

1 SB60
2 186225-9
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 ENROLLED, An Act,

5 To create the Alabama Memorial Preservation Act of
6 2017; to prohibit the relocation, removal, alteration,
7 renaming, or other disturbance of any architecturally
8 significant building, memorial building, memorial street, or
9 monument located on public property which has been in place
10 for 40 or more years; to provide a mechanism for the
11 relocation, removal, alteration, renaming, or other
12 disturbance of any architecturally significant building,
13 memorial building, memorial street, or monument located on
14 public property which has been in place for at least 20 years
15 and less than 40 years; to provide a mechanism for the
16 renaming of a memorial school which is located on public
17 property and has been so situated for 20 or more years; to
18 prohibit any person from preventing the governmental entity
19 responsible for maintaining the monuments, memorial streets,
20 architecturally significant buildings, and memorial buildings
21 from taking proper measures to protect, preserve, care for,
22 repair, or restore the monuments, streets, or buildings; to
23 create the Committee on Alabama Monument Protection; to
24 provide for the membership of the committee; to provide for
25 the duties of the committee; to authorize the committee to

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

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

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

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

19 (3) MEMORIAL SCHOOL. A K-12 or two-year
20 postsecondary institution or facility 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 BUILDING. A building, structure, park,
25 or other institution, other than a Memorial School, that is

1 located on public property and has been erected for, or named
2 or dedicated in honor of, an event, a person, a group, a
3 movement, or military service.

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

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

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

21 Section 3. (a) No architecturally significant
22 building, memorial building, memorial street, or monument
23 which is located on public property and has been so situated
24 for 40 or more years may be relocated, removed, altered,
25 renamed, or otherwise disturbed.

1 (b) No architecturally significant building,
2 memorial building, memorial street, or monument which is
3 located on public property and has been so situated for at
4 least 20 years, and less than 40 years, may be relocated,
5 removed, altered, renamed, or otherwise disturbed except as
6 provided in Section 6.

7 (c) No memorial school which is located on public
8 property and has been so situated for 20 or more years may be
9 renamed except as provided in Section 6.

10 Section 4. No person may prevent the governmental
11 entity having responsibility for maintaining any
12 architecturally significant building, memorial building,
13 memorial school, memorial street, or monument from taking
14 proper and appropriate measures, and exercising proper and
15 appropriate means, for the protection, preservation, care,
16 repair, or restoration of those monuments, streets, or
17 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 (5), inclusive,
24 shall serve for terms of four years, with the exception of
25 their initial terms, which shall be staggered as provided in

1 subsection (d). Each term of a member appointed pursuant to
2 subdivisions (3) to (5), inclusive, shall expire on September
3 30. The appointing authorities shall coordinate their
4 appointments to assure committee membership is inclusive and
5 reflects the racial, gender, geographic, urban, rural, and
6 economic diversity of the state. The membership of the
7 committee shall include all of the following:

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

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

14 (3) One member of the public, appointed by the
15 Speaker of the House of Representatives.

16 (4) One member of the public, appointed by the
17 President Pro Tempore of the Senate.

18 (5) Two members of the public, appointed by the
19 Governor.

20 (6) One actively serving county commissioner
21 appointed by the Governor.

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

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

4 (c) To assist the appointing authorities in the
5 process of appointing public members to the committee, each of
6 the following entities may submit a list of names to the
7 Speaker of the House of Representatives, President Pro Tempore
8 of the Senate, and Governor for consideration for appointment:

9 (1) The Department of Archives and History.

10 (2) The Alabama Historical Commission.

11 (3) The Alabama Historical Association.

12 (4) The Alabama Trust for Historic Preservation.

13 (5) The Black Heritage Council.

14 (d) The initial members of the committee shall be
15 appointed before September 1, 2017, and shall hold an
16 organizational meeting of the committee before October 1,
17 2017. At the organizational meeting of the committee, the
18 membership of the committee shall select a chair and a vice
19 chair, who shall serve in that position for one year, and the
20 public members appointed pursuant to subdivisions (3) to (5),
21 inclusive, of subsection (b) shall draw lots to determine
22 which one of those members shall serve an initial term of two
23 years expiring on September 30, 2019, which two of those
24 members shall serve an initial term of three years expiring on
25 September 30, 2020, and which two of those members shall serve

1 an initial term of four years expiring on September 30, 2021.
2 The committee shall meet at least once each year, during the
3 month of October, to select a chair and vice chair to serve
4 for the following year. Thereafter, the committee shall meet
5 at the call of the chair or any majority of the members of the
6 committee. The committee shall have a continuing existence and
7 may meet, act, and conduct committee business at any place
8 within this state.

