

1 SB60
2 183647-3
3 By Senator Allen
4 RFD: Governmental Affairs
5 First Read: 07-FEB-17
6 PFD: 02/06/2017

1 SB60

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 To create the Alabama Memorial Preservation Act of
12 2017; to prohibit the relocation, removal, alteration,
13 renaming, or other disturbance of monuments located on public
14 property which have been in place for 20 or more years; to
15 provide a mechanism for the relocation, removal, alteration,
16 renaming, or other disturbance of monuments located on public
17 property which have been in place for less than 20 years; to
18 provide a mechanism for the renaming of certain memorial
19 streets; to provide a mechanism for the renaming of certain
20 architecturally significant buildings and memorial buildings;
21 to prohibit any person from preventing the governmental entity
22 responsible for maintaining the monuments, memorial streets,
23 architecturally significant buildings, and memorial buildings
24 from taking proper measures to protect, preserve, care for,
25 repair, or restore the monuments, streets, or buildings; to
26 create the Committee on Alabama Monument Protection; to
27 provide for the membership of the committee; to provide for

1 the duties of the committee; to authorize the committee to
2 grant waivers; to provide for the levy of fines for violations
3 of the waiver process; to exempt certain art and artifacts,
4 the Department of Transportation, local governments,
5 universities, and utilities under certain limited
6 circumstances; and in connection therewith would have as its
7 purpose or effect the requirement of a new or increased
8 expenditure of local funds within the meaning of Amendment 621
9 of the Constitution of Alabama of 1901.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

15 (1) ARCHITECTURALLY SIGNIFICANT BUILDING. A building
16 located on public property that by its very nature, inherent
17 design, or structure constitutes a monument.

18 (2) COMMITTEE. The Committee on Alabama Monument
19 Protection created by this act.

20 (3) MEMORIAL BUILDING. A building that is located on
21 public property and has been erected for, or named or
22 dedicated in honor of, an event, a person, a group, a
23 movement, or military service.

24 (4) MEMORIAL STREET. A street that is located on
25 public property and has been constructed for, or named or
26 dedicated in honor of, an event, a person, a group, a
27 movement, or military service.

1 (5) MONUMENT. A statue, portrait, or marker intended
2 at the time of dedication to be a permanent memorial to an
3 event, a person, a group, a movement, or military service that
4 is part of the history of the state. The term does not include
5 signage bearing historical or interpretive text, commonly
6 known as a historical marker or wayside exhibit, or portraits
7 or plaques installed by temporary means and not intended to be
8 permanent at the time of installation.

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

13 Section 3. (a) (1) No monument which is located on
14 public property and has been so situated for 20 or more years
15 may be relocated, removed, altered, renamed, or otherwise
16 disturbed without permission granted by a court of competent
17 jurisdiction.

18 (2) No monument which is located on public property
19 and has been so situated for less than 20 years may be
20 relocated, removed, altered, renamed, or otherwise disturbed
21 except as provided in Section 6.

22 (b) No memorial street which has held such status
23 for 15 or more years may be renamed, except as provided in
24 Section 6.

25 (c) (1) An architecturally significant building which
26 has held such status for 20 or more years may not be
27 relocated, removed, altered, renamed, or otherwise disturbed

1 without permission granted by a court of competent
2 jurisdiction.

3 (2) An architecturally significant building which
4 has held such status for less than 20 years may not be
5 relocated, removed, altered, renamed, or otherwise disturbed
6 except as provided in Section 6.

7 (d) A memorial building may be improved, renovated,
8 rebuilt, relocated, or otherwise maintained; however, the name
9 of the memorial building may not be changed except as provided
10 in Section 6.

11 Section 4. No person may prevent the governmental
12 entity having responsibility for maintaining any monument,
13 memorial street, architecturally significant building, or
14 memorial building from taking proper and appropriate measures,
15 and exercising proper and appropriate means, for the
16 protection, preservation, care, repair, or restoration of
17 those monuments, streets, or buildings.

18 Section 5. (a) There is created the Committee on
19 Alabama Monument Protection.

20 (b) The legislative members of the committee shall
21 be appointed and reappointed at the beginning of each
22 legislative quadrennium. The members of the committee
23 appointed pursuant to subdivisions (3) to (7), inclusive,
24 shall serve for terms of four years, with the exception of
25 their initial terms, which shall be staggered as provided in
26 subsection (c). Each term of a member appointed pursuant to
27 subdivisions (3) to (7), inclusive, shall expire on September

1 30. The actively serving officials appointed pursuant to
2 subdivisions (8), (9), and (10) shall serve terms concurrent
3 with their terms of office. The appointing authorities shall
4 coordinate their appointments to assure committee membership
5 is inclusive and reflects the racial, gender, geographic,
6 urban, rural, and economic diversity of the state. The
7 membership of the committee shall include all of the
8 following:

9 (1) Two members of the House of Representatives, one
10 from the majority party and one from the minority party,
11 appointed by the Speaker of the House of Representatives.

12 (2) Two members of the Senate, one from the majority
13 party and one from the minority party, appointed by the
14 President Pro Tempore of the Senate.

