

1 A bill to be entitled
 2 An act relating to protection of historic monuments
 3 and memorials; providing a short title; creating s.
 4 267.201, F.S.; providing definitions; providing
 5 legislative intent; prohibiting certain acts
 6 concerning historic monuments and memorials on public
 7 property; providing applicability; providing for
 8 standing to bring civil actions; providing exceptions;
 9 providing civil penalties for certain officials who
 10 engage in certain actions; providing that a local
 11 government is liable in certain instances; requiring
 12 the state to restore or relocate a monument or
 13 memorial in certain circumstances; prohibiting the
 14 distribution of certain funding to local governments
 15 until they reimburse the state; authorizing the
 16 removal or temporary relocation of a monument or
 17 memorial in certain instances provided certain
 18 requirements are met; specifying certain duties of the
 19 Division of Historical Resources within the Department
 20 of State and Department of Veterans' Affairs
 21 concerning certain monuments or memorials; providing
 22 for rulemaking; providing an effective date.

24 Be It Enacted by the Legislature of the State of Florida:

26 Section 1. This act may be cited as the "Historic Florida
 27 Monuments and Memorials Protection Act."

28 Section 2. Section 267.201, Florida Statutes, is created
 29 to read:

30 267.201 Protection of historic monuments and memorials.-

31 (1) As used in this section, the term:

32 (a) "Department" means the Department of State.

33 (b) "Division" means the Division of Historical Resources
 34 within the department.

35 (c) "Historic Florida military monument or memorial" means
 36 a historic Florida monument or memorial that honors or recounts
 37 the military service of any past or present military personnel,
 38 including any armed conflict since settlers from other countries
 39 came to what is now the United States.

40 (d) "Historic Florida monument or memorial" means a
 41 permanent statue, marker, plaque, flag, banner, cenotaph,
 42 religious symbol, painting, seal, tombstone, or display
 43 constructed and located on public property which has been
 44 displayed for at least 25 years, with the intent of being
 45 permanently displayed or perpetually maintained and which is
 46 dedicated to any persons, places, or events that were important
 47 in the past or that are in remembrance or recognition of a
 48 significant person or event in state history.

49 (e) "Local government" means any municipality, county,
 50 school district, state college, state university, or any other

51 political subdivision of the state.

52 (2) (a) It is the intent of the Legislature to declare void
 53 all ordinances, regulations, and executive actions regarding the
 54 removal, damage, or destruction of historic Florida monuments or
 55 memorials which have been enacted by any local government.

56 (b) It is also the intent of the Legislature that the
 57 state act to protect each historic Florida monument or memorial
 58 from removal, damage, or destruction. The Legislature finds that
 59 an accurate and factual history belongs to all Floridians and
 60 future generations and the state has an obligation to protect
 61 and preserve such history.

62 (c) Further, it is the intent of the Legislature to
 63 provide statewide uniformity through the division. It is also
 64 the Legislature's intent that the division actively work to
 65 protect, preserve, and ensure that each historic Florida
 66 monument or memorial is not removed, damaged, or destroyed,
 67 regardless of the location of such monument or memorial in the
 68 state and consult with the Department of Veterans' Affairs on
 69 actions regarding historic Florida military monuments or
 70 memorials.

71 (3) The state occupies the whole field of removal, damage,
 72 or destruction of historic Florida monuments or memorials to the
 73 exclusion of any existing or future local government ordinance,
 74 regulation, or rule, or any action by an elected or appointed
 75 local government official, and any such ordinances, regulations,

76 | rules, or actions are void.

77 | (4) (a) Any local government or elected or appointed local
78 | government official who violates the Legislature's occupation of
79 | the whole field of removal, damage, or destruction of historic
80 | Florida monuments or memorials by enacting or enforcing any
81 | local ordinance, regulation, or rule impinging upon such
82 | exclusive occupation of the field shall be liable as provided in
83 | this subsection.

84 | (b) If a local government violates paragraph (a), the
85 | court shall declare the ordinance, regulation, or rule invalid
86 | and issue a permanent injunction against the local government
87 | prohibiting it from enforcing such ordinance, regulation, or
88 | rule. It is no defense that in enacting the ordinance,
89 | regulation, or rule the local government was acting in good
90 | faith or upon advice of counsel.

91 | (c) The court shall assess a civil fine of up to \$1,000
92 | against an elected or appointed local government official who
93 | knowingly and willfully violates paragraph (a).

94 | (d) Except as required by applicable law, public funds may
95 | not be used to defend or reimburse the unlawful conduct of an
96 | elected or appointed local government official found to have
97 | knowingly and willfully violated paragraph (a).

98 | (e)1. A person or an organization described in
99 | subparagraph 2. may file suit against a local government or an
100 | elected or appointed local government official in any court of

101 this state having jurisdiction over the defendant to the suit
102 for declaratory or injunctive relief and for actual damages, as
103 limited herein, caused by the violation. A court shall award a
104 prevailing plaintiff in any such suit:

105 a. Reasonable attorney fees and costs in accordance with
106 the laws of this state; and

107 b. The actual damages incurred, but not more than
108 \$100,000.

109 2. The following have standing to bring a civil action
110 for any violation of paragraph (a):

111 a. A group involved in the design, erection, or care of
112 the monument or memorial or a member of such a group.

113 b. A group or person regularly using the monument or
114 memorial for remembrance.

115 (5) If a historic Florida monument or memorial is removed,
116 damaged, or destroyed by a local government in violation of
117 paragraph (4)(a), the local government is liable for restoring
118 or relocating such monument or memorial to its original
119 condition or location or as close as possible to the original
120 condition or location within 3 years after the date of the
121 removal, damage, or destruction. If the local government does
122 not have the necessary funds, the state shall restore or
123 relocate such monument or memorial and the department shall
124 withhold from the local government all arts, cultural, and
125 historic preservation funding until the local government

126 reimburses the state for the cost of restoring or relocating
127 such monument or memorial and all such funds shall again be
128 available to the local government once the state is repaid. The
129 local government may not retroactively collect any of the
130 department funds that otherwise would have been received during
131 the period that state funds were withheld.

132 (6)(a) A local government may only remove a historic
133 Florida monument or memorial temporarily due to military
134 necessity or for any construction or infrastructure project.

135 (b) The local government proposing to remove such monument
136 or memorial shall put into an escrow account the good-faith
137 estimate of the funds necessary to relocate the monument or
138 memorial.

139 (c) A historic Florida monument or memorial temporarily
140 removed for such purpose shall be temporarily relocated to a
141 site of similar prominence, honor, visibility, and access within
142 the same county or municipality in which the monument or
143 memorial was originally located.

144 (d)1. A local government must provide written notification
145 to the division, on a form prescribed by the department in
146 consultation with the Department of Veterans' Affairs:

147 a. Of the temporary removal of a historic Florida monument
148 or memorial. The written notification must be provided within 10
149 days after the date of the local government's decision to
150 temporarily remove the historic Florida monument or memorial.

151 b. That the military necessity has ceased or that the
 152 construction or infrastructure project is completed. The written
 153 notification must be provided within a reasonable time, but not
 154 more than 30 days, after the military necessity has ceased or
 155 the construction or infrastructure project has been completed.

156 2. The historic Florida monument or memorial shall be
 157 relocated back at the original location or, if that is not
 158 possible, at a site with similar prominence, honor, visibility,
 159 and access within the same county or municipality as determined
 160 by the department after consultation with the Florida Historical
 161 Commission or, for a historic Florida military monument or
 162 memorial, after consultation with the Department of Veterans'
 163 Affairs.

164 (7) (a) The division shall take any issue regarding
 165 protecting, preserving, or relocating a historic Florida
 166 monument or memorial to the Florida Historical Commission or, in
 167 the case of a historic Florida military monument or memorial, to
 168 the Department of Veterans' Affairs, for a recommendation to
 169 take action, to defer making a decision, or to not make a
 170 decision.

171 (b) The division shall make a written record of its
 172 decision to take action, to defer making a decision, or to not
 173 make a decision and the reasons therefor in consultation with
 174 the Florida Historical Commission or, in the case of a historic
 175 Florida military monument or memorial, the Department of

176 Veterans' Affairs.

177 (8) The department, in consultation with the Department of
178 Veterans' Affairs, may adopt rules to implement this section.

179 Section 3. This act shall take effect July 1, 2024.