

1 HB172
2 215721-1
3 By Representatives Hanes, Holmes, Whorton, Brown (K), Faust,
4 Sorrell, Wingo, Fincher, Mooney and Ingram
5 RFD: State Government
6 First Read: 18-JAN-22

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8 SYNOPSIS: Under existing law, the Alabama Memorial
9 Preservation Act of 2017, provides for the
10 preservation of certain architecturally significant
11 buildings, memorial buildings, memorial streets,
12 and monuments on public property, as well as
13 memorial schools.

14 This bill would rename the act as the
15 Alabama Memorial Preservation Act of 2021, and
16 would revise the definitions and prohibitions
17 against the disturbance of certain historically
18 significant buildings, memorial buildings, memorial
19 schools, memorial streets, and monuments.

20 This bill would add term limits for the
21 membership of the Committee of Alabama Monument
22 Protection and would authorize the committee to
23 review and grant or deny applications for petitions
24 for the waiver of certain prohibitions and
25 petitions to raze certain historically significant
26 buildings and memorial buildings.

1 This bill would impose fines for certain
2 violations and would provide for the collection and
3 deposit of those fines into the Alabama State
4 Historic Preservation Fund.

5 This bill would also require the Attorney
6 General to collect certain fines and to institute
7 legal action, if necessary; would authorize other
8 individuals and organizations to commence legal
9 action, on behalf of the state, for violations; and
10 would provide for punitive and other damages and
11 the recovery of costs related to legal actions.

12
13 A BILL
14 TO BE ENTITLED
15 AN ACT

16
17 Relating to the Alabama Memorial Preservation Act of
18 2017; to amend Sections 41-9-230, 41-9-231, 41-9-232,
19 41-9-233, 41-9-234, 41-9-235, 41-9-236 and 41-9-237, Code of
20 Alabama 1975, and to add Sections 41-9-235.1 and 41-9-235.2 to
21 the Code of Alabama 1975, to rename the act the Alabama
22 Memorial Preservation Act of 2021; to revise definitions; to
23 revise prohibitions against the disturbance of certain
24 historically significant buildings, memorial buildings,
25 memorial schools, memorial streets, and monuments; to add term
26 limits for the membership of the Committee of Alabama Monument
27 Protection; to authorize the committee to review and grant or

1 deny applications for petitions for waiver and petitions to
2 raze certain historically significant buildings and memorial
3 buildings; to impose fines for violations; to provide for the
4 collection and deposit of fines into the Alabama State
5 Historic Preservation Fund; to require the Attorney General to
6 collect certain fines and institute legal action, if
7 necessary; to authorize other individuals and organizations to
8 commence legal action, on behalf of the state, for violations;
9 and to provide for punitive and other damages and the recovery
10 of costs related to legal actions.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. Sections 41-9-230, 41-9-231, 41-9-232,
13 41-9-233, 41-9-234, and 41-9-235 of the Code of Alabama 1975,
14 are amended to read as follows:

15 "§41-9-230.

16 "This article shall be known and may be cited as the
17 Alabama Memorial Preservation Act of ~~2017~~ 2021.

18 "§41-9-231.

19 "For the purposes of this article, the following
20 terms shall have the following meanings:

21 "~~(1) ARCHITECTURALLY SIGNIFICANT BUILDING. A~~
22 ~~building located on public property that by its very nature,~~
23 ~~inherent design, or structure constitutes a monument.~~

24 "~~(2)~~ (1) CAUSE. A principle, ideal, or goal to which
25 a person or group is dedicated.

26 "(2) COMMITTEE. The Committee on Alabama Monument
27 Protection created by this article.

1 "(3) GOVERNMENTAL ENTITY. The State of Alabama; the
2 governing body of any county or municipality located in the
3 state; or any other entity created by act of the Legislature
4 to perform any public function that owns, controls, or has
5 responsibility for maintaining, protecting, or preserving a
6 historically significant building, memorial building, memorial
7 school, memorial street, or monument.

