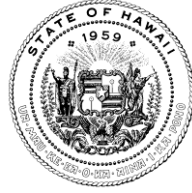


**LATE**



DAVID Y. IGE  
GOVERNOR  
SHAN S. TSUTSUI  
LT. GOVERNOR

**STATE OF HAWAII**  
**OFFICE OF THE DIRECTOR**  
**DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**  
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CATHERINE P. AWAKUNI COLÓN  
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**PRESENTATION OF THE  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

TO THE HOUSE COMMITTEE ON  
CONSUMER PROTECTION & COMMERCE

TWENTY-NINTH STATE LEGISLATURE  
Regular Session of 2017  
Tuesday, February 14, 2017  
2:00 p.m.

**TESTIMONY ON HOUSE BILL NO. 1245, H.D. 1, RELATING TO CEMETERIES.**

TO THE HONORABLE ANGUS L.K. MCKELVEY, CHAIR,  
TO THE HONORABLE LINDA ICHIYAMA, VICE CHAIR,  
AND MEMBERS OF THE COMMITTEE:

My name is Catherine Awakuni Colón, Director of the Department of Commerce and Consumer Affairs (“DCCA” or “Department”). DCCA appreciates the opportunity to submit testimony in support of House Bill No. 1245, H.D. 1, Relating to Cemeteries, and to offer the following comments for the Committee’s consideration.

House Bill. No. 1245, H.D. 1, proposes to address the issues that continue to negatively impact the condition and operations of the privately held Sunset Memorial Park Cemetery (“Sunset Memorial”). The proposed solutions in this measure include the creation of specific volunteer liability protections under Chapter 662D, Hawaii Revised Statutes, for those persons and organizations providing voluntary upkeep and

maintenance of privately owned and operated cemeteries, and also the requirement that DCCA develop both short- and long-term strategies for the upkeep, repair, and maintenance of Sunset Memorial, including consideration of possible state ownership. In addition, this measure would authorize DCCA to use Sunset Memorial Trust Fund amounts for repair and maintenance purposes.

The Department appreciates the Legislature's continuing leadership and support – and, in particular, the leadership of area legislators – in finding both short- and long-term solutions to the issues affecting Sunset Memorial. While DCCA continues to work on carrying out a number of solutions identified and pursued during the interim of 2016, we fully support the provisions of this measure that will reinforce ongoing efforts. In particular, the Department supports the bill's creation of a special cemetery volunteer liability protection law, which is intended to encourage members of the public who have expressed a desire to volunteer on the Sunset Memorial grounds to do so without fear of liability resulting from their charitable activities. DCCA also thanks the House Committee on Water & Land for making amendments to shore up the bill's section on volunteer liability protection.

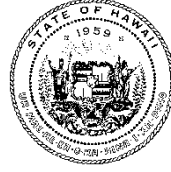
The Department is committed to continuing to work with area legislators, the affected community and businesses, and all others interested in finding a practical, sustainable way forward for Sunset Memorial. Accordingly, DCCA does not object to the portion of this measure that would have the Department continuing to work on developing short- and long-term strategies for Sunset Memorial in collaboration with the Department of Accounting and General Services. The Department would only ask the Legislature to give careful consideration when exploring certain long-term options listed

in this bill that may not be practical or appropriate for the State, namely a possible state takeover of Sunset Memorial and the utilization of perpetual care funds to be used by DCCA and not a private licensee. The Department believes it is best to focus on finding solutions that would leave the State's current private cemetery operator licensing model in place without also creating the need for significant intervention in cemetery operations by the State, excepting the State's current abandoned cemetery care program.

Thank you for the opportunity to provide testimony in support of this measure. I am happy to answer any questions the Committee may have.

**LATE**

DAVID Y. IGE  
GOVERNOR



RODERICK K. BECKER  
Comptroller

AUDREY HIDANO  
Deputy Comptroller

**STATE OF HAWAII**  
**DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES**  
P.O. BOX 119, HONOLULU, HAWAII 96810-0119

TESTIMONY OF  
RODERICK K. BECKER, COMPTROLLER  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
TO THE  
HOUSE COMMITTEE ON  
CONSUMER PROTECTION & COMMERCE  
ON  
TUESDAY, FEBRUARY 14, 2017  
2:00 P.M.  
CONFERENCE ROOM 329

H.B. 1245, HD1

RELATING TO CEMETERIES.

