

By the Committee on Community Affairs; and Senators Martin and Yarborough

578-03034-24

20241122c1

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.; defining terms; providing legislative
5 intent and findings; preempting regulation of
6 specified monuments and memorials to the state;
7 prohibiting persons and specified entities from taking
8 certain actions relating to historic monuments and
9 memorials on public property; requiring courts to
10 declare certain ordinances, regulations, and rules of
11 a local government to be invalid and issue permanent
12 injunctions against the local government; providing
13 that it is no defense that a local government was
14 acting in good faith or upon the advice of counsel;
15 providing civil penalties for certain officials who
16 engage in certain actions; prohibiting the use of
17 public funds to defend or reimburse unlawful conduct
18 of certain persons; authorizing specified persons and
19 organizations to file suit against specified entities
20 for injunctive relief and actual damages; requiring
21 the court to award prevailing plaintiffs specified
22 fees and damages; providing for standing to bring
23 civil actions; providing that a local government is
24 liable in certain instances; requiring the state to
25 restore or relocate a monument or memorial in certain
26 circumstances; prohibiting the distribution of certain
27 funding to local governments until they reimburse the
28 state; authorizing the removal or temporary relocation
29 of a monument or memorial only in certain instances

578-03034-24

20241122c1

30 provided certain requirements are met; requiring
31 certain local governments to place funds in escrow for
32 a specified purpose; specifying requirements for the
33 siting of temporarily relocated monuments and
34 memorials; requiring local governments to notify, in
35 writing on a specified form, the Division of
36 Historical Resources of the temporary relocation of
37 certain monuments and memorials within a specified
38 timeframe; providing that specified monuments and
39 memorials must be placed in their original location or
40 a location meeting specified requirements; specifying
41 certain duties of the division and the Department of
42 Veterans' Affairs concerning certain monuments or
43 memorials; providing for rulemaking; providing for
44 retroactive application; providing for severability;
45 providing an effective date.

46
47 Be It Enacted by the Legislature of the State of Florida:

48
49 Section 1. This act may be cited as the "Historic Florida
50 Monuments and Memorials Protection Act."

51 Section 2. Section 267.201, Florida Statutes, is created to
52 read:

53 267.201 Protection of historic monuments and memorials.—

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

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

56 (b) "Division" means the Division of Historical Resources
57 within the department.

58 (c) "Historic Florida military monument or memorial" means

578-03034-24

20241122c1

59 a historic Florida monument or memorial that honors or recounts
60 the military service of any past or present military personnel,
61 including any armed conflict since settlers from other countries
62 came to what is now the United States.

63 (d) "Historic Florida monument or memorial" means a
64 permanent statue, marker, plaque, flag, banner, cenotaph,
65 religious symbol, painting, seal, tombstone, or display
66 constructed and located on public property which has been
67 displayed for at least 25 years with the intent of being
68 permanently displayed or perpetually maintained and which is
69 dedicated to any persons, places, or events that were important
70 in the past or that are in remembrance or recognition of a
71 significant person or event in state history.

72 (e) "Local government" means any municipality, county,
73 school district, state college, state university, or any other
74 political subdivision of the state.

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

79 (b) It is also the intent of the Legislature that the state
80 act to protect each historic Florida monument or memorial from
81 removal, damage, or destruction. The Legislature finds that an
82 accurate and factual history belongs to all Floridians and
83 future generations and the state has an obligation to protect
84 and preserve such history.

85 (c) Further, it is the intent of the Legislature to provide
86 statewide uniformity through the division. It is also the
87 Legislature's intent that the division actively work to protect,

578-03034-24

20241122c1

88 preserve, and ensure that each historic Florida monument or
89 memorial is not removed, damaged, or destroyed, regardless of
90 the location of such monument or memorial in the state, and
91 consult with the Department of Veterans' Affairs on actions
92 regarding historic Florida military monuments or memorials.

93 (3) The state occupies the whole field of removal, damage,
94 or destruction of historic Florida monuments or memorials to the
95 exclusion of any existing or future local government ordinance,
96 regulation, or rule, or any action by an elected or appointed
97 local government official, and any such ordinances, regulations,
98 rules, or actions are void.

