

1 SB60
2 181768-2
3 By Senator Allen
4 RFD: Governmental Affairs
5 First Read: 07-FEB-17
6 PFD: 02/06/2017

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8 SYNOPSIS: This bill would establish the Alabama
9 Memorial Preservation Act of 2017.

10 This bill would prohibit the relocation,
11 removal, alteration, renaming, or other disturbance
12 of monuments located on public property which have
13 been in place for 50 or more years

14 This bill would prohibit, and provide a
15 mechanism for, the relocation, removal, alteration,
16 renaming, or other disturbance of monuments located
17 on public property and which have been in place for
18 less than 50 years.

19 This bill would prohibit any person from
20 preventing the governmental entity responsible for
21 maintaining the a monument from taking proper
22 measures to protect, preserve, care for, repair, or
23 restore the monuments.

24 This bill would restrict the renaming of a
25 county, municipality, school, street, bridge,
26 building, park, preserve, or reserve which is
27 located on public property.

1 This bill would create the Permanent Joint
2 Committee on Alabama Monument Protection and would
3 provide for the membership and duties of the
4 committee, including the granting of waivers.

5 This bill would provide for the levy of
6 fines for violations of the waiver process.

7 This bill would also provide for exemptions.

8
9 A BILL

10 TO BE ENTITLED

11 AN ACT

12
13 To create the Alabama Memorial Preservation Act of
14 2017; to prohibit the relocation, removal, alteration,
15 renaming, or other disturbance of monuments located on public
16 property which have been in place for 50 or more years; to
17 provide a mechanism for the relocation, removal, alteration,
18 renaming, or other disturbance of monuments located on public
19 property which have been in place for less than 50 years; to
20 prohibit any person from preventing the governmental entity
21 responsible for maintaining the monuments from taking proper
22 measures to protect, preserve, care for, repair, or restore
23 the monuments; to restrict the renaming of a county,
24 municipality, school, street, bridge, building, park,
25 preserve, or reserve which is located on public property; to
26 create the Permanent Joint Committee on Alabama Monument
27 Protection; to provide for the membership of the committee; to

1 provide for the duties of the committee; to authorize the
2 committee to grant waivers; to provide for the levy of fines
3 for violations of the waiver process; to exempt certain art
4 and artifacts, the Department of Transportation, local
5 governments, universities, and utilities under certain limited
6 circumstances; and to amend Section 11-40-7, Code of Alabama
7 1975, relating to the renaming of a municipality, to provide
8 for application of this act.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. This act shall be known and may be cited
11 as the Alabama Memorial Preservation Act of 2017.

12 Section 2. For the purposes of this act, the
13 following terms shall have the following meanings:

14 (1) ALABAMA MEMORIAL MONUMENT. A monument which has
15 been in place for at least 50 years.

16 (2) COMMITTEE. The Permanent Joint Committee on
17 Alabama Monument Protection created by this act.

18 (3) MONUMENT. A statue or marker intended at the
19 time of dedication to be a permanent memorial to an event, a
20 person, a group, a movement, or military service that is part
21 of the history of the state. For the purposes of this act, a
22 monument includes schools, streets, bridges, buildings, parks,
23 preserves, or reserves located on public property and erected
24 for, or named, or dedicated in honor of an event, a person, a
25 group, a movement, or military service. For the purposes of
26 this act, a monument does not include signed bearing
27 historical or interpretive text, commonly known as a

1 "historical marker" or "wayside exhibit," or portraits or
2 plaques installed by temporary means.

3 (4) PUBLIC PROPERTY. All property owned or leased by
4 the State of Alabama; any county, municipal, or metropolitan
5 government in the state; or any other entity created by act of
6 the Legislature to perform any public function.

7 Section 3. No Alabama memorial monument may be
8 relocated, removed, altered, renamed, or otherwise disturbed.

9 Section 4. (a) No monument which is located on
10 public property and has been so situated for less than 50
11 years may be relocated, removed, altered, renamed, or
12 otherwise disturbed except as provided in Section 7.

13 (b) No school, street, bridge, building, park,
14 preserve, or reserve which is located on public property and
15 has been erected for, or named or dedicated in honor of, an
16 event, a person, a group, a movement, or military service and
17 has held such status for less than 50 years may be renamed,
18 except as provided in Section 7.

19 (c) No county or municipality which has been named
20 in honor of a person, a group, a movement, or military service
21 and has held such status for less than 50 years may be
22 renamed, except as provided in Section 7.

23 Section 5. No person may prevent the governmental
24 entity having responsibility for maintaining any of the
25 monuments described in subsection (a) of Section 4 from taking
26 proper and appropriate measures, and exercising proper and

1 appropriate means, for the protection, preservation, care,
2 repair, or restoration of those monuments.

3 Section 6. (a) There is created the Permanent Joint
4 Committee on Alabama Monument Protection.

5 (b) The membership of the committee shall be
6 appointed and reappointed at the beginning of each legislative
7 quadrennium. The appointing authorities shall coordinate their
8 appointments to assure committee membership is inclusive and
9 reflects the racial, gender, geographic, urban, rural, and
10 economic diversity of the state. The membership of the
11 committee shall include all of the following:

12 (1) Five members of the general public, appointed by
13 the Governor.

14 (2) Two members of the Legislature, appointed by the
15 Lieutenant Governor.

16 (3) One member appointed by the Speaker of the House
17 of Representatives from the membership of the House of
18 Representatives.

19 (4) One member appointed by the President Pro
20 Tempore of the Senate from the membership of the Senate.