8 "(4) HISTORICALLY SIGNIFICANT BUILDING. A building,
9 located on public property, that is an important part of the
10 history of the state based on the building's inherent status
11 as the location, facility, residence, or other site of, or
12 associated with, an event, an individual, a group, a cause, a
13 movement, military service, or a war or military conflict.

14 "~~(3)~~(5) MEMORIAL BUILDING. A building, structure,
15 park, or other institution, other than a ~~Memorial School~~
16 memorial school, that is located on public property and has
17 been erected for, or named or dedicated in honor of, an event,
18 ~~a person~~ an individual, a group, a cause, a movement, ~~or~~
19 military service, or a war or military conflict.

20 "~~(4)~~(6) MEMORIAL SCHOOL. A K-12 or two-year
21 postsecondary institution or facility that is located on
22 public property and has been erected for, or named or
23 dedicated in honor of, an event, ~~a person~~ an individual, a
24 group, a cause, a movement, ~~or~~ military service, or a war or
25 military conflict.

26 "~~(5)~~(7) MEMORIAL STREET. A street that is located on
27 public property and has been constructed for, or named or

1 dedicated in honor of, an event, ~~a person~~ an individual, a
2 group, a cause, a movement, ~~or~~ military service, or a war or
3 military conflict.

4 "~~(6)~~(8) MONUMENT. A statue, portrait, or marker
5 intended at the time of dedication to be a permanent memorial
6 to an event, ~~a person~~ an individual, a group, a cause, a
7 movement, ~~or~~ military service, or a war or military conflict
8 that is part of the history of the people or geography now
9 comprising the State of Alabama. The term does not include
10 signage bearing historical or interpretive text, commonly
11 known as a historical marker or wayside exhibit, or portraits
12 or plaques installed by temporary means and not intended to be
13 permanent at the time of installation.

14 "(9) PROTECTED MEMORIAL. Any historically
15 significant building, memorial building, memorial school,
16 memorial street, or monument protected under this article.

17 "~~(7)~~(10) PUBLIC PROPERTY. All property owned or
18 leased by ~~the State of Alabama; any county, municipal, or~~
19 ~~metropolitan government in the state; or any other entity~~
20 ~~created by act of the Legislature to perform any public~~
21 ~~function~~ a governmental entity.

22 "§41-9-232.

23 "(a) ~~No architecturally significant building,~~
24 ~~memorial building, memorial street, or monument which~~ No
25 monument that is located on public property may be relocated;
26 removed; altered; obscured from view; renamed; dishonored,
27 disparaged, or reinterpreted with competing signage, wording,

1 symbols, objects, or other types or means of communication
2 located at the site of the monument; or otherwise disturbed.

3 "(b) No memorial street that is located on public
4 property and has been so situated for 40 or more years may be
5 relocated; removed; altered; obscured from view; renamed;
6 dishonored, disparaged, or reinterpreted with competing
7 signage, wording, symbols, objects, or other types or means of
8 communication located at the site of the memorial street; or
9 otherwise disturbed. Provided, however, nothing in this
10 article shall prohibit or limit the ability of the appropriate
11 authority from rennovating, repairing, or otherwise
12 maintaining public roads.

13 "~~(b)~~(c) No ~~architecturally significant building,~~
14 ~~memorial building,~~ memorial street, ~~or monument~~ which is
15 located on public property and has been so situated for at
16 least 20 years, and less than 40 years, may be relocated;
17 removed; altered; obscured from view; renamed; dishonored,
18 disparaged, or reinterpreted with competing signage, wording,
19 symbols, objects, or other types or means of communication
20 located at the site of the memorial street; or otherwise
21 disturbed, except as provided in Section 41-9-235.

22 "~~(c)~~(d) No memorial school which is located on
23 public property and has been so situated for 20 or more years
24 may be renamed except as provided in Section 41-9-235.

