

ORIGINAL

Original Sent Via Facsimile

3907 Punahale Road
Princeville, HI 96722
23 February 2008

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

LATE

Re: Testimony Submittal for Senate Decision Making Hearing on SB2901, Senate Ways and Means Committee, Room 210, Monday, 25 February 2008 at 10:30 A.M.

Dear Senator Baker:

Carl Miura from Senator Hooser's office advised me two days ago that the above referenced hearing was scheduled for Monday, 25 February 2008. At the time that Mr. Miura called, I had just been released from Tripler Army Medical Center and the doctor wanted me to remain on Oahu for 24 hours for post operative management before returning to Kauai. This is the first opportunity that I have had to sit down and prepare written testimony for the above referenced hearing. I will try to be brief.

As you may be aware, the SB2901 bill has become a matter of contention with the Lingle administration. Although it is within the written brochure description of the duties of the Office of Veterans Services (OVS) to, among other things, support veterans legislation, I sat in at the Senate Committee on Intergovernmental and Military Affairs (IGM) public hearing on SB2901 and listened to the Director of OVS and a coterie of other Hawaii OVS/DOD officials speak out against the original version of SB2901. This bill merely clarified the intent of the Legislature as to the distribution of HB500 appropriated funds for repairs to veterans cemeteries statewide that were appropriated and passed into law during the 1st Session of the Twenty-Fourth Legislature in 2007. With the full knowledge and support of the Kauai Council of the Navy League of the United States, I testified on behalf of SB2901. After hearing what I believed to be a number of misrepresentations and/or distortion of facts, I requested an opportunity to rebut the testimony of the Director of OVS. Senator Inouye requested that I send a letter. Both my testimony in support of the original version of SB2901 and my rebuttal testimony are now in the public record of the IGM hearing. It would be appreciated if the members of the Senate Ways and Means Committee (WAM) would review this testimony as well as the testimony of the Director of OVS before beginning their decision making deliberations on SB2901.

That evening, after providing oral and written testimony at the IGM public hearing, my authorization to use the Navy League logo and letterhead in this matter was withdrawn by the higher echelons of the Navy League leadership in Hawaii based on a complaint from a member of Governor Lingle's administration for my alleged disrespect to the Governor in this matter. Therefore, I am submitting written testimony as an individual.

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A few days later, I received a letter from Governor Lingle basically reiterating the OVS Director's testimony at the IGM hearing. I sent a six page rebuttal letter to Governor Lingle on 11 February 2008. Testimony page transmittal rule limitations prevent me from faxing my whole response to Governor Lingle, so I have only included the last three pages of my letter which I respectfully request that you enter into testimony at the above referenced decision making hearing on SB2901. By copy of this letter, I am requesting that Mr. Miura of Senator Hooser's office supply you with a copy of my full rebuttal letter as well as a copy of Governor Lingle's letter to me. I believe both letters and the arguments made therein are germane to the SB 2901 decision making hearing.

I do want to thank you for holding the decision making hearing on this bill. It is very much appreciated. While I could possibly add a number of additional cogent arguments in support of SB2901, I would only like your committee to look at one further aspect of the bill that has been entirely overlooked by all parties...and that is the human aspect.

I would like to tell you and members of your committee about Frank Cruz. Today is the first anniversary of Frank's death. My wife and I attended a celebration of Frank's life at the Kauai Veterans Cemetery in Hanapepe earlier today that was attended by Frank's family, friends and fellow veterans. It was a moving and memorable occasion.

Frank Cruz enlisted in the Army when he was eighteen. When he completed basic training as Fort Ord, CA, he left for Vietnam. Frank was an infantryman in the Mekong Delta. He started out as a point man for his platoon. Due to his small size and stature, he became a "tunnel rat", crawling through Viet Cong underground warrens armed only with a flashlight clenched between his teeth and a .45 calibre pistol in his hand. He never knew if directly in front of him was a Viet Cong ambush, a booby trap, or possibly a snake. Due to his courage, tenacity, skill and professionalism as one of our nation's warriors, he was promoted to the rank of sergeant while still a teenager. He was further promoted to staff sergeant before the age of twenty. Space does not allow me to tell more about Frank's illustrious Army career, but among Frank's awards was the Purple Heart. Frank was a disabled veteran. He died of one of his service connected disabilities.

After the ceremonies, I walked past Frank's grave to again pay my respects to a friend, a fellow veteran...and an American hero. Frank has only been gone a year, but his grave is sinking. Please fund the SB2901 bill to repair our state's veterans cemeteries.

Very respectfully,


Lawrence H. Schlang

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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 as 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;

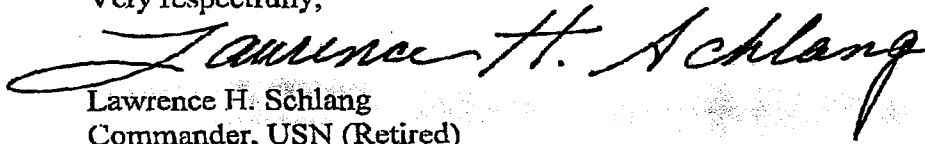
Don't distribute these funds just because the deteriorated condition of all of our state's veterans cemeteries is an embarrassment and disgrace to you and to your administration;

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)