Chair McKelvey, Vice Chair Ichiyama, and members of the Committee, thank you for the opportunity to submit testimony on H.B. 1245, HD1.

The Department of Accounting and General Services (DAGS) appreciates the intent of the measure, and will work with the Department of Commerce and Consumer Affairs (DCCA) in developing strategies for the repair and maintenance of Sunset Memorial Park. DAGS agrees with DCCA's position to leave the State's current private cemetery operator licensing model in place.

Thank you for the opportunity to submit testimony on this matter.

# Nanette N. Napoleon

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Ph. (808) 261-0705 / Email: nanetten@hawaii.rr.com

February 11, 2017

## **TESTIMONY IN FAVOR OF HB1245 RELATING TO CEMETERIES**

**To: Committee on Consumer Protection and Commerce**  
Rep. Angus L.K. McKelvey

**Hearing Date/Time: Tuesday, February 14, 2017, 2:00 p.m.**

I my capacity as the director of the Hawaii Cemetery Research Project for more than 30 years--during which time I have become the state's leading expert on the history and conditions of Hawaii's post-European contact type cemeteries--one of my main responsibilities has been to take inquiries from the public regarding cemeteries they are interested in. While most of these inquiries are requests to help individuals find old family gravesites, many have been about issues of poor cemetery management and maintenance.

Over the years, the cemetery that I have received the most inquiries about poor cemetery management and maintenance is Sunset Memorial Park in Pearl City. All of these inquiries, I repeat ALL of these inquiries, have been complaints from family members of those buried there who have experienced difficulties with the management, and/or lack of maintenance of the site.

Now the cemetery is in the unfortunate position of not having an identified property owner, and very little money to maintain the cemetery, which has led to the deterioration of the site to such an extent that it is now become a serious public safety hazard.

Last year, torrential rains in the area over an extended period of time caused severe ground erosion that resulted in the 2-4 foot sinking of dozens of marked graves. While many of these gravesite were later filled in with donated dirt by family volunteers, the maintenance problems at the site are still not up to par with standard cemetery maintenance practices.

While many family members have stepped up to the plate to form an ad hoc volunteer management hui, and have been making good faith efforts to maintain the site on their own, the fact of the matter is that there is still no viable professional cemetery management entity in place

to address the numerous financial, administrative, maintenance and safety issues at hand at this time.

In this regard, I highly support HB1245, which requires the Department of Commerce and Consumer Affairs, in consultation with the Comptroller, to develop strategies for repair and maintenance of Sunset Memorial Park; and authorizes DCCA to access the Sunset Memorial Park Trust Fund. I also support the provision which provides limited liability for persons maintaining or repairing cemetery grounds, and requires a report to the legislature.

These above actions are long overdue and will be in the best interest of the all the families of Sunset Memorial Park, and the community at-large.

Thank you,

*Nanette Napoleon*

To members of the Hawaii State House of Representatives, regarding Sunset Memorial Park:

As one of the many families affected by the conditions and mismanagement of Sunset Memorial Park, our primary concern is the maintenance of the cemetery. "Maintenance" involves four aspects: SAFETY, AESTHETICS, PLOT DIRECTORY and SECURITY.

SAFETY – The grounds are unsafe, especially for the elderly, as the terrain is extremely uneven and full of holes and is often overgrown with weeds to the extent that it's difficult to see where one is stepping.

AESTHETICS – The cemetery just looks terrible, especially in comparison with a typical cemetery. It is in nearly constant need of mowing and raking. The trash bins are virtually always overflowing, with excess trash just in piles on the ground. Numerous plots have out-of-control shrubbery and/or monuments. This is likely due to no management to establish and enforce park regulations.

PLOT DIRECTORY – It would be of great value to create and maintain a directory of the plots and niches. Out of town relatives, or even local residents, who don't visit gravesites very often have no way of quickly determining where their loved ones are buried. This is a "nice to have", but would be most welcomed.