99 (4) (a) Any local government or elected or appointed local
100 government official who violates the Legislature's occupation of
101 the whole field of removal, damage, or destruction of historic
102 Florida monuments or memorials by enacting or enforcing any
103 local ordinance, regulation, or rule impinging upon such
104 exclusive occupation of the field shall be liable as provided in
105 this subsection.

106 (b) If a local government violates paragraph (a), the court
107 shall declare the ordinance, regulation, or rule invalid and
108 issue a permanent injunction against the local government
109 prohibiting it from enforcing such ordinance, regulation, or
110 rule. It is no defense that in enacting the ordinance,
111 regulation, or rule the local government was acting in good
112 faith or upon advice of counsel.

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

116 (d) Except as required by applicable law, public funds may

578-03034-24

20241122c1

117 not be used to defend or reimburse the unlawful conduct of an
118 elected or appointed local government official found to have
119 knowingly and willfully violated paragraph (a).

120 (e)1. A person or an organization described in subparagraph
121 2. may file suit against a local government or an elected or
122 appointed local government official in any court of this state
123 having jurisdiction over the defendant to the suit for
124 declaratory or injunctive relief and for actual damages, as
125 limited herein, caused by the violation. A court shall award a
126 prevailing plaintiff in any such suit:

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

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

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

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

134 b. A group or person regularly using the monument or
135 memorial for remembrance.

136 (5) If a historic Florida monument or memorial is removed,
137 damaged, or destroyed by a local government in violation of
138 paragraph (4) (a), the local government is liable for restoring
139 or relocating such monument or memorial to its original
140 condition or location or as close as possible to the original
141 condition or location within 3 years after the date of the
142 removal, damage, or destruction. If the local government does
143 not have the necessary funds, the state shall restore or
144 relocate such monument or memorial and the department shall
145 withhold from the local government all arts, cultural, and

578-03034-24

20241122c1

146 historic preservation funding until the local government
147 reimburses the state for the cost of restoring or relocating
148 such monument or memorial, and all such funds shall again be
149 available to the local government once the state is repaid. The
150 local government may not retroactively collect any of the
151 department funds that otherwise would have been received during
152 the period that state funds were withheld.

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

156 (b) The local government proposing to remove such monument
157 or memorial shall put into an escrow account the good-faith
158 estimate of the funds necessary to relocate the monument or
159 memorial.

160 (c) A historic Florida monument or memorial temporarily
161 removed for such purpose shall be temporarily relocated to a
162 site of similar prominence, honor, visibility, and access within
163 the same county or municipality in which the monument or
164 memorial was originally located.

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

168 a. Of the temporary removal of a historic Florida monument
169 or memorial. The written notification must be provided within 10
170 days after the date of the local government's decision to
171 temporarily remove the historic Florida monument or memorial.

172 b. That the military necessity has ceased or that the
173 construction or infrastructure project is completed. The written
174 notification must be provided within a reasonable time, but not

578-03034-24

20241122c1

175 more than 30 days, after the military necessity has ceased or
176 the construction or infrastructure project has been completed.

177 2. The historic Florida monument or memorial shall be
178 relocated back at the original location or, if that is not
179 possible, at a site with similar prominence, honor, visibility,
180 and access within the same county or municipality as determined
181 by the department after consultation with the Florida Historical
182 Commission or, for a historic Florida military monument or
183 memorial, after consultation with the Department of Veterans'
184 Affairs.

185 (7) (a) The division shall take any issue regarding
186 protecting, preserving, or relocating a historic Florida
187 monument or memorial to the Florida Historical Commission or, in
188 the case of a historic Florida military monument or memorial, to
189 the Department of Veterans' Affairs, for a recommendation to
190 take action, to defer making a decision, or to not make a
191 decision.

192 (b) The division shall make a written record of its
193 decision to take action, to defer making a decision, or to not
194 make a decision and the reasons therefor in consultation with
195 the Florida Historical Commission or, in the case of a historic
196 Florida military monument or memorial, the Department of
197 Veterans' Affairs.

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

200 (9) This section applies to any monuments and memorials
201 that have been removed, damaged, or destroyed on or after July
202 1, 2018.

203 Section 3. If any provision of this act or its application

578-03034-24

20241122c1

204 to any person or circumstance is held invalid, the invalidity
205 does not affect other provisions or applications of this act
206 which can be given effect without the invalid provision or
207 application, and to this end the provisions of this act are
208 severable.

209 Section 4. This act shall take effect July 1, 2024.