

By Senator McClain

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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; preempting all removal, damage, and
6 destruction of historic Florida monuments and
7 memorials; providing that any existing or future
8 ordinance, regulation, or rule to the contrary, and
9 certain actions by elected or appointed local
10 government officials, are void; providing that local
11 governments and elected or appointed local government
12 officials who violate the preemption are liable;
13 requiring the courts to declare certain ordinances,
14 regulations, or rules invalid and issue permanent
15 injunctions against the local government; providing
16 that it is no defense that a local government was
17 acting in good faith or upon the advice of counsel;
18 providing civil penalties for certain officials who
19 engage in certain actions; prohibiting the use of
20 public funds to defend or reimburse unlawful conduct
21 of certain persons; authorizing specified persons and
22 organizations to file suit against specified entities
23 for declaratory or injunctive relief and actual
24 damages; requiring the court to award prevailing
25 plaintiffs specified fees and damages; providing for
26 standing to bring civil actions; providing that a
27 local government is liable in certain instances;
28 requiring the state to restore or relocate a monument
29 or memorial in certain circumstances; prohibiting the

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30 distribution of certain funding to local governments
31 until they reimburse the state; authorizing the
32 removal or temporary relocation of a monument or
33 memorial in certain instances provided certain
34 requirements are met; specifying certain duties of the
35 Division of Historical Resources of the Department of
36 State and Department of Veterans' Affairs concerning
37 certain monuments or memorials; providing for
38 rulemaking; providing an effective date.
39

40 Be It Enacted by the Legislature of the State of Florida:
41

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

44 Section 2. Section 267.201, Florida Statutes, is created to
45 read:

46 267.201 Protection of historic monuments and memorials.-

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

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

49 (b) "Historic Florida military monument or memorial" means
50 a historic Florida monument or memorial that honors or recounts
51 the military service of any past or present military personnel,
52 including any armed conflict since settlers from other countries
53 came to what is now the United States.

54 (c) "Historic Florida monument or memorial" means a
55 permanent statue, marker, plaque, flag, banner, cenotaph,
56 religious symbol, painting, seal, tombstone, or display
57 constructed and located on public property which has been
58 displayed for at least 25 years, with the intent of being

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59 permanently displayed or perpetually maintained and which is
60 dedicated to any person, place, or event that was important in
61 the past or which is in remembrance or recognition of a
62 significant person or event in state history.

63 (d) "Local government" means any municipality, county,
64 school district, state college, state university, or other
65 political subdivision of the state.

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

70 (b) It is also the intent of the Legislature that the state
71 act to protect each historic Florida monument or memorial from
72 removal, damage, or destruction. The Legislature finds that an
73 accurate and factual history belongs to all Floridians and
74 future generations and that the state has an obligation to
75 protect and preserve such history.

76 (c) Further, it is the intent of the Legislature to provide
77 statewide uniformity through the division. It is also the
78 Legislature's intent for the division to work actively to
79 protect and preserve each historic Florida monument or memorial,
80 and ensure that each such monument or memorial is not removed,
81 damaged, or destroyed, regardless of the location of such
82 monument or memorial in this state, and to consult with the
83 Department of Veterans' Affairs on actions regarding all
84 historic Florida military monuments or memorials.

85 (3) All removal, damage, or destruction of historic Florida
86 monuments or memorials is preempted to the state. Any existing
87 or future local government ordinance, regulation, or rule to the

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88 contrary, or any such action, other than those authorized in
89 subsection (6), by an elected or appointed local government
90 official, is void.

91 (4) (a) Any local government or elected or appointed local
92 government official who violates the state's preemption of
93 removal, damage, or destruction of historic Florida monuments or
94 memorials by enacting or enforcing any local ordinance,
95 regulation, or rule impinging upon such preemption is liable as
96 provided in this subsection.

97 (b) If a local government violates paragraph (a), the court
98 must declare the ordinance, regulation, or rule invalid and
99 issue a permanent injunction against the local government,
100 prohibiting the local government from enforcing such ordinance,
101 regulation, or rule. It is no defense that, in enacting the
102 ordinance, regulation, or rule, the local government was acting
103 in good faith or upon advice of counsel.

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

107 (d) Except as required by applicable law, public funds may
108 not be used to defend or reimburse the unlawful conduct of an
109 elected or appointed local government official found to have
110 knowingly and willfully violated paragraph (a).

111 (e)1. A person or an organization described in subparagraph
112 2. may file suit against a local government or an elected or
113 appointed local government official in any court of this state
114 having jurisdiction over the defendant to the suit for
115 declaratory or injunctive relief and for actual damages, as
116 limited herein, caused by the violation. A court shall award a

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117 prevailing plaintiff in any such suit:

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

120 b. The actual damages incurred, but no more than \$100,000.

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

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

125 b. A group or person regularly using the monument or
126 memorial for remembrance.

127 (5) If a historic Florida monument or memorial is removed,
128 damaged, or destroyed by a local government in violation of
129 paragraph (4) (a), the local government is liable for restoring
130 or relocating such monument or memorial to its original
131 condition or location or as close as possible to the original
132 condition or location within 3 years after the date of the
133 removal, damage, or destruction. If the local government does
134 not have the necessary funds, the state must restore or relocate
135 such monument or memorial, and the department must withhold from
136 the local government all arts, cultural, and historic
137 preservation funding until the local government reimburses the
138 state for the cost of restoring or relocating such monument or
139 memorial. All such funds become available to the local
140 government once the state is repaid. The local government may
141 not retroactively collect any of the department funds that
142 otherwise would have been received during the period that state
143 funds were withheld.

144 (6) (a) A local government may only remove a historic
145 Florida monument or memorial temporarily due to military

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146 necessity or for any construction or infrastructure project.

147 (b) The local government proposing to remove such monument
148 or memorial shall put into an escrow account the good faith
149 estimate of the funds necessary to relocate the monument or
150 memorial.

151 (c) A historic Florida monument or memorial temporarily
152 removed for such purpose must be temporarily relocated to a site
153 of similar prominence, honor, visibility, and access within the
154 same county or municipality in which the monument or memorial
155 was originally located.

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

159 a. Of the temporary removal of a historic Florida monument
160 or memorial. The written notification must be provided within 10
161 days after the date of the local government's decision to
162 temporarily remove the historic Florida monument or memorial.

163 b. That the military necessity has ceased or that the
164 construction or infrastructure project is completed. The written
165 notification must be provided within a reasonable time, but not
166 more than 30 days, after the military necessity has ceased or
167 the construction or infrastructure project has been completed.

168 2. The historic Florida monument or memorial must be
169 relocated back to the original location or, if that is not
170 possible, to a site with similar prominence, honor, visibility,
171 and access within the same county or municipality, as determined
172 by the department after consultation with the Florida Historical
173 Commission or, for a historic Florida military monument or
174 memorial, after consultation with the Department of Veterans'

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175 Affairs.

176 (7) (a) The division shall take any issue regarding the
177 protection, preservation, or relocation of a historic Florida
178 monument or memorial to the Florida Historical Commission or, in
179 the case of a historic Florida military monument or memorial, to
180 the Department of Veterans' Affairs, for a recommendation to
181 take action, to defer making a decision, or not to make a
182 decision.

183 (b) The division shall make a written record of its
184 decision to take action, to defer making a decision, or not to
185 make a decision, and the reasons therefor, in consultation with
186 the Florida Historical Commission or, in the case of a historic
187 Florida military monument or memorial, the Department of
188 Veterans' Affairs.

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

191 Section 3. This act shall take effect July 1, 2025.