

1 SB11
2 187954-1
3 By Senator Brewbaker
4 RFD: Education and Youth Affairs
5 First Read: 09-JAN-18
6 PFD: 09/06/2017

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8 SYNOPSIS: The Alabama Memorial Preservation Act of
9 2017 prohibits certain schools located on public
10 property and erected for, or named or dedicated in
11 honor of, an event, a person, a group, a movement,
12 or military service, from being renamed.

13 This bill would remove the prohibition
14 against the renaming of those schools and would
15 specifically exempt all preK-12, postsecondary, and
16 higher education institutions and facilities from
17 the Alabama Memorial Preservation Act of 2017.

18
19 A BILL
20 TO BE ENTITLED
21 AN ACT
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23 To amend Sections 2, 3, 4, 6, and 7 of Act 2017-354,
24 2017 Regular Session, now appearing as Sections 41-9-231,
25 41-9-232, 41-9-233, 41-9-235, and 41-9-236, Code of Alabama
26 1975, relating to the Alabama Memorial Preservation Act of

1 2017, to specifically exempt all preK-12, postsecondary, and
2 higher education institutions and facilities from the act.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 2, 3, 4, 6, and 7 of Act
5 2017-354, 2017 Regular Session, now appearing as Sections
6 41-9-231, 41-9-232, 41-9-233, 41-9-235, and 41-9-236, Code of
7 Alabama 1975, are amended to read as follows:

8 "§41-9-231.

9 "For the purposes of this article, the following
10 terms shall have the following meanings:

11 "(1) ARCHITECTURALLY SIGNIFICANT BUILDING. A
12 building located on public property that by its very nature,
13 inherent design, or structure constitutes a monument.

14 "(2) COMMITTEE. The Committee on Alabama Monument
15 Protection created by this article.

16 "~~(3) MEMORIAL SCHOOL. A K-12 or two-year~~
17 ~~postsecondary institution or facility that is located on~~
18 ~~public property and has been erected for, or named or~~
19 ~~dedicated in honor of, an event, a person, a group, a~~
20 ~~movement, or military service.~~

21 "(3)~~(4)~~ MEMORIAL BUILDING. A building, structure,
22 park, or other institution,~~other than a Memorial School,~~ that
23 is located on public property and has been erected for, or
24 named or dedicated in honor of, an event, a person, a group, a
25 movement, or military service.

26 "(4)~~(5)~~ MEMORIAL STREET. A street that is located on
27 public property and has been constructed for, or named or

1 dedicated in honor of, an event, a person, a group, a
2 movement, or military service.

3 "(5)~~(6)~~ MONUMENT. A statue, portrait, or marker
4 intended at the time of dedication to be a permanent memorial
5 to an event, a person, a group, a movement, or military
6 service that is part of the history of the people or geography
7 now comprising the State of Alabama. The term does not include
8 signage bearing historical or interpretive text, commonly
9 known as a historical marker or wayside exhibit, or portraits
10 or plaques installed by temporary means and not intended to be
11 permanent at the time of installation.

12 "(6)~~(7)~~ PUBLIC PROPERTY. All property owned or
13 leased by the State of Alabama; any county, municipal, or
14 metropolitan government in the state; or any other entity
15 created by act of the Legislature to perform any public
16 function.

17 "§41-9-232.

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

23 "(b) No architecturally significant building,
24 memorial building, memorial street, or monument which is
25 located on public property and has been so situated for at
26 least 20 years, and less than 40 years, may be relocated,

1 removed, altered, renamed, or otherwise disturbed except as
2 provided in Section 41-9-235.

3 ~~"(c) No memorial school which is located on public~~
4 ~~property and has been so situated for 20 or more years may be~~
5 ~~renamed except as provided in Section 41-9-235.~~

6 "§41-9-233.

7 "No person may prevent the governmental entity
8 having responsibility for maintaining any architecturally
9 significant building, memorial building, ~~memorial school,~~
10 memorial street, or monument from taking proper and
11 appropriate measures, and exercising proper and appropriate
12 means, for the protection, preservation, care, repair, or
13 restoration of those monuments, streets, or buildings.

14 "§41-9-235.

15 "(a) (1) Any entity exercising control of public
16 property on which an architecturally significant building,
17 memorial building, ~~memorial school,~~ memorial street, or
18 monument is located may petition the committee for a waiver
19 from subsection (b) ~~or subsection (c)~~ of Section 41-9-232
20 through an application including, at a minimum, all of the
21 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,
26 memorial building, memorial street, or monument and the
27 reasons therefor.

