

Honolulu, Hawaii

MAR 24 2017

RE: H.B. No. 1245
H.D. 2
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health, to which was referred H.B. No. 1245, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO CEMETERIES,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Limit liability for volunteers and nonprofit organizations, nonprofit corporations, or other entities that provide volunteers, who maintain or repair cemetery grounds;
- (2) Authorize the Director of Commerce and Consumer Affairs to access the Sunset Memorial Trust Fund to pay for the repair and maintenance of Sunset Memorial Park; and
- (3) Require the Director of Commerce and Consumer Affairs, in consultation with the Comptroller, to develop strategies for the upkeep, repair, and maintenance of Sunset Memorial Park and report to the Legislature.

Your Committee received testimony in support of this measure from the Department of Commerce and Consumer Affairs, Friends of Sunset Memorial Park, Pearl City Neighborhood Board, and nine individuals. Your Committee received testimony in opposition to



this measure from the Hawaii Association for Justice. Your Committee received comments on this measure from the Department of Accounting and General Services.

Your Committee finds that Sunset Memorial Park in Pearl City, Oahu, has been neglected for years and has been the subject of numerous complaints from family members who have loved ones buried at the cemetery. Most of these complaints relate to issues surrounding the management and lack of maintenance at Sunset Memorial Park, which has been described as having a damaged mausoleum, sinking graves, and broken, missing, or obscured grave markers that are hidden by overgrown vegetation. Your Committee further finds that Sunset Memorial Park does not have an identified property owner and with very little money to maintain the cemetery, the site has deteriorated to such an extent that it has become a serious public safety hazard. Although family members and volunteers have expressed a strong willingness to assist with the upkeep and maintenance of Sunset Memorial Park, many are concerned about potential liability issues.

Your Committee additionally finds that the Department of Commerce and Consumer Affairs (Department) has been actively working with community members and area legislators to find short- and long-term solutions to the issues affecting Sunset Memorial Park. The Department indicated in testimony before your Committee that it supports this measure's creation of a special cemetery volunteer liability protection law, which will encourage members of the public who wish to volunteer on Sunset Memorial Park grounds without fear of liability resulting from their charitable activities. However, the Department indicated some concerns relating to a possible state takeover of the park or the utilization of perpetual care funds by the Department, and noted it may be best to focus on solutions that would leave the State's current private cemetery operator licensing model in place. Your Committee appreciates these concerns and concludes amendments to this measure are necessary.

Your Committee has amended this measure by:

- (1) Removing the requirement for the Director of Commerce and Consumer Affairs to examine all options for repairing and maintaining Sunset Memorial Park,

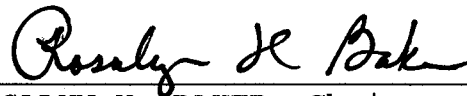


including the feasibility of having the State take ownership of the park;

- (2) Removing language that would have permitted the Director of Commerce and Consumer Affairs to access the Sunset Memorial Trust Fund to address repair and maintenance issues associated with Sunset Memorial Park;
- (3) Updating the purpose section to reflect the amended purpose; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1245, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1245, H.D. 2, S.D. 1, and be referred to your Committees on Judiciary and Labor and Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Commerce, Consumer
Protection, and Health,



ROSALYN H. BAKER, Chair



The Senate
Twenty-Ninth Legislature
State of Hawai'i

Record of Votes
Committee on Commerce, Consumer Protection, and Health
CPH

Bill / Resolution No.:* HB 1245 , HD2	Committee Referral: CPH, JDL/WAM	Date: 3/23/17		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	/			
NISHIHARA, Clarence K. (VC)	/			
CHANG, Stanley	/			
ESPERO, Will	/			
IHARA, Jr., Les				/
KIDANI, Michelle N.	/			
RUDERMAN, Russell E.				/
TOTAL	5			2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="text-align: center; font-family: cursive; font-size: 1.2em;"> <i>Clarence K. Nishihara</i> </div>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes