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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/08/2024	.	
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The Committee on Community Affairs (Martin) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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

Section 2. Subsection (4) of section 267.0612, Florida  
Statutes, is amended to read:

267.0612 Florida Historical Commission; creation;  
membership; powers and duties.—In order to enhance public



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11 participation and involvement in the preservation and protection  
12 of the state's historic and archaeological sites and properties,  
13 there is created within the Department of State the "Florida  
14 Historical Commission." The commission shall serve in an  
15 advisory capacity to the director of the Division of Historical  
16 Resources to assist the director in carrying out the purposes,  
17 duties, and responsibilities of the division, as specified in  
18 this chapter.

19 (4) The commission shall meet upon the call of the  
20 presiding officer or Secretary of State, which shall occur at  
21 least quarterly. Members shall serve without pay, but shall be  
22 entitled to reimbursement for their expenses in carrying out  
23 their official duties, as provided in s. 112.061. The commission  
24 shall take minutes of each meeting as required by s. 286.011(2)  
25 and shall post such minutes on the Division of Historical  
26 Resources website within 30 days after the meeting. Minutes of  
27 the commission which have not been adopted or which are still in  
28 draft form must be so labeled when posted.

29 Section 3. Section 267.201, Florida Statutes, is created to  
30 read:

31 267.201 Protection of historic monuments and memorials.—

32 (1) DEFINITIONS.—As used in this section, the term:

33 (a) "Historic Florida military monument or memorial" means  
34 a monument or memorial on public property that has been  
35 displayed for at least 25 years which features a historic  
36 person, entity, event, or series of events and which honors or  
37 recounts the military service of any past or present military  
38 personnel, including any armed conflict since settlers from  
39 other countries came to what is now the United States. The



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40 Department of Veterans' Affairs shall use this definition in  
41 consulting with the Secretary of State, the State Historic  
42 Preservation Officer, or the Florida Historical Commission on  
43 any historic Florida monument or memorial.

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

53 (c) "Local government" means any city, county, school  
54 district, state college, state university, or any other  
55 political subdivision of the state and its agencies.

56 (2) POLICY AND INTENT.—

57 (a) It is the intent of this section to provide statewide  
58 uniformity through the Florida Historical Commission and to  
59 declare void all ordinances, regulations, and executive actions  
60 regarding the removal, damage, or destruction of historic  
61 Florida monuments or memorials or historic Florida military  
62 monuments or memorials which have been enacted by any local  
63 government.

64 (b) It is further the intent of this section to deter and  
65 prevent any future violations of this section by the abuse of  
66 official authority that may occur when a local government  
67 enactment is passed, or when an action is taken by a local  
68 government official or employee in violation of this section.



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69       (c) It is the intent of the Legislature that the state act  
70 to protect each historic Florida monument and memorial or  
71 historic Florida military monument or memorial from removal,  
72 damage, or destruction. The Legislature finds that an accurate  
73 and factual history belongs to all Floridians and future  
74 generations and that the state has an obligation to protect and  
75 preserve such history. The Secretary of State and the State  
76 Historic Preservation Officer are responsible to work actively  
77 to protect, preserve, and ensure that each historic Florida  
78 monument or memorial is not removed, damaged, or destroyed,  
79 regardless of the location of such monument or memorial in this  
80 state. The Department of Veterans' Affairs shall have these same  
81 responsibilities for historic Florida military monuments and  
82 memorials.

83       (d) This section applies to the removal, damage, or  
84 destruction of any historic Florida monument or memorial or  
85 historic Florida military monument or memorial that has been  
86 removed, damaged, or destroyed on or after July 1, 2018.

87       (3) PREEMPTION.—The state occupies the whole field of  
88 historic Florida monuments or memorials and historic Florida  
89 military monuments or memorials to the exclusion of any existing  
90 or future local government ordinance or any administrative  
91 regulation or rule, or any action by a local government official  
92 or employee, and any such ordinance, regulation, rule, or action  
93 is void.