1 "b. Written documentation of the origin of the
2 architecturally significant building, memorial building,
3 ~~memorial school,~~ memorial street, or monument, the intent of
4 the sponsoring entity at the time of dedication, and any
5 subsequent alteration, renaming, or other disturbance of the
6 architecturally significant building, memorial building,
7 memorial street, or monument.

8 "c. Written commentary from any heritage,
9 historical, genealogical, or preservation organizations with
10 interest in the decision of the controlling entity, and from
11 the general public.

12 "d. A written statement of any facts that were not
13 known at the time of the origin of the architecturally
14 significant building, memorial building, ~~memorial school,~~
15 memorial street, or monument, but are known now, that the
16 committee should consider in granting the waiver. The absence
17 of such facts should serve as a presumption against the
18 granting of a waiver by the committee.

19 "(2) (a) If the committee grants a waiver, the
20 committee may provide reasonable conditions and instructions
21 to ensure that the architecturally significant building,
22 memorial building, ~~memorial school,~~ memorial street, or
23 monument is restored or preserved to the greatest extent
24 possible.

25 "(b) In the event there is a need for emergency
26 repairs or construction at the site of or to the
27 architecturally significant building, memorial building,

1 memorial street, or monument or on adjacent property, the
2 controlling entity may temporarily relocate or otherwise
3 protect the architecturally significant building, memorial
4 building, memorial street, or monument without seeking a
5 waiver under the process provided in this section; provided
6 the architecturally significant building, memorial building,
7 memorial street, or monument shall be returned to its prior
8 location or condition, or both, as soon as safely and
9 reasonably possible, and no later than one year after the
10 completion of the repair or construction. If the repair or
11 construction is expected to take more than one year, the
12 controlling entity shall seek a waiver under the process
13 specified in this section.

14 "(c) If the committee fails to act on a completed
15 application for a waiver within 90 days after the application
16 is submitted to the committee, the waiver shall be deemed
17 granted.

18 "(d) If the Attorney General determines that an
19 entity exercising control of public property ~~has renamed a~~
20 ~~memorial school or~~ has relocated, removed, altered, renamed,
21 or otherwise disturbed an architecturally significant
22 building, memorial building, memorial street, or monument from
23 that public property without first obtaining a waiver from the
24 committee as required by this article, or failed to comply
25 with the conditions and instructions issued by the committee
26 upon the grant of a waiver pursuant to this section, the
27 entity shall be fined twenty-five thousand dollars (\$25,000)

1 for each violation. The fine shall be collected by the
2 Attorney General, forwarded by his or her office to the State
3 Treasurer, and deposited into the Alabama State Historic
4 Preservation Fund created in Section 41-9-255.

5 "(e) Judicial review of the final decision of the
6 committee may be sought pursuant to the Alabama Administrative
7 Procedure Act, Chapter 22 of this title.

8 "§41-9-236.

9 "This article does not apply to any of the
10 following:

11 "(1) Art and artifacts in the collections of
12 museums, archives, and libraries.

13 "(2) Any architecturally significant building,
14 memorial building, memorial street, or monument that is any of
15 the following:

16 "a. Located on public property under the control of,
17 or acquired by, the State Department of Transportation, which
18 may interfere with the construction, maintenance, or operation
19 of the public transportation system. The department shall
20 strive to ensure that any architecturally significant
21 building, memorial building, memorial street, or monument is
22 preserved to the greatest extent possible.

23 "b. Located on public property under the control of,
24 or acquired by, a county or municipal body or a university,
25 which may interfere with the construction, maintenance, or
26 operation of the public transportation system. The governing
27 body of the county, municipality, or university shall strive

1 to ensure that any architecturally significant building,
2 memorial building, memorial street, or monument is preserved
3 to the greatest extent possible.

4 "c. Located on public property operated or used by a
5 utility, which may interfere with providing utility service.
6 The utility shall strive to ensure that any architecturally
7 significant building, memorial building, memorial street, or
8 monument is preserved to the greatest extent possible.

9 "d. Located on public property under the control of,
10 or acquired by, the Alabama State Port Authority, which may
11 interfere with the construction, maintenance, or operation of
12 the port infrastructure or port related activities. The
13 authority shall strive to ensure that any architecturally
14 significant building, memorial building, memorial street, or
15 monument is preserved to the greatest extent possible.

16 "e. Located on public property under the control of,
17 or acquired by, a local board of education, the Board of
18 Trustees of the Alabama Community College System, or governing
19 body or governing board of trustees of any preK-12, two-year
20 postsecondary, or four-year institution of higher education.
21 The governing board or body shall strive to ensure that any
22 architecturally significant building, memorial building,
23 memorial street, or monument is preserved to the greatest
24 extent possible."

25 Section 2. This act shall become effective
26 immediately following its passage and approval by the
27 Governor, or its otherwise becoming law.

