

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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President and Presiding Officer of the Senate

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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.

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House of Representatives

Passed: 27-APR-17, as amended

House of Representatives

Passed: 19-MAY-2017, as amended by Conference Committee Report.

House of Representatives

Passed 19-MAY-17, as amended by the Executive Amendment.

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By: Senator Allen