94       (4) PROHIBITIONS; PENALTIES.—

95       (a) A person, a county, an agency, a municipality, a  
96 district, or another entity that violates the Legislature's  
97 occupation of the whole field of removal, damage, or destruction



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98 of historic Florida monuments or memorials or historic Florida  
99 military monuments or memorials by enacting or enforcing any  
100 local ordinance or administrative regulation or rule impinging  
101 upon such exclusive occupation of the field is liable as  
102 provided in this subsection.

103 (b) If a local government violates this section, the court  
104 must declare the ordinance, regulation, or rule invalid and  
105 issue a permanent injunction against the local government  
106 prohibiting it from enforcing such ordinance, regulation, or  
107 rule. The local government may not claim as a defense that  
108 enacting the ordinance, regulation, or rule was in good faith or  
109 upon the advice of counsel.

110 (c) If the court determines that the violation was  
111 committed knowingly and willfully, the court must assess a civil  
112 fine of up to \$1,000 against the elected or appointed local  
113 government official or administrative agency head under whose  
114 jurisdiction the violation occurred.

115 (d) Except as required by applicable law, public funds may  
116 not be used to defend or reimburse the unlawful conduct of a  
117 person found to have knowingly and willfully violated this  
118 section.

119 (e) A knowing and willful violation of this section by a  
120 person acting in an official capacity for an entity enacting or  
121 enforcing any ordinance, regulation, or rule prohibited under  
122 paragraph (a) or otherwise under color of law may be cause for  
123 termination of employment or contract or removal from office by  
124 the Governor.

125 (f) A person or an organization described in subsection (6)  
126 may file suit against the county, agency, municipality,



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127 district, or other entity in any court of this state having  
128 jurisdiction over the defendant to the suit for declaratory and  
129 injunctive relief and for actual damages, as limited herein,  
130 caused by the violation. A court shall award a prevailing  
131 plaintiff in any such suit:

132 1. Reasonable attorney fees and costs in accordance with  
133 state law, including a contingency fee multiplier, as authorized  
134 by law; and

135 2. The actual damages incurred, not to exceed \$100,000.

136 (g) For a historic Florida monument or memorial or historic  
137 Florida military monument or memorial described in paragraph  
138 (2) (d) which has been removed from its original location to  
139 another location or to storage, the responsible local government  
140 has until December 31, 2024, to notify the Department of State  
141 and the Department of Veterans' Affairs on a prescribed form of  
142 the following:

143 1. The specific name of each historic Florida monument or  
144 memorial or historic Florida military monument or memorial that  
145 has been removed from its original location to another location  
146 or to storage.

147 2. Whether the monument or memorial was damaged or  
148 destroyed in the process of removal or while in storage.

149 3. A timeline to relocate the monument or memorial and a  
150 good faith estimate of the cost to relocate the monument or  
151 memorial to its original location or, if that is not possible,  
152 to a nearby site of similar prominence, honor, visibility, and  
153 access, with the consultation of the Department of State, the  
154 Department of Veterans' Affairs, and the Florida Historical  
155 Commission. The local government has until July 1, 2027, to



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156 relocate the historic Florida monument or memorial or historic  
157 Florida military monument or memorial.

158 (h) The State Historic Preservation Officer or, for a  
159 historic Florida military monument or memorial, the executive  
160 director of the Department of Veterans' Affairs, shall take any  
161 issue regarding protecting or preserving a historic Florida  
162 monument or memorial or relocating a historic Florida monument  
163 or memorial or a historic Florida military monument or memorial  
164 to the Florida Historical Commission for authorization,  
165 regardless of his or her recommendation as to whether action  
166 needs to be taken. A historic Florida monument or memorial or a  
167 historic Florida military monument or memorial may be  
168 temporarily relocated by a local government as a result of a  
169 construction or infrastructure project to a site of similar  
170 prominence, honor, visibility, and access within the same county  
171 or municipality in which the historic Florida monument or  
172 memorial or the historic Florida military monument or memorial  
173 was originally located. Upon completion of the construction or  
174 infrastructure project, the historic Florida monument or  
175 memorial or historic Florida military monument or memorial must  
176 be relocated to its original location or, if that is not  
177 possible, to a nearby site with similar prominence, honor,  
178 visibility, and access within the same county or municipality  
179 with the consultation of the Department of State or the  
180 Department of Veterans' Affairs and the Florida Historical  
181 Commission.