15 (3) One member appointed by the Director of the
16 Department of Archives and History.

17 (4) One member appointed by the Director of the
18 Alabama Historical Commission.

19 (5) One member appointed by the President of the
20 Alabama Historical Association.

21 (6) One member appointed by the President of the
22 Alabama Trust for Historic Preservation.

23 (7) One member appointed by the Chair of the Black
24 Heritage Council.

25 (8) One actively serving county commissioner
26 appointed by the Governor.

1 (9) One actively serving mayor or member of the
2 municipal governing body of a Class 1, Class 2, or Class 3
3 municipality appointed by the Governor.

4 (10) One actively serving mayor or member of the
5 municipal governing body of a Class 4 to Class 8, inclusive,
6 municipality appointed by the Governor.

7 (c) The initial members of the committee shall be
8 appointed before September 1, 2017, and shall hold an
9 organizational meeting of the committee before October 1,
10 2017. At the organizational meeting of the committee, the
11 membership of the committee shall select a chair and a vice
12 chair, who shall serve in that position for one year, and the
13 members appointed pursuant to subdivisions (3) to (7),
14 inclusive, of subsection (b) shall draw lots to determine
15 which one of those members shall serve an initial term of two
16 years expiring on September 30, 2019, which two of those
17 members shall serve an initial term of three years expiring on
18 September 30, 2020, and which two of those members shall serve
19 an initial term of four years expiring on September 30, 2021.
20 The committee shall meet at least once each year, during the
21 month of October, to select a chair and vice chair to serve
22 for the following year. Thereafter, the committee shall meet
23 at the call of the chair or any majority of the members of the
24 committee. The committee shall have a continuing existence and
25 may meet, act, and conduct committee business at any place
26 within this state.

1 (d) Initial committee members appointed pursuant to
2 subdivisions (3) to (10), inclusive, of subsection (b), shall
3 begin serving immediately upon appointment. Each committee
4 member appointed pursuant to subdivisions (3) to (10),
5 inclusive, of subsection (b), is subject to confirmation by
6 the Senate during the legislative session in which the
7 appointment is made or, if the appointment is made when the
8 Legislature is not in session, during the next special or
9 regular session. An appointee may serve in the position
10 pending confirmation by the Senate. Failure of the Senate to
11 act on the appointment during the session in which the
12 appointment is made or, if the appointment is made while the
13 Legislature is not in session, during the next special or
14 regular session, shall constitute confirmation by the Senate.
15 Each member of the committee shall serve after the expiration
16 of his or her term until his or her successor is appointed and
17 may be appointed to more than one term.

18 (e) The committee shall perform all duties
19 prescribed by this act. The chair of the committee may create
20 advisory subcommittees and appoint members thereto, which may
21 include members of the committee, representatives from
22 governmental agencies, and members of the public with interest
23 and expertise in the objectives of the committee. The
24 committee shall create no more than two active advisory
25 subcommittees at any given time unless the committee votes
26 unanimously for additional subcommittees.

1 (f) Each legislative member of the committee or any
2 subcommittee, if created, shall be entitled to the legislative
3 compensation, per diem, and travel as provided in Amendment
4 871 to the Constitution of Alabama of 1901, now appearing as
5 Section 49.01 of the Official ReCompilation of the
6 Constitution of Alabama of 1901, as amended. Each
7 nonlegislative member of the committee or any subcommittee, if
8 created, may be reimbursed for meetings according to the
9 policies and procedures of the respective entity they are
10 appointed to represent.

11 Section 6. (a) (1) Any entity exercising control of
12 public property on which a monument is located may petition
13 the committee for a waiver from subdivision (2) of subsection
14 (a) of Section 3 through an application including, at a
15 minimum, all of the following:

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

19 b. Written documentation of the origin of the
20 monument, the intent of the sponsoring entity at the time of
21 dedication, and any subsequent alteration, renaming, or other
22 disturbance of the monument.

23 c. Written commentary from any heritage, historical,
24 genealogical, or preservation organizations with interest in
25 the decision of the controlling entity, and from the general
26 public.

1 d. A written statement of any facts that were not
2 known at the time of the origin of the monument but are known
3 now that the committee should consider in granting the waiver.
4 The absence of such facts should serve as a presumption
5 against the granting of a waiver by the committee.

6 (2) If the committee grants a waiver, the committee
7 may provide reasonable conditions and instructions to ensure
8 that the monument is restored or preserved to the greatest
9 extent possible.

10 (b) Any entity exercising control of public property
11 on which a memorial street is located may petition the
12 committee for a waiver from subdivision (1) of subsection (b)
13 of Section 3 through an application including, at a minimum,
14 all of the following:

15 (1) A resolution by the controlling entity seeking a
16 waiver for the renaming of the memorial street and the reasons
17 therefor.

18 (2) Written documentation of the circumstances of
19 the prior naming or dedication of the memorial street.

20 (3) Written commentary from any heritage,
21 historical, genealogical, or preservation organizations with
22 interest in the decision of the controlling entity, and from
23 the general public.

