

## ACT 368

S.B. NO. 471

A Bill for an Act Relating to State-Owned Cemeteries and Making Appropriations Therefor.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Findings and purpose.** The State of Hawaii owns four public cemeteries, all on Oahu: Aiea cemetery, Makiki cemetery, a portion of Puea cemetery, and Puukamalii cemetery.

During the Hawaiian monarchy, the minister of the interior was responsible for the public cemeteries. Following annexation by the United States, the Organic Act of the Territory of Hawaii assigned the responsibility to the department of public works, to be carried out in conformance with the authority of the board of health to make regulations for the interment of the dead, and respecting cemeteries and burying grounds, or to protect the public health.

The Hawaii State Government Reorganization Act of 1959, (Act 1, Second Special Session, 1959), abolished the department of public works and transferred its "nonhighway functions" to the department of accounting and general services.

While it is clear that the department of accounting and general services is responsible for the four state-owned cemeteries, no legislation has been enacted to provide the department with the powers necessary to carry out the function properly. There has been no appropriation made to enable the department to provide an adequate level of management and maintenance for the cemeteries.

The purpose of this Act is to provide the comptroller with the powers to manage and maintain the cemeteries, to improve or redevelop the cemeteries, to reduce the size and number of cemeteries, and to take such other actions as may be deemed necessary for their care, improvement, or disposal; and to appropriate funds to carry out the responsibility for the cemeteries.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

## **“CHAPTER STATE-OWNED CEMETERIES**

**§ -1 Responsibility for state-owned cemeteries.** The comptroller shall be responsible for the operation, maintenance, improvement, redevelopment, and disposal of state-owned cemeteries; for the determination of ownership of plots therein; and for the proper maintenance of records pertaining to the cemeteries, including cemetery plot plans, and records of plot ownership, interments, and disinterments.

**§ -2 Powers and duties of the comptroller.** In carrying out the responsibility assigned by this chapter, the comptroller may:

- (1) Adopt rules pursuant to chapter 91 to establish policies and rules governing the use of state-owned cemeteries, including, but not limited to, establishment of fees and charges, recordkeeping, entitlement to and procedures for interments and disinterments, the maintenance of order and security, placement and relocation of graves and grave markers, and kinds of markers that may be allowed;
- (2) Determine, on the basis of evidence provided by claimants, ownership of or interest in cemetery plots and entitlement to interment and disinterment;
- (3) Enter into agreements with churches, cemetery associations, and other not-for-profit organizations for the use of property within any state-owned cemetery; provided that the agreements shall specify the responsibilities of the organization for maintenance, care, and security of property, fees that may be charged members of the organization, the maintenance of such records as the comptroller may deem necessary, and such other requirements as the comptroller may impose;
- (4) Redevelop cemeteries for other public purposes, and take such action as may be deemed necessary to reduce the number of state-owned cemeteries or to reduce the size of existing state-owned cemeteries;
- (5) Contract for services necessary for the maintenance, improvement, redevelopment, or disposal of cemeteries; for the disinterment and relocation of remains; and for any other services as may be deemed necessary by the comptroller;
- (6) Delegate to one or more subordinates authority to manage and maintain state-owned cemeteries;
- (7) Hire temporary personnel exempt from chapters 76 and 77 to carry out management or maintenance functions; and
- (8) Take such actions as the comptroller may deem necessary.

**§ -3 Removal of remains; public hearing and other requirements.** The comptroller may disinter and relocate remains in any state-owned cemetery or between state-owned cemeteries to improve, redevelop, or reduce the size of any state-owned cemetery, or to facilitate the subsequent disposition of any state-owned cemetery; provided that:

- (1) Before disinterring any remains, the comptroller shall hold at least one public hearing to afford the public an opportunity to review the plans to improve, redevelop, reduce the size of, or

dispose of the cemetery and to submit comments and views on the proposed project; and,

- (2) The comptroller shall notify in writing the known relative of a deceased person whose remains are to be disinterred and relocated of the public hearing required by paragraph (1); if the relatives of the deceased are unknown the comptroller shall publish at least one notice of the public hearing in a newspaper of general circulation in the State.

**§ -4 Disposition of real property.** Any state-owned cemetery, or any part thereof, which is cleared of the remains of deceased persons and is no longer needed as a cemetery shall be offered to the county in which the cemetery is located for use as a public park. If the county does not accept the vacated property for use as a public park, the property shall be transferred to the control of the department of land and natural resources for disposition in accordance with applicable law."

**SECTION 3. Appropriations.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$113,100, or so much thereof as may be necessary for fiscal year 1987-1988, and the sum of \$760,200, or so much thereof as may be necessary for fiscal year 1988-1989, to carry out the purposes of this Act. Each sum appropriated shall lapse if not expended or encumbered by the last day of each respective fiscal year. The sums appropriated shall be expended by the department of accounting and general services.

**SECTION 4. Effective date.** This Act shall take effect upon its approval, except for Section 3, which shall take effect on July 1, 1987.

(Approved July 3, 1987.)