SECURITY – There is a transient population that has taken up residency in the park. They are likely not a threat to visitors, but they do create an aura of concern, create waste and use park water. A gated/secure entry and exit points that close at sunset and a security fence around the entire perimeter would be very useful in combating the homeless, vandalism and theft problems.

I suggest the concerned families create a nonprofit organization that would support and interface with any state run entity to ensure sustained maintenance of the cemetery. This volunteer group would need to be shielded from liability from onsite injuries and accidents and also any lawsuits stemming from disgruntled families with loved ones interred.

A nonprofit group (along with all concerned families) has no knowledge, experience or desire to manage cemetery operations, such as digging graves, interment, exhumations, etc.

As a concerned family member who is willing to serve on a nonprofit organization, I respectfully request that the Legislature do everything within its power to create a mechanism to restore the dignity of Sunset Memorial Park and ensure its maintenance into perpetuity.

Sincerely,

David H. Steele

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Waipahu, HI 96797

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**LATE**

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 14, 2017 12:04 AM  
**To:** CPCtestimony  
**Cc:** foodsovereignty@gmail.com  
**Subject:** \*Submitted testimony for HB1245 on Feb 14, 2017 14:00PM\*

**HB1245**

Submitted on: 2/14/2017

Testimony for CPC on Feb 14, 2017 14:00PM in Conference Room 329

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mitsuko Hayakawa	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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**LATE**

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 13, 2017 6:57 PM  
**To:** CPCtestimony  
**Cc:** darrellsalvador@yahoo.com  
**Subject:** Submitted testimony for HB1245 on Feb 14, 2017 14:00PM

**HB1245**

Submitted on: 2/13/2017  
Testimony for CPC on Feb 14, 2017 14:00PM in Conference Room 329

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Darrell Salvador	Individual	Support	No

Comments: My name is Darrell Salvador and I am testifying as a plot owner at Sunset Memorial Park Pearl City, I am very concerned about the well being of the Cemetery I support the bill HB-1245 and that Volunteers like my self are willing to invest time and resources to help in the maintenance of this once beautiful Cemetery.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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**LATE**

**TESTIMONY OF ROBERT TOYOFUKU ON BEHALF OF THE HAWAII  
ASSOCIATION FOR JUSTICE (HAJ) REGARDING H.B. 1245 H.D. 1**

February 14, 2017

To: Chairman Angus McKelvey and Members of the House Committee on Consumer Protection and Commerce:

My name is Bob Toyofuku and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) in opposition to parts of this measure and providing amendments to clarify the language regarding H.B. 1245 H.D. 1, relating to Cemeteries.

H.B. 1245 H.D. 1 seeks to address a long-term solution to repair and maintain Sunset Memorial Park. Within this bill, there is a provision for limited liability for persons maintaining or repairing any cemetery grounds, not just Sunset Memorial Park. While we understand that those who volunteer their time to assist in maintaining or repairing cemetery grounds want immunity, we believe it is also important that cemeteries ordinarily remain accountable for reasonable upkeep of the premises because this measure will apply to even commercially profitable cemeteries.

The H.D. 1 amendment deleted "without compensation" which we ask the committee to re-insert in order to clarify the meaning of "volunteer". Some volunteers may be paid a minimal amount for their services and we would like to clarify the language to pertain to only volunteers who perform work "without compensation".

Therefore, we ask that 662D- be amended to read as follows:

"(a) A volunteer who maintains or repairs cemetery grounds located in the State without compensation, including cemeteries operated for profit pursuant to chapter 441, shall not be liable to any person for injury or damage sustained as a result of the actions

of the volunteer to maintain or repair the cemetery grounds, except for injury or damages resulting from gross negligence or intentional misconduct."

“(c) This section does not relieve any cemetery property owner or cemetery authority from having to comply with the requirements of chapter 441, or from the duty to maintain their premises in a reasonably safe condition.”

This will take care of Sunset Memorial Park because there is no owner and the volunteers will be protected. At the same time, it will encourage profitable cemeteries to maintain their property in a safe condition – especially for the many elders who regularly visit cemeteries.

Thank you for allowing me to testify regarding this measure. Please feel free to contact me should you have any questions or desire additional information.