24 (4) A written statement of any facts that were not
25 known at the time of the origin of the memorial street, but
26 are known now, that the committee should consider in granting

1 the waiver. The absence of such facts should serve as a
2 presumption against the granting of a waiver by the committee.

3 (c) (1) Any entity exercising control of public
4 property on which an architecturally significant building is
5 located may petition the committee for a waiver from
6 subdivision (2) of subsection (c) of Section 3 through an
7 application including, at a minimum, all of the following:

8 a. A resolution by the controlling entity seeking a
9 waiver for the relocation, removal, alteration, renaming, or
10 other disturbance of the architecturally significant building
11 and the reasons therefor.

12 b. Written documentation of the origin of the
13 architecturally significant building, the intent of the
14 sponsoring entity at the time of dedication, and any
15 subsequent relocation, removal, alteration, renaming, or other
16 disturbance of the architecturally significant building.

17 c. Written commentary from any heritage, historical,
18 genealogical, or preservation organizations with interest in
19 the decision of the controlling entity, and from the general
20 public.

21 d. A written statement of any facts that were not
22 known at the time of the origin of the architecturally
23 significant building but are known now that the committee
24 should consider in granting the waiver. The absence of such
25 facts should serve as a presumption against the granting of a
26 waiver by the committee.

1 (2) If the committee grants a waiver, the committee
2 may provide reasonable conditions and instructions to ensure
3 that the architecturally significant building is preserved to
4 the greatest extent possible.

5 (d) Any entity exercising control of public property
6 on which a memorial building is located may petition the
7 committee for a waiver from subsection (d) of Section 3
8 through an application including, at a minimum, all of the
9 following:

10 (1) A resolution by the controlling entity seeking a
11 waiver for the renaming of the memorial building and the
12 reasons therefor.

13 (2) Written documentation of the circumstances of
14 the prior naming or dedication of the memorial building.

15 (3) Written commentary from any heritage,
16 historical, genealogical, or preservation organizations with
17 interest in the decision of the controlling entity, and from
18 the general public.

19 (4) A written statement of any facts that were not
20 known at the time of the origin of the memorial building but
21 are known now that the committee should consider in granting
22 the waiver. The absence of such facts should serve as a
23 presumption against the granting of a waiver by the committee.

24 (e) If the committee fails to act on a completed
25 application for a waiver within 90 days after the application
26 is submitted to the committee, the waiver shall be deemed
27 granted.

1 (f) If the Attorney General determines that an
2 entity exercising control of public property has removed a
3 protected monument from that public property without first
4 obtaining a waiver from the committee or failed to comply with
5 the conditions and instructions issued by the committee upon
6 the grant of a waiver pursuant to this section, the entity
7 shall be fined twenty-five thousand dollars (\$25,000) for each
8 violation. The fine shall be collected by the Attorney
9 General, forwarded by his or her office to the State
10 Treasurer, and deposited into the Alabama State Historic
11 Preservation Fund created in Section 41-9-255, Code of Alabama
12 1975.

13 (g) Judicial review of the final decision of the
14 committee may be sought pursuant to the Alabama Administrative
15 Procedure Act, Chapter 22 of Title 41, Code of Alabama 1975.

16 Section 7. This act does not apply to any of the
17 following:

18 (1) Art and artifacts in the collections of museums,
19 archives, and libraries.

20 (2) Monuments described in Section 3 that are
21 located on public property under the control of, or acquired
22 by, the State Department of Transportation, which may
23 interfere with the construction, maintenance, or operation of
24 the public transportation system. The department shall strive
25 to ensure that any such monuments are preserved to the
26 greatest extent possible.

1 (3) Monuments described in Section 3 that are
2 located on public property under the control of, or acquired
3 by, a county or municipal body or a university, which may
4 interfere with the construction, maintenance, or operation of
5 the public transportation system. The governing body of the
6 county, municipality, or university shall strive to ensure
7 that any such monuments are preserved to the greatest extent
8 possible.

9 (4) Monuments described in Section 3 that are
10 located on public property operated or used by a utility,
11 which may interfere with providing utility service. The
12 utility shall strive to ensure that any monuments are
13 preserved to the greatest extent possible.

14 (5) Monuments described in Section 3 that are
15 located on public property under the control of, or acquired
16 by, the Alabama State Port Authority, which may interfere with
17 the construction, maintenance, or operation of the port
18 infrastructure or port related activities. The authority shall
19 strive to ensure that any such monuments are preserved to the
20 greatest extent possible.

21 Section 8. The Committee on Alabama Monument
22 Protection, pursuant to the Alabama Administrative Procedure
23 Act, shall adopt rules as necessary to provide for the
24 implementation of this act including, but not limited to,
25 further defining an architecturally significant building.

1 Section 9. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law.

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3 Senate

4 Read for the first time and referred to the Senate
5 committee on Governmental Affairs..... 07-FEB-17
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7 Read for the second time and placed on the calen-
8 dar with 1 substitute and..... 09-FEB-17
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10 Read for the third time and passed as amended 09-MAR-17

11 Yeas 24
12 Nays 7

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15 Patrick Harris
16 Secretary
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