
A BILL FOR AN ACT

RELATING TO CEMETERIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that Sunset Memorial Park
2 in Pearl City, Oahu, has been neglected for years and has been
3 the focal point of numerous complaints by people who have family
4 members buried there. The cemetery has been described as having
5 a damaged mausoleum, sinking graves, and broken, missing, or
6 obscured grave markers that are hidden by overgrown vegetation.

7 Since the death of its previous owner, Sunset Memorial Park
8 has had no registered owner on record. Volunteers have tried to
9 maintain the cemetery, but have reluctantly stopped because of
10 state liability issues.

11 The dilapidated, unsightly state of Sunset Memorial Park is
12 of great concern not only for the families whose loved ones are
13 buried there, but for the surrounding community as well. The
14 Park has fallen into such disrepair that public safety and
15 health are at issue. A viable solution to this problem is long
16 overdue.



1 Attempts to have the State add Sunset Memorial Park to its
2 list of four currently state-owned cemeteries in Aiea, Kapalama,
3 Alewa Heights, and Makiki are ongoing. The last time the State
4 took over a cemetery was in 1946.

5 It has been reported that the department of commerce and
6 consumer affairs is actively looking for a long-term solution
7 for Sunset Memorial Park and is considering all options.

8 The purpose of this Act is to:

- 9 (1) Require the director of commerce and consumer affairs,
10 in consultation with the comptroller, to develop
11 strategies for the upkeep, repair, and maintenance of
12 Sunset Memorial Park;
- 13 (2) Authorize the director of commerce and consumer
14 affairs to access the Sunset Memorial Trust Fund to
15 pay for the repair and maintenance of the cemetery;
16 and
- 17 (3) Limit liability for volunteers and nonprofit
18 organizations, nonprofit, corporations, or other
19 entities that provide volunteers, who maintain or
20 repair cemetery grounds.



1 SECTION 2. Chapter 662D, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "662D- Limited liability for persons maintaining or
5 repairing cemetery grounds. (a) A volunteer who maintains or
6 repairs cemetery grounds located in the State, including
7 cemeteries operated for profit pursuant to chapter 441, shall
8 not be liable to any person for injury or damage sustained as a
9 result of the actions of the volunteer to maintain or repair the
10 cemetery grounds, except for injury or damages resulting from
11 gross negligence or intentional misconduct.

12 (b) A nonprofit organization, nonprofit corporation, or
13 other entity that provides volunteers to maintain or repair
14 cemetery grounds located in the State, including cemeteries
15 operated for profit pursuant to chapter 441, shall not be liable
16 to any person for injury or damage sustained as a result of the
17 actions of the volunteer provided by the organization,
18 corporation, or entity to maintain or repair the cemetery
19 grounds, except for injury or damages resulting from gross
20 negligence or intentional misconduct.



1 (c) This section does not relieve any cemetery property
2 owner or cemetery authority from compliance with the
3 requirements of chapter 441.

4 (d) A volunteer providing services under this section for
5 a nonprofit organization, nonprofit corporation, or other entity
6 may only receive reimbursement for actual expenses incurred that
7 have been authorized for payment by the nonprofit organization,
8 nonprofit corporation, or other entity.

9 (e) Nothing herein shall be construed to authorize or
10 permit the use of perpetual care funds for the purposes of
11 reimbursing costs incurred pursuant to this section.

12 (f) Notwithstanding any other law to the contrary, actions
13 of a volunteer in conformance with this section shall not
14 require licensure under chapter 441; provided that maintenance
15 and repair activities covered under this section shall be
16 limited to general maintenance, care, and preservation of
17 cemeteries including keeping sod or grass in repair and caring
18 for trees and shrubs, but shall not include activities related
19 to burials.

20 (g) For purposes of this section, a volunteer may provide
21 maintenance and repair services as an individual and not as a



1 member or affiliate of a cemetery authority, nonprofit
2 corporation, nonprofit organization, or other entity, if the
3 volunteer:

- 4 (1) First obtains written approval from the cemetery owner
- 5 or cemetery authority, if one can be identified; and
- 6 (2) Does not receive compensation or reimbursement other
- 7 than permitted reimbursement pursuant to subsection
- 8 (d)."

9 SECTION 3. (a) The director of commerce and consumer
10 affairs, in consultation with the comptroller, shall develop
11 both short-term and long-term strategies for the upkeep, repair,
12 and maintenance of Sunset Memorial Park in Pearl City, Oahu.

13 (b) The director of commerce and consumer affairs shall
14 examine all options for repairing and maintaining Sunset
15 Memorial Park, including the feasibility of having the State
16 take ownership of Sunset Memorial Park.

17 (c) The director of commerce and consumer affairs may
18 access the Sunset Memorial Trust Fund to address repair and
19 maintenance issues of Sunset Memorial Park; provided that the
20 director of commerce and consumer affairs makes a detailed
21 accounting of expenses paid from the fund.



1 (d) The director of commerce and consumer affairs shall
2 report findings and recommendations related to activities
3 conducted pursuant to this section, including any proposed
4 legislation, to the legislature no later than twenty days prior
5 to the convening of the regular session of 2018.

6 SECTION 4. New statutory material is underscored.

7 SECTION 5. This Act shall take effect upon its approval.



Report Title:

Sunset Memorial Park; Repairs; Maintenance; Cemetery; Department of Commerce and Consumer Affairs

Description:

Requires DCCA in consultation with Comptroller to develop strategies for repair and maintenance of Sunset Memorial Park in Pearl City, Oahu. Authorizes DCCA to access the Sunset Memorial Trust Fund. Limits liability for persons maintaining or repairing cemetery grounds. Requires report to Legislature.
(HB1245 HD2)

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