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

1 (f) The committee shall perform all duties
2 prescribed by this act. The chair of the committee may create
3 advisory subcommittees and appoint members thereto, which may
4 include members of the committee, representatives from
5 governmental agencies, and members of the public with interest
6 and expertise in the objectives of the committee. The
7 committee shall create no more than two active advisory
8 subcommittees at any given time unless the committee votes
9 unanimously for additional subcommittees.

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

16 Section 6. (a)(1) Any entity exercising control of
17 public property on which an architecturally significant
18 building, memorial building, memorial school, memorial street,
19 or monument is located may petition the committee for a waiver
20 from subsection (b) or subsection (c) of Section 3 through an
21 application including, at a minimum, all of the following:

22 a. A resolution by the controlling entity seeking a
23 waiver for the renaming of a memorial school or for the
24 relocation, removal, alteration, renaming, or other
25 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, historical,
11 genealogical, or preservation organizations with interest in
12 the decision of the controlling entity, and from the general
13 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

1 monument is restored or preserved to the greatest extent
2 possible.

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

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

23 (d) If the Attorney General determines that an
24 entity exercising control of public property has renamed a
25 memorial school or has relocated, removed, altered, renamed,

1 or otherwise disturbed an architecturally significant
2 building, memorial building, memorial street, or monument from
3 that public property without first obtaining a waiver from the
4 committee as required by this act, 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 (e) 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) Any architecturally significant building,
21 memorial building, memorial street, or monument that is any of
22 the following:

23 a. Located on public property under the control of,
24 or acquired by, the State Department of Transportation, which
25 may interfere with the construction, maintenance, or operation

1 of the public transportation system. The department shall
2 strive to ensure that any architecturally significant
3 building, memorial building, memorial street, or monument is
4 preserved to the greatest extent possible.

5 b. Located on public property under the control of,
6 or acquired by, a county or municipal body or a university,
7 which may interfere with the construction, maintenance, or
8 operation of the public transportation system. The governing
9 body of the county, municipality, or university shall strive
10 to ensure that any architecturally significant building,
11 memorial building, memorial street, or monument is preserved
12 to the greatest extent possible.

13 c. Located on public property operated or used by a
14 utility, which may interfere with providing utility service.
15 The utility shall strive to ensure that any architecturally
16 significant building, memorial building, memorial street, or
17 monument is preserved to the greatest extent possible.

18 d. Located on public property under the control of,
19 or acquired by, the Alabama State Port Authority, which may
20 interfere with the construction, maintenance, or operation of
21 the port infrastructure or port related activities. The
22 authority shall strive to ensure that any architecturally
23 significant building, memorial building, memorial street, or
24 monument is preserved to the greatest extent possible.

1 Section 8. The Committee on Alabama Monument
2 Protection, pursuant to the Alabama Administrative Procedure
3 Act, shall adopt rules as necessary to provide for the
4 implementation of this act including, but not limited to,
5 further defining an architecturally significant building.

6 Section 9. This act shall become effective
7 immediately following its passage and approval by the
8 Governor, or its otherwise becoming law.

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Del Mah

President and Presiding Officer of the Senate

Mac McCutchen

Speaker of the House of Representatives

SB60

Senate 09-MAR-17

I hereby certify that the within Act originated in and passed the Senate, as amended.

Senate 19-MAY-17

I hereby certify that the within Act originated in and passed the Senate, as amended by Conference Committee Report.

Senate 19-MAY-17

I hereby certify that the within Act originated in and passed the Senate, as amended by Executive Amendment.

Patrick Harris,
Secretary.

House of Representatives
Passed: 27-APR-17, as amended

House of Representatives
Passed: 19-MAY-17, as amended by Conference Committee Report.

House of Representatives **APPROVED** *5-24-2017*
Passed 19-MAY-17, as amended by the Executive Amendment.

TIME *4:25 PM*

By: Senator Allen
Kay Ivey
GOVERNOR

Alabama Secretary Of State

Act Num....: 2017-354
Bill Num...: S-60

Recv'd 05/25/17 09:22amSLF

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I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, SB 60.
YEAS 25 NAYS 8 ABSTAIN 0

PATRICK HARRIS,
Secretary

I hereby certify that the notice & proof is attached to the Bill, SB _____ as required in the General Acts of Alabama, 1975 Act No. 919.

PATRICK HARRIS,
Secretary

CONFERENCE COMMITTEE

Senate Conferees _____

DATE:

3-14 2017

RD 1 RFD

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REPORT OF STANDING COMMITTEE

This bill having been referred by the House to its standing committee on State Government was acted upon by such committee in session, and returned therefrom to the House with the recommendation that it be passed w/amend(s) w/sub 1.
This Friday of April, 2017.
Mark M. Stogdole Chairperson

DATE:

4-13 2017

RF

RD 2 CAL

DATE:

20__

RE-REFERRED

RE-COMMITTED

Committee _____

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, SB 60.

YEAS 78 NAYS 24

GREG PAPPAS,
Clerk