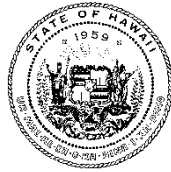


DAVID Y. IGE  
GOVERNOR



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  
THURSDAY, FEBRUARY 1, 2018  
2:00 P.M.  
CONFERENCE ROOM 329

H.B. 1626

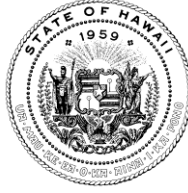
RELATING TO CEMETERIES.

Chair Takumi, Vice Chair Ichiyama, and members of the Committee, thank you for the opportunity to provide written testimony on H.B. 1626.

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

H.B. 1626 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 DCCA to find a viable long-term solution to this problem.

Thank you for the opportunity to provide written testimony on this matter.



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

STATE OF HAWAII  
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DEPUTY DIRECTOR

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

TO THE HOUSE COMMITTEE ON  
CONSUMER PROTECTION AND COMMERCE

TWENTY-NINTH LEGISLATURE  
Regular Session of 2018

Thursday, February 1, 2018  
2:00 p.m.

**TESTIMONY ON HOUSE BILL NO. 1626, RELATING TO CEMETERIES.**

TO THE HONORABLE ROY M. TAKUMI, CHAIR, AND MEMBERS OF THE  
COMMITTEES:

The Department of Commerce and Consumer Affairs (“DCCA” or “Department”) appreciates the opportunity to testify on H.B. 1626, Relating to Cemeteries. My name is Catherine Awakuni Colón, and I am the Director of the Department (“Director”). DCCA supports this bill, which is a companion to S.B. 2082 and similar to S.B. 2246.

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.

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.

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.

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

February 1, 2018  
2:00 p.m.  
CR 329

To: Chair Roy M. Takumi and Members of the House Committee on Consumer  
Protection & Commerce:

We are 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, relating to Cemeteries.

H.B. 1626 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 remain accountable for reasonable upkeep of the premises because this measure will also apply to commercially profitable cemeteries.

We request that the committee insert "without compensation" on 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 section 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."

To clarify, the Senate version of this bill, S.B. 2246, titles the new section 662D- as applying to "volunteers," whereas H.B. 1626 titles the new section as limited liability for "persons." We respectfully ask the committee to amend the title of the new section in H.B. 1626 to match the Senate version, pertaining to "volunteers." "Persons" is an overly broad term and does not appropriately match the language and intent of the new section being added.

We also request that the committee insert ", or from the duty to maintain their premises in a reasonably safe condition" on 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."

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

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

The Honorable Roy Takumi, Chair  
The Honorable Linda Ichiyama, Vice Chair  
And Members of the Committee on Consumer Protection & Commerce  
415 South Beretania Street, #329  
Honolulu, HI 96813

Subject: HB 1626, Relating to Cemeteries  
Hearing: Thursday, February 1, 2018, at 2:00 pm

This testimony is to convey my support for HB 1626. 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 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