

SB51 INTRODUCED



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



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

60 "§41-9-235

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

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

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

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

84 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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113 application for a waiver within 90 days after the application
114 is submitted to the committee, the waiver shall be deemed
115 ~~granted~~ denied.

116 ~~d.~~ (d) If the Attorney General determines that an entity
117 exercising control of public property has renamed a memorial
118 school or has relocated, removed, altered, renamed, or
119 otherwise disturbed an architecturally significant building,
120 memorial building, memorial street, or monument from that
121 public property without first obtaining a waiver from the
122 committee as required by this article, or failed to comply
123 with the conditions and instructions issued by the committee
124 upon the grant of a waiver pursuant to this section, the
125 entity shall be fined ~~twenty-five thousand dollars (\$25,000)~~
126 five thousand dollars (\$5,000) for each day that the violation
127 continues and until the entity has taken full restorative
128 action to comply with the requirements of this article. The
129 Attorney General may also commence a civil action to enjoin a
130 threatened or continuing violation of this article. Upon
131 written request of the entity and the submission of supporting
132 documentation that restoration has begun, the Attorney General
133 may stay the fine pending complete restoration. The fine shall
134 be collected by the Attorney General, forwarded by his or her
135 office to the State Treasurer, and deposited into the Alabama
136 State Historic Preservation Fund created in Section 41-9-255.
137 ~~e.~~ (e) Judicial review of the final decision of the
138 committee may be sought pursuant to the Alabama Administrative
139 Procedure Act, Chapter 22 of this title."

140 Section 2. This act shall become effective on October



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141 1, 2024.