

HB 1626

Measure Title: RELATING TO CEMETERIES.

Report Title: Sunset Memorial Park; Repairs; Maintenance; Cemetery; Department of Commerce and Consumer Affairs; Volunteers; Limited Liability

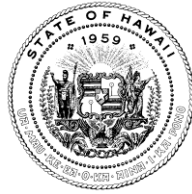
Description: Limits liability for persons maintaining or repairing cemetery grounds. Requires the director of commerce and consumer affairs, in consultation with the comptroller, to develop strategies for repair and maintenance of Sunset Memorial Park in Pearl City, Oahu. Requires report to Legislature. (HB1626 HD1)

Companion: [SB2082](#)

Package: None

Current Referral: CPH, JDC

Introducer(s): TAKUMI, KONG, TAKAYAMA, YAMANE



DAVID Y. IGE
GOVERNOR

DOUGLAS S. CHIN
LIEUTENANT GOVERNOR

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**PRESENTATION OF THE
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

TO THE SENATE COMMITTEE ON
COMMERCE, CONSUMER PROTECTION, AND HEALTH

TWENTY-NINTH LEGISLATURE
Regular Session of 2018

Tuesday, March 13, 2018
9:00 a.m.

TESTIMONY ON HOUSE BILL NO. 1626, H.D. 1, RELATING TO CEMETERIES.

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

The Department of Commerce and Consumer Affairs (“Department”) appreciates the opportunity to testify in support of H.B. 1626, H.D. 1, Relating to Cemeteries. My name is Catherine Awakuni Colón, and I am the Director of the Department (“Director”).

This measure proposes to address the issues that continue to negatively impact the condition and operations of the privately held Sunset Memorial Park Cemetery (“Sunset Memorial”). In particular, H.B. 1626 seeks to: (1) limit liability under Hawaii Revised Statutes chapter 662D for volunteers and nonprofit entities maintaining or repairing cemetery grounds; and (2) require the Director, in consultation with the Department of Accounting and General Services comptroller, to develop strategies for the upkeep, repair, and maintenance of Sunset Memorial. H.D. 1 amends this measure by: (1) clarifying that the proposed statutory section applies to volunteers by changing “persons” in its title to “volunteers”; and (2) changing its effective date to July 1, 2050.

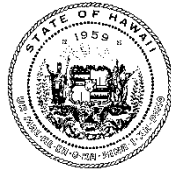
The Department appreciates the Legislature's continuing leadership and support in finding both short- and long-term solutions to the issues affecting Sunset Memorial. In particular, the Department supports the bill's creation of a special cemetery volunteer liability protection law, which is intended to encourage volunteers to maintain and repair Sunset Memorial without fear of liability resulting from their charitable activities. The Department also supports the measure's clarification of the compensation or reimbursement allowable for volunteers, and the language on page 3, lines 14-16 that states the section does not relieve any cemetery property owner or cemetery authority from compliance with chapter 441. However, the Department respectfully requests that the Committee add clarifying language in the committee report that would ensure protection of community groups maintaining and repairing Sunset Memorial as a public service project.

The Department believes that this narrowly tailored bill provides an appropriate balance of protection to individuals, businesses, and organizations wishing to help a cemetery, including family members, friends, businesses, unions, and community and service organizations, while ensuring that the cemetery authority's statutory responsibilities are unaffected.

The Department is committed to continue working with area legislators, the affected community and businesses, and all others interested in finding a practical and sustainable solution for Sunset Memorial.

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

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
SENATE COMMITTEE ON
COMMERCE, CONSUMER PROTECTION, AND HEALTH
ON
TUESDAY, MARCH 13, 2018
9:00 A.M.
CONFERENCE ROOM 229

H.B. 1626, H.D. 1

RELATING TO CEMETERIES.

Chair Baker, Vice Chair Tokuda, and Members of the Committee, thank you for the opportunity to provide written testimony on H.B. 1626, H.D. 1.

The Department of Accounting and General Services (DAGS) supports the bill and offers the following comments for your consideration.

H.B. 1626, H.D. 1 limits liability for volunteers and certain entities that provide volunteers to maintain or repair cemetery grounds, and requires the Director of Commerce and Consumer Affairs in consultation with the Comptroller to develop strategies for repair and maintenance of Sunset Memorial Park in Pearl City. The measure does not interfere with an owner's ability to manage the property in question, and attempts to provide some relief to the owner of cemetery grounds. DAGS supports this measure and will work with the Department of Commerce and Consumer Affairs to find a viable long-term solution to this problem.

Thank you for the opportunity to provide testimony on this measure.