25 "(e) No historically significant building or
26 memorial building that is located on public property may be
27 relocated; removed; altered; obscured from view; renamed;

1 dishonored, disparaged, or reinterpreted with competing
2 signage, wording, symbols, objects, or other types or means of
3 communication located at the site of the historically
4 significant building or memorial building; or otherwise
5 disturbed, except for razing or emergency repairs as provided
6 in Section 41-9-235.

7 "§41-9-233.

8 "No ~~person~~ individual or entity may prevent the
9 governmental entity having responsibility for maintaining any
10 ~~architecturally~~ historically significant building, memorial
11 building, memorial school, memorial street, or monument from
12 taking proper and appropriate measures, and exercising proper
13 and appropriate means, for the protection, preservation, care,
14 repair, or restoration of those monuments, streets, or
15 buildings.

16 "§41-9-234.

17 "(a) There is created the Committee on Alabama
18 Monument Protection.

19 "(b) The legislative members of the committee shall
20 be appointed and reappointed at the beginning of each
21 legislative quadrennium. The members of the committee
22 appointed pursuant to subdivisions (3) to (5), inclusive,
23 shall serve for terms of four years, with the exception of
24 their initial terms, which shall be staggered as provided in
25 subsection (d). Each term of a member appointed pursuant to
26 subdivisions (3) to (5), inclusive, shall expire on September
27 30. The appointing authorities shall coordinate their

1 appointments to assure committee membership is inclusive and
2 reflects the racial, gender, geographic, urban, rural, and
3 economic diversity of the state. The membership of the
4 committee shall include all of the following:

5 "(1) Two members of the House of Representatives,
6 one from the majority party and one from the minority party,
7 appointed by the Speaker of the House of Representatives.

8 "(2) Two members of the Senate, one from the
9 majority party and one from the minority party, appointed by
10 the President Pro Tempore of the Senate.

11 "(3) One member of the public, appointed by the
12 Speaker of the House of Representatives.

13 "(4) One member of the public, appointed by the
14 President Pro Tempore of the Senate.

15 "(5) Two members of the public, appointed by the
16 Governor.

17 "(6) One actively serving county commissioner
18 appointed by the Governor.

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

22 "(8) One actively serving mayor or member of the
23 municipal governing body of a Class 4 to Class 8, inclusive,
24 municipality appointed by the Governor.

25 "(c) To assist the appointing authorities in the
26 process of appointing public members to the committee, ~~each~~
27 any member of the public; any heritage, historical,

1 genealogical, or preservation organization operating in the
2 state; and any of the following entities may submit a list of
3 names to the Speaker of the House of Representatives,
4 President Pro Tempore of the Senate, and Governor for
5 consideration for appointment:

6 "(1) The Department of Archives and History.

7 "(2) The Alabama Historical Commission.

8 "(3) The Alabama Historical Association.

9 "(4) The Alabama Trust for Historic Preservation.

10 "(5) The Black Heritage Council.

11 "(d) The initial members of the committee shall be
12 appointed before September 1, 2017, and shall hold an
13 organizational meeting of the committee before October 1,
14 2017. At the organizational meeting of the committee, the
15 membership of the committee shall select a chair and a vice
16 chair, who shall serve in that position for one year, and the
17 public members appointed pursuant to subdivisions (3) to (5),
18 inclusive, of subsection (b) shall draw lots to determine
19 which one of those members shall serve an initial term of two
20 years expiring on September 30, 2019, which two of those
21 members shall serve an initial term of three years expiring on
22 September 30, 2020, and which two of those members shall serve
23 an initial term of four years expiring on September 30, 2021.
24 The committee shall meet at least once each year, during the
25 month of October, to select a chair and vice chair to serve
26 for the following year. Thereafter, the committee shall meet
27 at the call of the chair or any majority of the members of the

1 committee. The committee shall have a continuing existence and
2 may meet, act, and conduct committee business at any place
3 within this state.

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

21 "(f) Commencing on the effective date of the act
22 adding this language, no committee member may serve for any
23 consecutive terms of office. Upon the expiration of a term of
24 office, the committee member may not be reappointed to an
25 additional term for at least four years after the expiration.

26 "(g) The committee shall perform all duties
27 prescribed by this article. The chair of the committee may

1 create advisory subcommittees and appoint members thereto,
2 which may include members of the committee, representatives
3 from governmental agencies, ~~and~~ members of the public, and
4 representatives from heritage, historical, genealogical, or
5 preservation organizations with interest ~~and expertise in the~~
6 objectives of the committee or knowledge of protected
7 memorials in the state and commitment to their preservation.

8 The committee shall create no more than two active advisory
9 subcommittees at any given time unless the committee votes
10 unanimously for additional subcommittees.

11 "~~(g)~~ (h) Each legislative member of the committee or
12 any subcommittee, if created, shall be entitled to the
13 legislative compensation, per diem, and travel as provided in
14 Amendment 871 to the Constitution of Alabama of 1901, now
15 appearing as Section 49.01 of the Official Recompilation of
16 the Constitution of Alabama of 1901, as amended.

17 "§41-9-235.

18 "(a) ~~(1)~~ The duty of the committee is to preserve
19 protected memorials situated in the state. That duty includes
20 reviewing, and granting or denying, petitions for waiver and
21 petitions to raze.

22 "(1) Any governmental entity exercising control of
23 public property on which ~~an architecturally~~ a historically
24 significant building, memorial building, memorial school, or
25 memorial street, ~~or monument~~ is located, through proper
26 application, may petition the committee for any of the
27 following:

1 "a. A waiver from subsection (b) or subsection (c)
2 of Section 41-9-232 ~~through an application including for the~~
3 relocation, removal, alteration, emergency repair, or renaming
4 of a memorial street.

5 "b. A waiver of subsection (d) of Section 41-9-232
6 for the renaming of a memorial school.

7 "c. A waiver of subsection (e) of Section 41-9-232
8 for the relocation, removal, alteration, or emergency repair
9 of an historically significant building or memorial building.

10 "(2) An application for a waiver, at a minimum,
11 shall include all of the following:

12 "a. A resolution by the ~~controlling~~ governmental
13 entity seeking a waiver ~~for the renaming of a memorial school~~
14 ~~or for the relocation, removal, alteration, renaming, or other~~
15 ~~disturbance of the architecturally significant building,~~
16 ~~memorial building, memorial street, or monument~~ and the
17 reasons therefor.

18 "b. Written documentation of the origin of the
19 ~~architecturally~~ historically significant building, memorial
20 building, memorial school, or memorial street, ~~or monument,~~
21 the intent of the ~~sponsoring~~ governmental entity at the time
22 of dedication, and any subsequent alteration, or renaming, ~~or~~
23 ~~other disturbance~~ of the ~~architecturally~~ historically
24 significant building, memorial building, memorial school, or
25 memorial street, ~~or monument.~~

26 "c. Written commentary from the general public and
27 any heritage, historical, genealogical, or preservation

1 organizations with interest in the decision of the ~~controlling~~
2 governmental entity, ~~and from the general public.~~

3 "d. A written statement of any facts that were not
4 known at the time of the origin of the ~~architecturally~~
5 historically significant building, memorial building, memorial
6 school, or memorial street, ~~or monument,~~ but are known now,
7 that the committee should consider in granting the waiver. The
8 absence of such facts ~~should serve~~ serves as a presumption
9 against the granting of a waiver by the committee.

10 "~~(2)a.~~(b) If the committee grants a petition for
11 waiver, the committee may provide reasonable conditions and
12 instructions to ensure that the ~~architecturally~~ historically
13 significant building, memorial building, memorial school, or
14 memorial street, ~~or monument~~ is restored or preserved to the
15 greatest extent possible.

