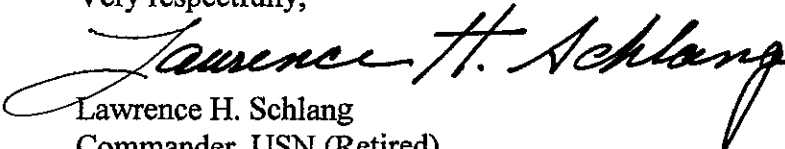
Don't distribute these funds just because the deteriorated condition of all of our state's veterans cemeteries is an embarrassment and disgrace to you and to your administration;

Don't distribute these funds just because all of our state's veterans cemeteries are in urgent need of repair;

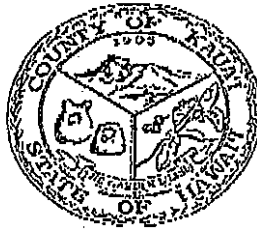
Distribute these funds fairly and equitably, as the Legislature intended for you to do, for the same reason that I write these letters to you; Distribute these repair funds to all of our veterans cemeteries statewide simply because it is the right thing to do.

Thank you for the attention and consideration that you give to this appeal.

Very respectfully,


Lawrence H. Schlang
Commander, USN (Retired)

COUNTY COUNCIL
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 TIM BYNUM
 JAY BIRDARO
 SHAYLENE ISERI-CARVALHO
 RONALD D. KOUCHI
 IOANN A. YUKIMURA



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TESTIMONY OF COUNCILMEMBER SHAYLENE ISERI-CARVALHO
 KAUAI COUNTY COUNCIL

ON
 S.B. No. 2901, SD1 RELATING TO VETERANS CEMETERIES

and
 S.B. No. 3221, SD 1 RELATING TO COCO PALMS RESORT

Senate Committee on Ways and Means

February 25, 2008

10:30 a.m.

Conference Room 211

Dear Chair Baker and Members:


Thank you for the opportunity to submit testimony as an individual member of the Kauai County Council in support of two measures--S.B. No. 2901, SD 1 to appropriate funds for the repair and improvement of veterans cemeteries to each County and S.B. 3221, SD 1 to appropriate matching funds for the acquisition of Coco Palms Resort and to convert it into a public historical park and cultural center for the preservation and benefit of the native Hawaiian culture.

First, relating to S.B. No. 2901, SD 1, I feel that our veterans cemeteries, particularly on the neighbor islands, need assistance for repairs and improvements and that a fair share should be granted to each County.

Secondly, relating to S.B. No. 3221, SD 1, the acquisition of the former Coco Palms Resort lands and conversion into a public historical park and cultural center would help to preserve and benefit the native Hawaiian culture of which I am a part of and proud to represent. Since Hurricane Iniki struck Kauai in 1994, these lands that were once ceded lands have become deplorable and dilapidated. It is time the State, the County and the community join together to improve this precious resource which was once a popular tourist attraction and landmark.

Through your wisdom I humbly request your favorable support in passage of these bills.

Sincerely,


 Shaylene Iscri-Carvalho
 Councilmember

CA/d-testimony2008-810

Via FAX

4040 Kapena St
Lihue, HI 96741
February 24, 2008

The Honorable Rosalyn H. Baker, Chairperson
Senate Committee on Ways and Means
State Capitol, Room 210
415 S. Beretania Street
Honolulu, Hi 97813

RE: Testimony in Favor of SB 2901 S.D., 1 Relating to Veterans Cemeteries, to be heard by WAM Committee on Monday, February 25, 10:30 am.

Dear Senator Baker,

I am a retired Master Sergeant, U.S. Air Force; the Kauai Veteran's Council Vice Commander and am submitting testimony as Chairman of the Cemetery Committee.

In my capacity with the Kauai Veterans Council, it has been my job to monitor the condition of the Kauai Veteran's Cemetery at Hanapepe and advise and consult with the Mayor of Kauai concerning matters pertaining to the Cemetery.

It has been my observation over the past few years that the condition of the Kauai Veterans Cemetery has deteriorated due to lack of adequate funding. Graves are sinking, Headstones are in disarray with over 150 just placed on the ground without being set in properly. The cemetery road is in need of repair and the entrance gate needs to be repaired and replaced. The OVS inspection report documents most of these problems yet they fail to provide funds or even support SB 2901.

The County does what it can but they need additional funds. The \$300 received from the VA to open and close a grave is but a fraction of the actual cost and the VA funds cannot be used for maintenance.

The veterans who gave so much deserve better than this. I ask you to carefully consider and support SB 2901 so resources can be allotted for the proper care for the Veterans Cemeteries and honor those that lie within.

I appreciate the opportunity to submit testimony and thank you for holding a hearing on this bill.

Very respectfully,


Richard M. Kashiwabara

**WRITTEN COMMENTS FROM THE
COUNTY OF KAUA'I
OFFICE OF THE MAYOR**

**TO THE SENATE COMMITTEE
ON WAYS AND MEANS**

**TWENTY-FOURTH LEGISLATURE
REGULAR SESSION OF 2008**

February 25, 2008
10:30 a.m.

WRITTEN COMMENTS ON **SENATE BILL NO. 2901, SD1**, RELATING TO VETERANS CEMETERIES.

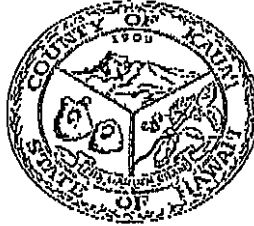
TO THE HONORABLE ROSALYN H. BAKER, CHAIR, AND MEMBERS OF THE COMMITTEE:

My name is Bryan J. Baptiste, Mayor of the County of Kaua'i, providing written comments in support of Senate Bill No. 2901, SD1.

The bill appropriates funds to repair and improve veterans cemeteries in the various counties. At the Kaua'i Veterans Cemetery, the funds could be used to repair the pavilion roof, bathrooms, gravesites, and road, and build a new columbarium. Prior appropriations in the budget bill will provide some relief, but the needs on Kaua'i are so great that they could not be addressed even if the entire statewide appropriation were directed to Kaua'i. Any additional funding you could provide to honor the service of our veterans would be greatly appreciated.

We thank the Committee for the opportunity to present written comments on this matter.

COUNTY COUNCIL
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TESTIMONY OF COUNCIL VICE CHAIR MEL RAPOZO
 KAUAI COUNTY COUNCIL
 ON

S.B. No. 2901, SD1 RELATING TO VETERANS CEMETERIES
 Senate Committee on Ways and Means
 February 25, 2008
 10:30 a.m.
 Conference Room 211

Dear Chair Baker and Members:

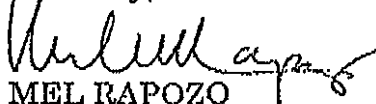
I submit this testimony as an individual member of the Kauai County Council and as the Council's Public Works Committee Chair in strong support of S.B. No. 2901, SD 1 which appropriates funds to the counties for the repair and improvement of veterans cemeteries.

The reason for submitting my comments is to stress to the Ways and Means Committee that the language in this bill should not be changed and urge you to provide all the counties with an appropriation.

I urge your support for the veterans who are resting in peace that they be treated equally and that all cemeteries in the State of Hawaii receive equal attention.

I have consistently followed this issue over the years and thank you for your consideration on this important issue.

Sincerely,


 MEL RAPOZO
 Council Vice Chair

CA/Ja2008-808

Via Email

3441 Aeo Street
Kalaheo, HI 96741
February 24, 2008

The Honorable Rosalyn H. Baker, Chairperson
Senate Committee on Ways and Means
State Capitol, Room 210
415 S. Beretania Street
Honolulu, Hi 97813

RE: Testimony in Favor of SB 2901 S.D.,1 Relating to Veterans Cemeteries, To be Heard by WAM Committee on Monday, February 25, 10:30 am.

Aloha Senator Baker,

I am a retired Command Master Chief Petty Officer, USN and have lived in Hawaii 26 years; the last 19 years on Kauai. I have been involved in the Kauai Veteran's Council and the Veterans of Foreign Wars in various leadership positions since moving to Kauai.

I would like to bring to your attention the absolute urgent need for adequate funding for the Kauai Veterans Cemetery and the other neighbor islands cemeteries to ensure those that have sacrificed so much for the freedom we all enjoy today are properly honored.

To me, the proper upkeep and maintenance of the veterans' final resting places is the best way to honor them. The current poor condition of the Hanapepe Veterans Cemetery is testimony to the fact that we are not doing all we can to honor our veterans. Graves have subsided, roads and restrooms have deteriorated, the grave stones are placed upon the ground and not set level with the surface (165 at my last count), and those set properly years ago are in need of resetting.

Some say it's up to the County to maintain the cemetery, others point to the Office of Veterans Services, and others say it's up to the legislature. I can assure you Senator Baker, the families deceased veterans don't care, they just want to see their loved ones properly honored and respected. Approval of SB 2901 will be a step in the proper direction.

I very much appreciate the opportunity to submit testimony and thank you for holding the hearing on this bill.

Very respectfully,



Richard M. Irwin