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DEPUTY DIRECTOR

**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

Wednesday, January 31, 2018
9:30 a.m.

TESTIMONY ON SENATE BILL NO. 2246, RELATING TO CEMETERIES.

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

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

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, S.B. 2246 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

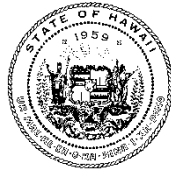
Department of Accounting and General Services comptroller, to develop strategies for the upkeep, repair, and maintenance of Sunset Memorial.

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 14-15 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.

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
WEDNESDAY, JANUARY 31, 2018
9:30 A.M.
CONFERENCE ROOM 229

S.B. 2246

RELATING TO CEMETARIES.

Chair Baker, Vice Chair Tokuda, and members of the Committee, thank you for the opportunity to provide written testimony on S.B. 2246.

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

S.B. 2246 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 alleviate the owner of disrepair 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.

TESTIMONY OF

LARRY S VERAY

TO THE HOUSE COMMITTEE ON COMMERCE, CONSUMER PROTECTION AND HEALTH

ON SB2246 RELATING TO CEMETERIES

January 29, 2018

Aloha Chair Baker, Vice Chair Tokuda and members of the Committee on Commerce, Consumer Protection and Health. Thank you for allowing me the opportunity to provide testimony in support of HB1245. I am Larry Veray, Chair for the Pearl City Neighborhood Board and today I represent my board, the many citizens and grieving families who have been negatively impacted by Sunset Memorial Park Cemetery unsatisfactory conditions.

In October 2015, the Pearl City Neighborhood Board held a special meeting where over 150 citizens and families provided heartfelt testimony about the current and previous owners neglect to maintain satisfactory operations of the cemetery. We heard 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. On January 26, 2018, the Pearl City Neighborhood Board facilitated another town hall meeting where grieving families continued to ask our board for assistance in supporting the volunteers who are cleaning up Sunset Memorial Park Cemetery.

In closing, I urge you to pass SB2246 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

**TESTIMONY OF ROBERT TOYOFUKU AND NAHELANI WEBSTER ON BEHALF
OF THE HAWAII ASSOCIATION FOR JUSTICE (HAJ) REGARDING S.B. 2246**

January 31, 2018
9:30 a.m.
CR 229

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

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 S.B. 2246, relating to Cemeteries.

S.B. 2246 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" 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, there are two versions of the bill on today's hearing agenda; S.B. 2082 refers to limited liability for "persons," whereas S.B. 2246 refers to limited liability for "volunteers." If the bill moves forward, the preference would be to title the new section as, "Limited liability for volunteers maintaining or repairing cemetery grounds." "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 15 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.

SB-2246

Submitted on: 1/29/2018 11:23:16 AM

Testimony for CPH on 1/31/2018 9:30:00 AM

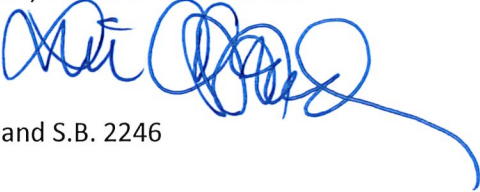
Submitted By	Organization	Testifier Position	Present at Hearing
Mitsuko Hayakawa		Support	No

Comments:

January 29, 2018

TO: Senator Rosalyn H. Baker, Chair
Senator Jill N. Tokuda, Vice Chair

Committee on Commerce, Consumer Protection and Health
Wednesday, January 31, 2018 at 9:30 a.m.
State Capitol, Conference Room 229

FROM: Lisa Wond 
SUBJECT: S.B. 2082 and S.B. 2246

Aloha Senators,

I strongly support S.B. 2082 and S.B. 2246, and urge your support of these bills.

Sunset Memorial Park in Pearl City used to be a beautiful and peaceful part of the Pearl City community. On weekends, you could see families visiting the gravesites of their loved ones, with flowers, buckets and tools to spruce up their areas. Driving along Kamehameha Highway, you could look over at the lush, green grass and shade trees and feel a sense of peace.

Sadly, over the years, Sunset Memorial Park has deteriorated and become a blight on our beloved community. The overgrown grass is dry and brown, the mausoleum is decrepit and falling apart, the trees mauka of the canal are overgrown and their fallen branches and leaves are scattered throughout the area. The local news has reported many incidences relating to the unkempt conditions, like the "caving-in" of some burial plots and missing grave markers. The former office caught fire years ago and its burnt frame provided a "base" for homeless persons; it recently burned again. More homeless persons have become entrenched in other areas of the cemetery, and drug deals are happening in broad daylight.

The cemetery's deterioration and lack of maintenance have made it a magnet for crime, including the 2015 desecration of my family's gravesite and the theft of my grandparents' urns. The news recently reported the scattering of human bones from the mausoleum area, and the discovery of urns thrown in the bushes. Families whose loved ones are buried at Sunset Memorial Park feel it acutely, but the criminal element at the cemetery spills over into the surrounding residential area, affecting even more families in our community.

The number of families visiting the gravesites has dwindled, both because of the natural aging process of families, as well as the unsafe conditions at the cemetery. There are volunteers who are willing to help maintain the park, but cannot do so in any organized manner due to liability concerns. Although the cemetery has a multitude of issues besides its maintenance, passage of this bill is an important first step toward its recovery.

Your consideration and support of this bill are imperative, and appreciated.