HB-1626-HD-1

Submitted on: 3/12/2018 8:49:17 AM

Testimony for CPH on 3/13/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Testifying for OCC Legislative Priorities Committee, Democratic Party of Hawai'i	Support	No

Comments:

**TESTIMONY OF NAHELANI WEBSTER ON BEHALF OF THE HAWAII
ASSOCIATION FOR JUSTICE (HAJ) REGARDING H.B. 1626, HD1**

March 13, 2018
9:00 a.m.
CR 229

To: Chair Rosalyn H. Baker and Members of the Senate Committee on Commerce,
Consumer Protection and Health.

My name is Nahelani Webster 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. 1626, HD1, relating to Cemeteries.

H.B. 1626, HD1 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.

We request that the committee insert "without compensation" at page 2, line 20, after "State" 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."

We also request that the committee insert “,or from the duty to maintain their premises in a reasonably safe condition” at page 3, line 16 so that section (c) reads:

“(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.”

Our final recommendation to the committee is to add a sunset date to this measure of two years, as there are ongoing attempts to have the State add Sunset Memorial Park to its list of state-owned cemeteries.

The recommendations stated above will address the purpose of the bill to encourage volunteers at Sunset Memorial Park and 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.

The Honorable Rosalyn H. Baker, Chair
The Honorable Jill N. Tokuda, Vice-Chair
And members of the Committee on Commerce, Consumer Protection, and Health (CPH)
415 South Beretania Street, #229
Honolulu, Hawaii 96813

Subject HB1626 HD1, Relating To Cemeteries
Hearing: Tuesday, March 13, 2018

This testimony is to convey my strong support for HB 1626 HD1. This measure will address some of the issues that negatively impact the conditions at Sunset Memorial Park in Pearl City. For many of my family members, this was their chosen final resting place, as the location is ideal for those of us who reside on the West side. Unfortunately, the cemetery has been neglected for many years and is not what one would expect for the deceased. The Department of Commerce and Consumer Affairs has been gracious enough to step in and begin assisting the community to address and carry out solutions. They continue to provide assistance with ongoing efforts to improve the situation.

This measure will create a special cemetery volunteer liability protection law, which is helpful, as there are groups who have expressed a desire to volunteer their sweat equity, as needed, for maintaining the grass, keeping it watered, ridding the area of trash, and filling in gravesites that have collapsed.

On behalf of the families who have relatives buried at Sunset Memorial Park, this measure, along with the continued support from the Department of Commerce and Consumer Affairs, will help many of us in restoring this final resting place back to its original, pristine state.

I respectfully request your passage of HB 1626 HD1, and might I suggest the Department of Commerce and Consumer Affairs consider requesting assistance from the Department of Accounting and General Services to include this cemetery into their existing maintenance schedule.

Sincerely



Janice Salcedo

TESTIMONY OF

LARRY S VERAY

TO THE HOUSE COMMITTEE ON COMMERCE, CONSUMER PROTECTION AND HEALTH

ON HB 1626 RELATING TO CEMETERIES

March 12, 2018

Aloha Chair Baker, Vice Chair Tokuda and members of the Committee on Commerce, Consumer Protection and Health. I am Larry Veray, Chair for the Pearl City Neighborhood Board and today I not only represent my board but most importantly I represent the many families who have been negatively impacted by Sunset Memorial Park Cemetery unsatisfactory conditions over these past years. We most strongly support HB 1626 which limits liability for volunteer senior citizens who contribute their weekend time to support groundskeeping maintenance of the cemetery.

Over the past few years, the Pearl City Neighborhood Board facilitated special meetings bringing our citizens and families together to provide heartfelt testimony about the current and previous owners neglect to maintain satisfactory operations of the cemetery. We continue to hear the tearful stories of numerous family members reporting grave sites with headstones and urns that have disappeared or have been stolen from the property. Headstones have sunken into wet ground and grounds have collapsed due to collapsing coffins that were buried on the property. In addition, there is literally no regularly scheduled maintenance of the cemetery resulting in overgrown grass and weed that with its current appearance is way below cemetery standards.

On February 23, 2016, the Pearl City Neighborhood Board passed a board resolution in support of the Hawaii State Legislature enacting law to support the upkeep, repair and maintenance for Sunset Memorial Park.

In closing, I urge you to pass HB 1626 to develop legislation and require the DCCA with the Comptroller to:

- Develop strategy for repair and maintenance of Sunset Memorial Park Cemetery
- Authorize DCCA to access the Sunset Memorial Park Cemetery Trust Fund
- Provide limited liability for citizens who would volunteer their time to maintain and repair the cemetery grounds.

If legislation is enacted, I know that our volunteer citizens, church groups and many families will improve the cemetery grounds and appearance. Thank you for your support. Mahalo!

Very respectfully,

Larry S Veray

HB-1626-HD-1

Submitted on: 3/13/2018 3:41:19 AM

Testimony for CPH on 3/13/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Rachel L. Kailianu	Testifying for Ho`omana Pono, LLC	Support	Yes

Comments: