

DAVID Y. IGE
GOVERNOR

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**STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

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CATHERINE P. AWAKUNI COLÓN
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**PRESENTATION OF THE
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

TO THE HOUSE COMMITTEE ON FINANCE

TWENTY-NINTH LEGISLATURE
Regular Session of 2018

Wednesday, February 21, 2018
2:00 p.m.

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

TO THE HONORABLE SYLVIA LUKE, 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, H.D. 1, 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.

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.

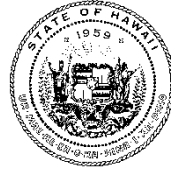
The Department appreciates the Legislature's continuing leadership and support in finding both short- and long-term solutions to the issues affecting Sunset Memorial. In particular, the Department supports the bill's creation of a special cemetery volunteer liability protection law, which is intended 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.

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
HOUSE COMMITTEE ON FINANCE
ON
WEDNESDAY, FEBRUARY 21, 2018
2:00 P.M.
CONFERENCE ROOM 308

H.B. 1626, H.D. 1

RELATING TO CEMETERIES.

Chair Luke, Vice Chair Cullen, 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 written testimony on this matter.

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

February 21, 2018
2:00 p.m.
CR 308

To: Chair Sylvia Luke and Members of the House Committee on Finance:

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 also applies to 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 as there are ongoing attempts to have the State add Sunset Memorial Park to its list of four 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 the 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.

HB-1626-HD-1

Submitted on: 2/19/2018 3:49:30 PM

Testimony for FIN on 2/21/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
cheryl	Individual	Support	No

Comments:

Asking for funds and personnel to take care of ALL State land cemeteries. We often go to Maluhia Cemetery to honor people. We would help clean up a bit more but it is pretty dangerous even to walk in there sometimes. The upkeep is awful and it shameful. So many people buried there including an important person to Hawaiian history, [joseph kahahawai](#). Therefore, I humbly request that ALL cemeteries be given proper care.

February 20, 2018



Representative Roy Takumi, Chair
Consumer Protection & Commerce Committee
Representative Linda Ichiyama, Vice Chair

And members of the Consumer Protection & Commerce Committee
415 South Beretania Street #229
Honolulu, Hawaii 96818

Subject: HB1626 HD1, Relating to Cemeteries
Hearing: February 21, 2018, 2:00 pm.

First, let me thank you for hearing this bill. My name is Maureen Andrade, I have a number of family members that are buried at the Sunset Memorial Park in Pearl City.

More than 10 years ago my brother and I were interviewed by Channel 2 News regarding the Sunset Memorial Park Cemetery. My father was told after the interview by a legislator, that our concerns would be addressed, and here we are 10 plus years later with no results and my dad now buried at the cemetery.

I go to the graveyard **every weekend**, Saturday or Sunday (unless bad weather prevents me from doing so). I bring with me a battery operated weed whacker, 8 to 10 gallons of water and my flowers. I spend 2 or more hours normally weed whacking about quarter of a football field in the area where the little babies are buried during the 1950's and where my parents, my baby sister, grandparents and great grandparents are buried. I clean and care for not only my family's area but clean the entire area which is about ¼ of a football field, located near and around my family's gravesite. The water faucets have not worked for over a year.

Chair Takumi and committee members, my family and I along with many other families who have loved ones buried at this cemetery truly appreciate your consideration to this matter.

This measure will allow the Department of Commerce and Consumer Affairs to continue to develop strategies for the upkeep, repair and maintenance of Sunset Memorial Park. It will also create a special cemetery volunteer liability protection law, as there are groups who expressed a desire to volunteer their sweat equity, as needed for maintain the grass, keeping it watered, ridding the area of trash, and filling in gravesites that have collapsed.

On behalf of my entire Ohana and other families who have relatives buried at Sunset Memorial Park, this measure will help many of us move forward in restoring this final resting place back to its original, pristine state.

I respectfully request your passage of HB1626, HD1

Sincerely,

Maureen C. Andrade

LATE

HB-1626-HD-1

Submitted on: 2/20/2018 9:49:56 PM

Testimony for FIN on 2/21/2018 2:00:00 PM

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

Comments:

Aloha,

Please support HB1626. The families of Sunset Memorial Cemetery need to be able to keep their property maintained without worries of liability.

Mahalo,

Mitsuko Hayakawa

LATE

**TESTIMONY OF
LARRY S VERAY**

**TO THE COMMITTEE OF FINANCE
ON HB1626 RELATING TO CEMETERIES**

FEBRUARY 20, 2018

Honorable Chair Sylvia Luke and Vice Chair Ty Cullen of the Committee on Finance. Thank you for allowing me to provide testimony in support of HB1626. I am Larry Veray, Chair for the Pearl City Neighborhood Board. Today, I not only represent my board but I also represent the hundreds of 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 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 Cemetery.

In closing, I please ask that you pass HB1626 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 the repair the cemetery grounds and building structure.

If legislation is enacted, I am confident our citizens, families, church groups and many volunteers to improve the cemetery grounds and appearance. Thank you for your support. Mahalo!

Very respectfully,

Larry S Veray
Chair, Pearl City Neighborhood Board No. 21

LATE

HB-1626-HD-1

Submitted on: 2/20/2018 10:29:23 PM

Testimony for FIN on 2/21/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Rachel L. Kailianu	Individual	Support	Yes

Comments:

LATE

HB-1626-HD-1

Submitted on: 2/21/2018 9:55:22 AM

Testimony for FIN on 2/21/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kelly Baniaga	Individual	Support	No

Comments:

To Whom It May Concern:

My family and I have been residents in Pearl City for many years. We also have family that have chosen to rest in Sunset Memorial. Because of our close proximity to Sunset Memorial, we have witnessed all the changes and increased activities.

We were victims of grave theft a few years ago. Since then, we have kept my mothers ashes with us. The fires created by the homeless. The mounds of rubbish not only from the visitors but from the people that have chosen to reside there and the mortuary. It really has become an unsafe place for both the living families and the dead.

The volunteers that have come out are the only ones that are maintaining this property. Yes, we have many challenges but by approving this bill its a positive change for the future.

Thank you

Kelly Baniaga