SB13

172536-1

By Senator Allen

RFD: Governmental Affairs

First Read: 02-FEB-16

PFD: 12/01/2015
SYNOPSIS: This bill would create the Alabama Heritage Preservation Act of 2016.

This bill would prohibit the relocation, removal, alteration, renaming, or other disturbance of certain commemorative statues, monuments, memorials, or plaques which are located on public property.

This bill would prohibit any person from preventing the governmental entity having responsibility for maintaining the objects from taking proper measures to protect, preserve, care for, repair, or restore the objects.

This bill would authorize the Alabama Legislative Council to grant waivers under certain circumstances and would provide for the levy of fines against governmental entities that act without approval of the Legislative Council.

This bill would also exempt certain art and artifacts, the Department of Transportation, and
local highway departments under certain limited circumstances.

A BILL

TO BE ENTITLED

AN ACT

To create the Alabama Heritage Preservation Act of 2016; to prohibit the relocation, removal, alteration, renaming, or other disturbance of statues, monuments, memorials, or plaques located on public property; to prohibit any person from preventing the governmental entity responsible for maintaining the objects from taking proper measures to protect, preserve, care for, repair, or restore the objects; to authorize the Alabama Legislative Council to grant waivers; to provide for the levy of fines for violations of the waiver process; and to exempt certain art and artifacts, the Department of Transportation, and local highway departments under certain limited circumstances.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known and may be cited as the Alabama Heritage Preservation Act of 2016.

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

(1) OBJECT OF REMEMBRANCE. A monument, memorial, plaque, or statue that commemorates an event, a person, a
group, a movement, or military service that is part of the
history of the state.

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

Section 3. (a) No object of remembrance which is
located on public property may be relocated, removed, altered,
renamed, or otherwise disturbed except as provided in Section
5.

(b) No school, street, bridge, building, park,
preserve, or reserve which is located on public property and
has been erected for, or named, or dedicated in honor of an
event, a person, a group, a movement, or military service may
be renamed, except as provided in Section 5.

Section 4. No person may prevent the governmental
entity having responsibility for maintaining any of the
objects, structures, or areas described in Section 3 from
taking proper and appropriate measures, and exercising proper
and appropriate means, for the protection, preservation, care,
repair, or restoration of those objects, structures, or areas.

Section 5. (a)(1) Any entity exercising control of
public property on which an object of remembrance is located
may petition the Alabama Legislative Council for a waiver from
subsection (a) of Section 3 in a deliberative process
established by administrative rule and certified by the
Alabama Historical Commission. At a minimum, the deliberative process shall include all of the following:

a. A resolution by the controlling entity expressing its intent to seek a waiver for the relocation, removal, alteration, renaming, or other disturbance of an object of remembrance. The resolution shall provide the dates, times, and locations of two public hearings and the date, time, and location of the controlling entity's consideration of public input.

b. Advertisement of the resolution in a newspaper of local circulation, once weekly for eight consecutive weeks, to be placed at the expense of the controlling entity.

c. Signage providing the text of the resolution at the site of the object of remembrance for eight consecutive weeks, to be placed at the expense of the controlling entity.

d. Two hearings, conducted by the controlling entity, for the collection of input from heritage, historical, genealogical, and preservation organizations, and from the general public.

e. Consideration and discussion of input from organizations and the general public by the controlling entity in a regular or called public meeting.

f. A petition in writing by the controlling entity, stating the reason or reasons upon which the waiver is sought and summarizing the input received from organizations and the general public.
g. Certification by the Alabama Historical Commission to the Legislative Council that the controlling entity completed the required deliberative process.

(2) If the Legislative Council grants a waiver, it may provide reasonable conditions and instructions to ensure that the object of remembrance is preserved to the greatest extent possible.

(b) Any entity exercising control of public property on which a school, street, bridge, building, park, preserve, or reserve is located may petition the Alabama Legislative Council for a waiver from subsection (b) of Section 3 in a deliberative process to be established through administrative rule and certified by the Alabama Historical Commission. At a minimum, the deliberative process shall include all of the following:

(1) A resolution by the controlling entity expressing its intent to seek a waiver for the renaming of the school, street, bridge, building, park, preserve, or reserve. The resolution shall provide the dates, times, and locations of two public hearings and the date, time, and location of the controlling entity's consideration of public input.

(2) Advertisement of the resolution in a newspaper of local circulation, once weekly for eight consecutive weeks, to be placed at the expense of the controlling entity.

(3) Signage providing the text of the resolution at the site of the school, street, bridge, building, park,
preserve, or reserve for eight consecutive weeks, to be placed at the expense of the controlling entity.

(4) Two hearings, conducted by the controlling entity, for the collection of input from heritage, historical, genealogical, and preservation organizations, and from the general public.

(5) Consideration and discussion of input from organizations and the general public by the controlling entity in a regular or called public meeting.

(6) A petition in writing by the controlling entity, stating the reason or reasons upon which the waiver is sought and summarizing the input received from organizations and the general public.

(7) Certification by the Alabama Historical Commission to the Legislative Council that the controlling entity completed the required deliberative process.

(c) If the Attorney General determines that an entity exercising control of public property has removed an object of remembrance from that public property without first obtaining a waiver from the Legislative Council pursuant to this section, the entity shall be fined one hundred thousand dollars ($100,000) for each violation. The fine shall be collected by the Attorney General, forwarded by his or her office to the State Treasurer, and deposited into the State General Fund.

Section 6. This act does not apply to any of the following:
(1) Art and artifacts in the collections of museums, archives, and libraries.

(2) Objects, structures, or areas described in Section 3 that are located on public property under the control of, or acquired by, the State Department of Transportation, which may interfere with the construction, maintenance, or operation of the public transportation system. The department shall strive to ensure that any such objects, structures, or areas are preserved to the greatest extent possible.

(3) Objects, structures, or areas described in Section 3 that are located on public property under the control of, or acquired by, a county or municipal body or a university, which may interfere with the construction, maintenance, or operation of the public transportation system. The governing body of the county, municipality, or university shall strive to ensure that any such objects, structures, or areas are preserved to the greatest extent possible.

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