

SB51 INTRODUCED



1 SB51
2 SDWY557-1
3 By Senator Allen
4 RFD: County and Municipal Government
5 First Read: 06-Feb-24



SYNOPSIS:

Under existing law, the Alabama Memorial Preservation Act of 2017 prohibits architecturally significant buildings, memorial buildings, memorial streets, and monuments that are located on public property, and have been so situated for 40 or more years, from being relocated, removed, altered, renamed, or otherwise disturbed unless the Committee on Alabama Monument Protection grants a waiver, and provides penalties for violations.

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

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

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

A BILL
TO BE ENTITLED



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AN ACT

To amend Sections 41-9-233 and 41-9-235, Code of Alabama 1975, relating to the Alabama Memorial Preservation Act of 2017; to require a controlling governmental entity that replaces a memorial building to maintain the original name or erect a marker memorializing the name; to provide that a petition for waiver is deemed denied if the Committee on Alabama Monument Protection fails to act on an application for waiver within 90 days; to revise penalties for violations; and to authorize the Attorney General to commence a civil action under certain circumstances.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§41-9-233

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

(b) If any architecturally significant building or memorial building is razed, the governmental entity responsible for the building shall ensure that any replacement building or resulting park or green space maintains the name of the original building. If the building is not replaced, the



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governmental entity shall erect a marker to memorialize the person or event for which the memorial building was originally named."

"§41-9-235

(a) (1) Any entity exercising control of public property on which an architecturally significant building, memorial building, memorial school, memorial street, or monument is located may petition the committee for a waiver from subsection (b) or subsection (c) of Section 41-9-232 through an application including, at a minimum, all of the following:

a. A resolution by the controlling entity seeking a waiver for the renaming of a memorial school or for the relocation, removal, alteration, renaming, or other disturbance of the architecturally significant building, memorial building, memorial street, or monument and the reasons therefor.

b. Written documentation of the origin of the architecturally significant building, memorial building, memorial school, memorial street, or monument, the intent of the sponsoring entity at the time of dedication, and any subsequent alteration, renaming, or other disturbance of the architecturally significant building, memorial building, memorial street, or monument.

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

d. A written statement of any facts that were not known



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85 at the time of the origin of the architecturally significant
86 building, memorial building, memorial school, memorial street,
87 or monument, but are known now, that the committee should
88 consider in granting the waiver. The absence of such facts
89 should serve as a presumption against the granting of a waiver
90 by the committee.

91 (2) ~~a.~~ If the committee grants a waiver, the committee
92 may provide reasonable conditions and instructions to ensure
93 that the architecturally significant building, memorial
94 building, memorial school, memorial street, or monument is
95 restored or preserved to the greatest extent possible.

96 ~~b.~~ (b) In the event there is a need for emergency
97 repairs or construction at the site of or to the
98 architecturally significant building, memorial building,
99 memorial street, or monument or on adjacent property, the
100 controlling entity may temporarily relocate or otherwise
101 protect the architecturally significant building, memorial
102 building, memorial street, or monument without seeking a
103 waiver under the process provided in this section; provided
104 the architecturally significant building, memorial building,
105 memorial street, or monument shall be returned to its prior
106 location or condition, or both, as soon as safely and
107 reasonably possible, and no later than one year after the
108 completion of the repair or construction. If the repair or
109 construction is expected to take more than one year, the
110 controlling entity shall seek a waiver under the process
111 specified in this section.

112 ~~c.~~ (c) If the committee fails to act on a completed



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

~~d.~~ (d) If the Attorney General determines that an entity exercising control of public property has renamed a memorial school or has relocated, removed, altered, renamed, or otherwise disturbed an architecturally significant building, memorial building, memorial street, or monument from that public property without first obtaining a waiver from the committee as required by this article, or failed to comply with the conditions and instructions issued by the committee upon the grant of a waiver pursuant to this section, the entity shall be fined ~~twenty-five thousand dollars (\$25,000)~~ five thousand dollars (\$5,000) for each day that the violation continues and until the entity has taken full restorative action to comply with the requirements of this article. The Attorney General may also commence a civil action to enjoin a threatened or continuing violation of this article. Upon written request of the entity and the submission of supporting documentation that restoration has begun, the Attorney General may stay the fine pending complete restoration. The fine shall be collected by the Attorney General, forwarded by his or her office to the State Treasurer, and deposited into the Alabama State Historic Preservation Fund created in Section 41-9-255.

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

Section 2. This act shall become effective on October



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141 1, 2024.