182 (i) If a historic Florida monument or memorial or a  
183 historic Florida military monument or memorial is removed,  
184 damaged, or destroyed by a local government, the local



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185 government is liable for restoring such monument or memorial to  
186 its original condition or as close as possible to the original  
187 condition within 3 years. If the local government does not have  
188 the necessary funds, the state must restore such monument or  
189 memorial; the Department of State shall withhold from the local  
190 government all arts, cultural, and historic preservation funding  
191 until the local government reimburses the state for the cost of  
192 restoring such monument or memorial; and all such funds shall  
193 again be available to the local government once the state is  
194 repaid. The local government may not retroactively collect any  
195 of the Department of State funds that otherwise would have been  
196 received during the period that state funds were withheld.

197 (j) The minutes of the commission must record any vote and  
198 the reasons of the commission for the authorization to take  
199 action, to defer making a decision, or to not make a decision.  
200 The State Historic Preservation Officer shall make a written  
201 record of his or her recommendation, whether to take action, to  
202 defer making a decision, or to not make a decision, and the  
203 reasons therefor in consultation with and to the Florida  
204 Historical Commission.

205 (k) The executive director of the Department of Veterans'  
206 Affairs shall make a written record of his or her recommendation  
207 of whether to take action, to defer making a decision, or to not  
208 make a decision, and the reasons therefor in consultation with  
209 and to the Florida Historical Commission.

210 (5) TEMPORARY REMOVAL.—

211 (a) A local government may only remove a historic Florida  
212 monument or memorial or historic Florida military monument or  
213 memorial on public property temporarily due to construction,





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214 expansion, or alteration of a public building, road, street, or  
215 highway; for military necessity; or for any construction or  
216 infrastructure project.

217 (b) The local government proposing to remove the historic  
218 Florida monument or memorial or a historic Florida military  
219 monument or memorial shall put into an escrow account the good-  
220 faith estimate of the funds necessary to replace or relocate  
221 such monument or memorial.

222 (c) A local government must notify in writing the State  
223 Historic Preservation Officer or the executive director of the  
224 Department of Veterans' Affairs of the temporary relocation of a  
225 historic Florida monument or memorial or a historic Florida  
226 military monument or memorial within 10 days, on a form  
227 prescribed by the Department of State and the Department of  
228 Veterans' Affairs.

229 (d) The State Historic Preservation Officer and the  
230 executive director of the Department of Veterans' Affairs must  
231 be notified within a reasonable time, but not more than 30 days,  
232 that the construction project is completed, on a form prescribed  
233 by the Department of State in consultation with the Department  
234 of Veterans' Affairs. The historic Florida monument or memorial  
235 or the historic Florida military monument or memorial must be  
236 placed back at the original location or, if that is not  
237 possible, at a nearby site with similar prominence, honor,  
238 visibility, and access within the same county or municipality as  
239 determined in consultation with the Florida Historical  
240 Commission or, for a historic Florida military monument or  
241 memorial, as determined by the executive director of the  
242 Department of Veterans' Affairs after consultation with the



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243 Florida Historical Commission. A historic Florida monument or  
244 memorial or a historic Florida military monument or memorial  
245 temporarily relocated for such purpose must be relocated to a  
246 site of similar prominence, honor, visibility, and access within  
247 the same county or municipality in which the monument or  
248 memorial was originally located.

249 (6) STANDING.—The following have standing to bring a civil  
250 action in the circuit court in the county in which the monument  
251 or memorial was located for any violation of this section:

252 (a) A group involved in the design, erection, or care of  
253 the monument or memorial or a member of such a group.

254 (b) A group or person regularly using the monument or  
255 memorial for remembrance.

