

1 SB54
2 215690-1
3 By Senator Allen
4 RFD: Governmental Affairs
5 First Read: 11-JAN-22

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8 SYNOPSIS: Under existing law, the Alabama Memorial
9 Preservation Act of 2017 prohibits architecturally
10 significant buildings, memorial buildings, memorial
11 streets, and monuments that are located on public
12 property, and have been so situated for 40 or more
13 years, from being relocated, removed, altered,
14 renamed, or otherwise disturbed and provides
15 penalties for violations.

16 This bill would require a controlling
17 governmental entity that replaces a memorial
18 building to maintain the original name or erect a
19 marker memorializing the name.

20 This bill would provide that a petition for
21 waiver is deemed denied if the Committee on Alabama
22 Monument Protection fails to act on an application
23 for waiver within 90 days.

24 This bill would revise the penalties for
25 violations and would authorize the Attorney General
26 to commence a civil action.

1 This bill would also require the Alabama
2 Historical Commission to oversee the design and
3 construction of a statue of civil rights leader
4 John Lewis at the entrance to the Edmund Pettus
5 Bridge.

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

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11 To amend Sections 41-9-233 and 41-9-235, Code of
12 Alabama 1975, relating to the Alabama Memorial Preservation
13 Act of 2017; to require a controlling governmental entity that
14 replaces a memorial building to maintain the original name or
15 erect a marker memorializing the name; to provide that a
16 petition for waiver is deemed denied if the Committee on
17 Alabama Monument Protection fails to act on an application for
18 waiver within 90 days; to revise penalties for violations; to
19 authorize the Attorney General to commence a civil action; and
20 to add Section 41-9-238 to the Code of Alabama 1975, to
21 require the Alabama Historical Commission to oversee the
22 design and installation of a statue of John Lewis at the
23 entrance to the Edmund Pettus Bridge.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. Sections 41-9-233 and 41-9-235, Code of
26 Alabama 1975, are amended to read as follows:

27 "§41-9-233.

1 "(a) No person may prevent the governmental entity
2 having responsibility for maintaining any architecturally
3 significant building, memorial building, memorial school,
4 memorial street, or monument from taking proper and
5 appropriate measures, and exercising proper and appropriate
6 means, for the protection, preservation, care, repair, or
7 restoration of those monuments, streets, or buildings.

8 "(b) No person may prevent the governmental entity
9 having responsibility for maintaining any architecturally
10 significant building or memorial building from razing the
11 building so long as any replacement building or resulting park
12 or green space maintains the name of the original building. If
13 the building is not replaced, the governmental entity shall
14 erect a marker to memorialize the person for whom the memorial
15 building was originally named.

16 "§41-9-235.

17 "(a) (1) Any entity exercising control of public
18 property on which an architecturally significant building,
19 memorial building, memorial school, memorial street, or
20 monument is located may petition the committee for a waiver
21 from subsection (b) or subsection (c) of Section 41-9-232
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 renaming of a memorial school or for the
26 relocation, removal, alteration, renaming, or other
27 disturbance of the architecturally significant building,

1 memorial building, memorial street, or monument and the
2 reasons therefor.

3 "b. Written documentation of the origin of the
4 architecturally significant building, memorial building,
5 memorial school, memorial street, or monument, the intent of
6 the sponsoring entity at the time of dedication, and any
7 subsequent alteration, renaming, or other disturbance of the
8 architecturally significant building, memorial building,
9 memorial street, or monument.

10 "c. Written commentary from any heritage,
11 historical, genealogical, or preservation organizations with
12 interest in the decision of the controlling entity, and from
13 the general public.

14 "d. A written statement of any facts that were not
15 known at the time of the origin of the architecturally
16 significant building, memorial building, memorial school,
17 memorial street, or monument, but are known now, that the
18 committee should consider in granting the waiver. The absence
19 of such facts should serve as a presumption against the
20 granting of a waiver by the committee.

21 "(2) ~~a.~~ If the committee grants a waiver, the
22 committee may provide reasonable conditions and instructions
23 to ensure that the architecturally significant building,
24 memorial building, memorial school, memorial street, or
25 monument is restored or preserved to the greatest extent
26 possible.

1 "~~b.~~(b) In the event there is a need for emergency
2 repairs or construction at the site of or to the
3 architecturally significant building, memorial building,
4 memorial street, or monument or on adjacent property, the
5 controlling entity may temporarily relocate or otherwise
6 protect the architecturally significant building, memorial
7 building, memorial street, or monument without seeking a
8 waiver under the process provided in this section; provided
9 the architecturally significant building, memorial building,
10 memorial street, or monument shall be returned to its prior
11 location or condition, or both, as soon as safely and
12 reasonably possible, and no later than one year after the
13 completion of the repair or construction. If the repair or
14 construction is expected to take more than one year, the
15 controlling entity shall seek a waiver under the process
16 specified in this section.

17 "~~c.~~(c) If the committee fails to act on a completed
18 application for a waiver within 90 days after the application
19 is submitted to the committee, the waiver shall be deemed
20 ~~granted~~ denied.

21 "~~d.~~(d) If the Attorney General determines that an
22 entity exercising control of public property has renamed a
23 memorial school or has relocated, removed, altered, renamed,
24 or otherwise disturbed an architecturally significant
25 building, memorial building, memorial street, or monument from
26 that public property without first obtaining a waiver from the
27 committee as required by this article, or failed to comply

1 with the conditions and instructions issued by the committee
2 upon the grant of a waiver pursuant to this section, the
3 entity shall be fined ~~twenty-five thousand dollars (\$25,000)~~
4 five thousand dollars (\$5,000) for each day that the violation
5 continues and until the entity has taken full restorative
6 action to comply with the requirements of this article. The
7 Attorney General may also commence a civil action to enjoin a
8 threatened or continuing violation of this article. Upon
9 written request of the entity and the submission of supporting
10 documentation that restoration has begun, the Attorney General
11 may stay the fine pending complete restoration. The fine shall
12 be collected by the Attorney General, forwarded by his or her
13 office to the State Treasurer, and deposited into the Alabama
14 State Historic Preservation Fund created in Section 41-9-255.

15 "e.(e) Judicial review of the final decision of the
16 committee may be sought pursuant to the Alabama Administrative
17 Procedure Act, Chapter 22 of this title."

18 Section 2. Section 41-9-238 is added to the Code of
19 Alabama 1975, to read as follows:

20 The Alabama Historical Commission shall commission
21 the design and construction of a life-size statue in
22 dedication to, and in recognition of, civil rights leader John
23 Lewis. The statue shall include a protective barrier and
24 pedestal base and shall be placed near the southeastern
25 entrance to the Edmund Pettus Bridge. The commission may
26 accept public or private gifts, grants, and donations,
27 including in-kind services, for use in commissioning the

1 statue, and may also use funds appropriated to the commission
2 by the Legislature, if necessary. The statue may not be
3 relocated, removed, altered, renamed, or otherwise disturbed
4 without the prior permission of the commission.

5 Section 3. This act shall become effective
6 immediately following its passage and approval by the
7 Governor, or its otherwise becoming law.