16 "~~b.~~(c) In the event there is a need for emergency
17 repairs or construction at the site, or on adjacent property
18 of, or to, the ~~architecturally~~ historically significant
19 building, memorial building, or memorial street, ~~or monument~~
20 ~~or on adjacent property,~~ the ~~controlling~~ governmental entity
21 may temporarily relocate or otherwise protect the
22 ~~architecturally~~ historically significant building, memorial
23 building, or memorial street, ~~or monument~~ without seeking a
24 waiver under the process provided in this section; provided
25 the ~~architecturally~~ historically significant building,
26 memorial building, or memorial street, ~~or monument~~ shall be
27 returned to its prior location or condition, or both, as soon

1 as safely and reasonably possible, and no later than one ~~year~~
2 month after the completion of the repair or construction. If
3 the repair or construction is expected to take more than ~~one~~
4 year three months, the ~~controlling~~ governmental entity shall
5 seek a waiver under the process specified in this section.

6 "(d) (1) In addition to the right to petition for a
7 waiver, as provided in paragraphs a. to c., inclusive, of
8 subdivision (1) of subsection (a), a governmental entity
9 exercising control of a historically significant building or
10 memorial building may petition the committee to raze the
11 historically significant building or memorial building. The
12 application for a petition to raze shall state that the
13 historically significant building or memorial building has
14 become one, or more, of the following:

15 "a. Obsolete for the purposes for which it was
16 intended.

17 "b. Too dangerous for public use.

18 "c. Extensively damaged to the point of not being
19 capable of being restored.

20 (2) In addition to the documentation provided in
21 paragraphs a. to d., inclusive, of subdivision (2) of
22 subsection (a), an application for a petition to raze, at a
23 minimum, shall also include all of the following:

24 "a. Written documentation including, but not limited
25 to, any architectural, structural, engineering, and similar
26 studies and reports documenting the condition, limitations,

1 danger, or inability to effect restoration of the historically
2 significant building or memorial building.

3 "b. Studies, plans, and details regarding the
4 intentions of the governmental entity to replace the
5 historically significant building or memorial building with
6 another building, and its anticipated location and function.

7 "(3) If the committee grants an application for a
8 petition to raze under this subsection, the committee shall
9 require the governmental entity to rename any replacement
10 building, resultant park, green space, or other public area
11 with the name of the original historically significant
12 building or memorial building. If the historically significant
13 building or memorial building is not replaced, the
14 governmental entity shall erect a permanent marker to
15 memorialize the event, individual, group, movement, cause,
16 military service, or war or military conflict for which the
17 razed historically significant building or memorial building
18 was named. The governmental entity exercising control of the
19 original historically significant building or memorial
20 building shall confirm to the committee that the replacement
21 building, resultant park, green space, or other public area
22 bears the name of the original historically significant
23 building or memorial building or that a suitable permanent
24 memorial marker has been erected, if the historically
25 significant building or memorial building is not replaced.

26 "c.(e) If the committee fails to act on a completed
27 application for a petition for waiver or petition to raze

1 within 90 days after the application is submitted to the
2 committee, the waiver shall be deemed ~~granted~~ denied.

3 ~~"d. If the Attorney General determines that an
4 entity exercising control of public property has renamed a
5 memorial school or has relocated, removed, altered, renamed,
6 or otherwise disturbed an architecturally significant
7 building, memorial building, memorial street, or monument from
8 that public property without first obtaining a waiver from the
9 committee as required by this article, or failed to comply
10 with the conditions and instructions issued by the committee
11 upon the grant of a waiver pursuant to this section, the
12 entity shall be fined twenty-five thousand dollars (\$25,000)
13 for each violation. The fine shall be collected by the
14 Attorney General, forwarded by his or her office to the State
15 Treasurer, and deposited into the Alabama State Historic
16 Preservation Fund created in Section 41-9-255.~~

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

20 Section 2. Sections 41-9-235.1 and 41-9-235.2 are
21 added to the Code of Alabama 1975, to read as follows:

22 §41-9-235.1.