256 (7) RULEMAKING.—The Department of State and the Department  
257 of Veterans' Affairs may adopt rules to implement this section.

258 Section 4. If any provision of this act or its application  
259 to any person or circumstance is held invalid, the invalidity  
260 does not affect other provisions or applications of this act  
261 which can be given effect without the invalid provision or  
262 application, and to this end the provisions of this act are  
263 severable.

264 Section 5. This act shall take effect July 1, 2024.

266 ===== T I T L E A M E N D M E N T =====

267 And the title is amended as follows:

268 Delete everything before the enacting clause  
269 and insert:

270 A bill to be entitled

271 An act relating to protection of historic monuments



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272 and memorials; providing a short title; amending s.  
273 267.0612, F.S.; requiring the Florida Historical  
274 Commission to take minutes of its meetings and post  
275 such minutes on a specified website within a specified  
276 timeframe; requiring that certain minutes have a  
277 specified label when posted; creating s. 267.201,  
278 F.S.; defining terms; providing legislative policy and  
279 intent; providing for retroactive application;  
280 preempting regulation of specified monuments and  
281 memorials to the state; prohibiting persons and  
282 specified entities from taking certain actions  
283 relating to historic monuments and memorials on public  
284 property; requiring courts to declare certain  
285 ordinances, regulations, and rules of a local  
286 government to be invalid and issue permanent  
287 injunctions against the local government; prohibiting  
288 the local government from using specified defenses;  
289 requiring a court to assess civil fines against  
290 specified local government officials and  
291 administrative agency heads; prohibiting the use of  
292 public funds to defend or reimburse unlawful conduct  
293 of certain persons; providing that specified persons  
294 may be terminated or removed by the Governor for  
295 specified violations; authorizing specified persons  
296 and organizations to file suit against specified  
297 entities for injunctive relief and actual damages;  
298 requiring the court to award prevailing plaintiffs  
299 specified fees and damages; requiring specified local  
300 governments to notify the Department of State and the



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301 Department of Veterans' Affairs on a certain form of  
302 specified information; requiring certain local  
303 governments to relocate specified monuments before a  
304 specified date; requiring the State Historic  
305 Preservation Officer or the executive director of the  
306 Department of Veterans' Affairs to take certain issues  
307 to the Florida Historical Commission for authorization  
308 to take specified actions; authorizing local  
309 governments to temporarily relocate certain monuments  
310 and memorials under specified conditions; requiring  
311 that such monuments and memorials be relocated to  
312 their original location or another location that meets  
313 certain requirements; providing that certain local  
314 governments have a specified timeframe to restore a  
315 monument and memorial that was damaged, removed, or  
316 destroyed; requiring the state to provide funds for  
317 such restoration if the local government does not have  
318 adequate funding for the restoration; providing that  
319 certain funds be withheld until a certain condition is  
320 met; prohibiting such local governments from  
321 retroactively collecting the withheld state funds;  
322 requiring that the minutes of meetings held by the  
323 Florida Historical Commission record any vote and  
324 reasons of the commission making decisions related to  
325 issues brought by the State Historic Preservation  
326 Officer; requiring the State Historic Preservation  
327 Officer and the executive director of the Department  
328 of Veterans' Affairs to make a certain written record;  
329 providing that local governments may remove certain



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330 monuments and memorials only for specified reasons;  
331 requiring such local government to place funds in  
332 escrow for a specified purpose; requiring local  
333 governments to notify in writing on a specified form  
334 the State Historic Preservation Officer or the  
335 executive director of the Department of Veterans'  
336 Affairs of the temporary relocation of certain  
337 monuments and memorials within a specified timeframe;  
338 requiring that the State Historic Preservation Officer  
339 or the executive director of the Department of  
340 Veterans' Affairs be notified within a reasonable  
341 timeframe that the construction project is complete;  
342 providing that specified monuments and memorials must  
343 be placed in their original location or a location  
344 meeting specified requirements; providing for standing  
345 to bring civil actions; providing for rulemaking;  
346 providing severability; providing an effective date.