21 (c) At the organizational meeting of the committee,
22 the membership of the committee shall select a chair and a
23 vice chair. The chair of the committee may create advisory
24 subcommittees and appoint members thereto, which may include
25 members of the committee, representatives from governmental
26 agencies, and members of the public with interest and
27 expertise in the objectives of the committee. The committee

1 shall create no more than two active advisory subcommittees at
2 any given time unless the committee votes unanimously for
3 additional subcommittees.

4 (d) The committee shall thereafter meet at the call
5 of the chair or any majority of the members thereof; provided,
6 that the committee shall meet at least once each quadrennium.
7 The committee shall have a continuing existence and may meet,
8 act, and conduct its business at any place within this state
9 during the sessions of the Legislature or any recess thereof,
10 and in the interim period between sessions.

11 (e) The committee shall perform all duties
12 prescribed by this act.

13 (f) Each legislative member of the committee or any
14 subcommittee, if created, shall be entitled to the legislative
15 compensation, per diem, and travel as provided in Amendment
16 871 to the Constitution of Alabama of 1901, now appearing as
17 Section 49.01 of the Official ReCompilation of the
18 Constitution of Alabama of 1901, as amended.

19 Section 7. (a) (1) Any entity exercising control of
20 public property on which a monument is located may petition
21 the committee for a waiver from subsection (a) of Section 4
22 through an application including, at a minimum, all of the
23 following:

24 a. A resolution by the controlling entity seeking a
25 waiver for the relocation, removal, alteration, renaming, or
26 other disturbance of the monument, and the reasons therefor.

1 b. Written documentation of the monument's origin,
2 the intent of the sponsoring entity at the time of dedication,
3 and any subsequent alteration, renaming, or other disturbance
4 of the monument.

5 c. Written commentary from any heritage, historical,
6 genealogical, or preservation organizations with interest in
7 the controlling entity's decision, and from the general
8 public.

9 d. A written statement of any facts that were not
10 known at the time of the monument's origin but are known now
11 that the committee should consider in granting the waiver. In
12 the absence of such facts, the committee should seek to
13 preserve the monument as it was at the time of the dedication
14 of the monument.

15 (2) If the committee grants a waiver, it may
16 provide reasonable conditions and instructions to ensure that
17 the monument is preserved to the greatest extent possible.

18 (b) Any entity exercising control of public property
19 on which a school, street, bridge, building, park, preserve,
20 or reserve is located may petition the committee for a waiver
21 from subsection (b) of Section 4 through an application
22 including, at a minimum, all of the following:

23 (1) A resolution by the controlling entity seeking a
24 waiver for the renaming of the school, street, bridge,
25 building, park, preserve, or reserve, and the reasons
26 therefor.

1 (2) Written documentation of the circumstances of
2 the prior naming or dedication of the school, street, bridge,
3 building, park, preserve, or reserve.

4 (3) Written commentary from any heritage,
5 historical, genealogical, or preservation organizations with
6 interest in the controlling entity's decision, and from the
7 general public.

8 (c) Any county or municipality may petition the
9 committee for a waiver from subsection (c) of Section 4
10 through an application including, at a minimum, all of the
11 following:

12 (1) A resolution by the county or municipality
13 seeking a waiver for the renaming of the county or
14 municipality, and the reasons therefor.

15 (2) Written documentation of the circumstances of
16 the prior naming of the county or municipality.

17 (3) Written commentary from any heritage,
18 historical, genealogical, or preservation organizations with
19 interest in the decision of the county or municipality, and
20 from the general public.

21 (d) If the Attorney General determines that an
22 entity exercising control of public property has removed a
23 protected monument from that public property without first
24 obtaining a waiver from the committee pursuant to this
25 section, the entity shall be fined one hundred thousand
26 dollars (\$100,000) for each violation. The fine shall be
27 collected by the Attorney General, forwarded by his or her

1 office to the State Treasurer, and deposited into the State
2 General Fund.

3 Section 8. This act does not apply to any of the
4 following:

5 (1) Art and artifacts in the collections of museums,
6 archives, and libraries.

7 (2) Monuments described in Section 4 that are
8 located on public property under the control of, or acquired
9 by, the State Department of Transportation, which may
10 interfere with the construction, maintenance, or operation of
11 the public transportation system. The department shall strive
12 to ensure that any such monuments are preserved to the
13 greatest extent possible.

14 (3) Monuments described in Section 4 that are
15 located on public property under the control of, or acquired
16 by, a county or municipal body or a university, which may
17 interfere with the construction, maintenance, or operation of
18 the public transportation system. The governing body of the
19 county, municipality, or university shall strive to ensure
20 that any such monuments are preserved to the greatest extent
21 possible.

22 (4) Monuments described in Section 4 that are
23 located on public property operated or used by a utility,
24 which may interfere with providing utility service. The
25 utility shall strive to ensure that any monuments are
26 preserved to the greatest extent possible.

1 Section 9. Section 11-40-7 of the Code of Alabama
2 1975, is amended to read as follows:

3 "§11-40-7.

4 "~~Any~~ Subject to the Alabama Memorial Preservation
5 Act of 2017, any city or town may change its corporate name by
6 passing an ordinance stating the new name proposed and
7 submitting the question of change to a vote of the qualified
8 electors of such municipality at the next general municipal
9 election to be held therein. The result of the election shall
10 be ascertained by the officers holding such general election,
11 and return shall be made to the council or other governing
12 authorities which, in the event that a majority of the votes
13 cast at such election are in favor of the change, shall pass a
14 resolution or ordinance declaring the result of the election
15 and stating the new name of the city or town."

16 Section 10. This act shall become effective
17 immediately following its passage and approval by the
18 Governor, or its otherwise becoming law.