23 (a) If a governmental entity, including any of its
24 councils, commissions, boards, or other political subdivision
25 of the governmental entity, exercising control of public
26 property has renamed a memorial school or has relocated;
27 removed; altered; obscured from view; renamed; dishonored,

1 disparaged, or reinterpreted with competing signage, wording,
2 symbols, objects, or other types of means of communication; or
3 has otherwise disturbed a historically significant building,
4 memorial building, memorial street, or monument located on
5 public property, as prohibited under Section 41-9-232, or has
6 knowingly or unknowingly allowed any other individual, entity,
7 or governmental entity to do so; the governmental entity shall
8 be fined ten thousand dollars (\$10,000) for each day that the
9 violation continues and until the governmental entity has
10 taken full restorative action to comply with this article,
11 including the return of any protected memorial to its original
12 location and condition.

13 (b) If a governmental entity, including any of its
14 councils, commissions, boards, or other political subdivision
15 of the governmental entity, exercising control of public
16 property has renamed a memorial school or has relocated;
17 removed; altered; obscured from view; renamed; dishonored,
18 disparaged, or reinterpreted with competing signage, wording,
19 symbols, objects, or other types of means of communication; or
20 has otherwise disturbed a historically significant building,
21 memorial building, or memorial street located on public
22 property, as prohibited under subsection (c), (d), or (e) of
23 Section 41-9-232, or has knowingly or unknowingly allowed any
24 other individual, entity, or governmental entity to do so
25 without first obtaining a waiver from the committee, where
26 allowed and as required by subsection (c), (d), or (e) of
27 Section 41-9-232, the governmental entity shall be fined ten

1 thousand dollars (\$10,000) for each day that the violation
2 continues and until the governmental entity has taken full
3 restorative action to comply with this article, including the
4 return of any protected memorial to its original location and
5 condition.

6 (c) Fines authorized by this section shall be
7 promptly collected by the Attorney General, forwarded by his
8 or her office to the State Treasurer, and deposited into the
9 Alabama State Historic Preservation Fund created in Section
10 41-9-255, and held for the preservation, repair,
11 refurbishment, and conservation of historically significant
12 buildings, memorial buildings, memorial streets, and
13 monuments. If the Attorney General is unable to promptly
14 collect a fine pursuant to this section, he or she shall
15 institute legal action to collect the fine.

16 (d) In addition to collecting fines authorized by
17 this section, and instituting legal action as necessary, the
18 Attorney General shall seek all remedies at law and in equity
19 to preserve protected memorials, pursuant to this article, and
20 return protected memorials to their original name, location,
21 and condition.

22 §41-9-235.2.

23 (a) Any provision of this article to the contrary
24 notwithstanding, if a governmental entity, or individual
25 member of the governing body of the governmental entity,
26 exercises control of public property in a manner that
27 violates, or allows to be violated, this article, then:

1 (1) An action may be commenced, in the name of the
2 state, against the offending governmental entity or individual
3 member of the governing body of the governmental entity, or
4 both, on the information of any member of the public or any
5 heritage, historical, preservation, or like organization. Upon
6 the filing of an action under this subdivision, notice of the
7 action and a copy of the complaint shall be served on the
8 Attorney General. The Attorney General shall have 90 calendar
9 days after the date of service to decide whether to pursue the
10 action on behalf of the state. If the Attorney General decides
11 not to pursue the action, or fails to act within the 90
12 calendar days, the private action shall commence as originally
13 filed by the individual or organization.

