

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

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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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Senate

Read for the first time and referred to the Senate  
committee on Governmental Affairs..... 07-FEB-17

Read for the second time and placed on the calen-  
dar with 1 substitute and..... 09-FEB-17

Read for the third time and passed as amended .... 09-MAR-17

Yeas 24  
Nays 7

Patrick Harris  
Secretary