14 (2) Relief may include damages for injury to any
15 protected memorial caused by the violation, recovery of the
16 cost of returning and restoring the protected memorial to its
17 original location and condition, and restitution for waste or
18 misuse of public monies that has occurred in connection with a
19 violation. This section may not be construed as limiting the
20 rights of any individual or organization to pursue any
21 additional civil or equitable remedy otherwise allowed by law
22 in an action brought under this section or independently of
23 this section. If not already recovered by the state at the
24 time of trial, fines imposed by this article shall be imposed,
25 for the benefit of the state, as provided in subsection (b).

26 (3) To effect the purposes of this article, the
27 courts of this state may use all remedies available at law and

1 in equity, to preserve and protect protected memorials and
2 fashion remedies in addition to those enumerated in
3 subdivision (2), as are necessary to ensure that protected
4 memorials remain at, or if moved or otherwise altered or
5 affected by wrongful conduct, are returned and restored to,
6 their original location and condition.

7 (4) Punitive damages may be recovered from
8 individuals responsible for intentional, reckless, willful, or
9 wanton violation of this article.

10 (5) No security for costs from the party shall be
11 required for the issuance of a temporary restraining order or
12 preliminary injunction, and no costs shall be awarded against
13 any resident of the state for any action brought in good faith
14 under this section.

15 (6) Public monies recovered by reason of their
16 misuse by a public official shall be restored to the state,
17 county, municipality, or other governmental entity, which the
18 court determines would make the applicable public treasury
19 whole. The court may impose any conditions deemed necessary
20 and appropriate to assure that misuse of monies does not
21 recur.

22 (b) The court shall order any fines recovered
23 pursuant to this section to be paid to the State Treasurer for
24 deposit into the Alabama State Historic Preservation Fund
25 created in Section 41-9-255 and held for the preservation,
26 repair, refurbishment, and conservation of protected
27 memorials.

1 Section 3. Sections 41-9-236 and 41-9-237 of the
2 Code of Alabama 1975, are amended to read as follows:

3 "§41-9-236.

4 "This article does not apply to any of the
5 following:

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

8 "(2) Any ~~architecturally~~ historically significant
9 building, memorial building, memorial street, or monument that
10 is any of the following:

11 "a. Located on public property under the control of,
12 or acquired by, the State Department of Transportation, which
13 may interfere with the construction, maintenance, or operation
14 of the public transportation system. The department shall
15 strive to ensure that any ~~architecturally~~ historically
16 significant building, memorial building, memorial street, or
17 monument is preserved to the greatest extent possible.

18 "b. Located on public property under the control of,
19 or acquired by, a county or municipal body or a university,
20 which may interfere with the construction, maintenance, or
21 operation of the public transportation system. The governing
22 body of the county, municipality, or university shall strive
23 to ensure that any ~~architecturally~~ historically significant
24 building, memorial building, memorial street, or monument is
25 preserved to the greatest extent possible.

26 "c. Located on public property operated or used by a
27 utility, which may interfere with providing utility service.

1 The utility shall strive to ensure that any ~~architecturally~~
2 historically significant building, memorial building, memorial
3 street, or monument is preserved to the greatest extent
4 possible.

5 "d. Located on public property under the control of,
6 or acquired by, the Alabama State Port Authority, which may
7 interfere with the construction, maintenance, or operation of
8 the port infrastructure or port related activities. The
9 authority shall strive to ensure that any ~~architecturally~~
10 historically significant building, memorial building, memorial
11 street, or monument is preserved to the greatest extent
12 possible.

13 "§41-9-237.

14 "(a) The Committee on Alabama Monument Protection,
15 pursuant to the Alabama Administrative Procedure Act, shall
16 adopt rules as necessary to provide for the implementation of
17 this article ~~including, but not limited to, further defining~~
18 ~~an architecturally significant building.~~

19 "(b) It is the intent of the Legislature that
20 constitutionally-created boards of trustees comply with the
21 requirements of this article and the rules adopted by the
22 Committee on Alabama Monument Protection."

23 Section 4. This act shall become effective on the
24 first day of the third month following its passage and
25 approval by the Governor, or its otherwise becoming law.