

FLORIDA HOUSE OF REPRESENTATIVES BILL ANALYSIS

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BILL #: [HB 455](#)

COMPANION BILL: [SB 496](#) (McClain)

TITLE: Protection of Historic Monuments and Memorials

LINKED BILLS: None

SPONSOR(S): Black and Jacques

RELATED BILLS: None

Committee References

[Government Operations](#)

12 Y, 5 N



[Judiciary](#)

14 Y, 5 N



[State Affairs](#)

SUMMARY

Effect of the Bill:

The bill creates the “Historic Florida Monuments and Memorials Protection Act” that preempts the removal of, damage to, or destruction of historic monuments or memorials to the state; voids any existing or future local government ordinance, regulation, rule, or action to the contrary; and provides penalties for local government or local government officials that impinge on the state preemption. The bill also:

- Prohibits a local government from enacting or enforcing any local ordinance, regulation, or rule removing, damaging, or destroying a historic Florida monument or memorial and provides that a person or organization with standing may file a suit against a local government or local government official that violates this prohibition.
- Provides that if a historic Florida monument or memorial is removed, damaged, or destroyed by a local government, then the local government must restore or relocate it to its original condition or location or as close as possible to the original condition or location within three years.
- Requires the state to restore or relocate the monument or memorial if the local government does not have the necessary funds and the Department of State to withhold certain state funds until reimbursed.
- Authorizes and provides a process for the temporary relocation of a historical Florida monument or memorial.

Fiscal or Economic Impact:

The bill may have an indeterminate negative fiscal impact on state and local governments and a positive, but indeterminate, economic impact on the private sector.

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ANALYSIS

EFFECT OF THE BILL:

State Preemption of Historic Monuments and Memorials

The bill preempts the removal of, damage to, or destruction of historic monuments or memorials to the state and voids any existing or future local government¹ ordinance, regulation, rule, or action to the contrary, except as otherwise provided in the bill. (Section [2](#))

The bill defines a “historic Florida monument or memorial” as a permanent statue, marker, plaque, flag, banner, cenotaph, religious symbol, painting, seal, tombstone, or display that:

- Is constructed and located on public property.
- Has been displayed for at least 25 years, with the intent of being permanently displayed or perpetually maintained.

¹The bill defines the term “local government” to mean any municipality, county, school district, state college, state university, or other political subdivision of the state.

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- Is dedicated to a person, place, or event that was important in the past or that is in remembrance or recognition of a significant person or event in state history. (Section [2](#))

Local Government Prohibitions

The bill prohibits a local government from enacting or enforcing any local ordinance, regulation, or rule removing, damaging, or destroying a historic Florida monument or memorial. A local government that or local government official who enacts or enforces an ordinance, regulation, or rule that impinges on the state preemption of this issue is subject to civil remedies, as follows:

- If a local government is responsible for the prohibited enactment or enforcement, the court must declare the ordinance, regulation, or rule invalid and issue a permanent injunction against the local government, prohibiting the enforcement of such ordinance, regulation, or rule. Under the bill, it is not a defense that, in enacting or enforcing the ordinance, regulation, or rule, the local government was acting in good faith or upon the advice of counsel.
- The court must assess a civil fine of up to \$1,000 against an elected or appointed local government official who knowingly and willfully enacts or enforces a prohibited ordinance, regulation, or rule. (Section [2](#))

Further, the bill prohibits the use of public funds to defend or reimburse the unlawful conduct of an elected or appointed local government official found to have knowingly and willfully enacted or enforced an ordinance, regulation, or rule prohibited by the bill, except as required by applicable law. (Section [2](#))

Private Cause of Action

A person or organization with standing—which under the bill is any group involved in the design, erection, or maintenance of the monument or memorial or a member thereof, or any person or group that regularly uses the monument or memorial for remembrance—may file a suit for declaratory or injunctive relief and for actual damages against a local government or an elected or appointed local government official that impinges on the state preemption of matters relating to historic Florida monuments or memorials. A court must reward a prevailing plaintiff in any such suit:

- Reasonable attorney fees and costs in accordance with Florida laws.
- Actual damages incurred, up to \$100,000. (Section [2](#))

Liability for Historic Monument or Memorial Restoration or Relocation Costs

If a historic Florida monument or memorial is removed, damaged, or destroyed by a local government, then the local government must restore it to its original condition or relocate it to its original location (or as close as possible to the original condition or location) within three years of the date of the removal, damage, or destruction. The state government must restore or relocate the monument or memorial if the local government does not have the necessary funds, but the Department of State (DOS) is required to then withhold from the local government all [arts, cultural, and historic preservation funding](#) until the local government reimburses the state for the cost of restoring or relocating a monument or memorial. All such funds become available to the local government upon such reimbursement, but the local government is prohibited from retroactively collecting any DOS funds that it otherwise would have received during the period that state funds were withheld. (Section [2](#))

Temporary Relocation of Historic Monuments or Memorials

Any local government that seeks to remove and relocate a historic Florida monument or memorial may only do so temporarily as a result of a military necessity or construction or infrastructure project. If either of those situations occurs and the local government seeks to remove or relocate a monument or memorial, the local government:

- Must place a good faith estimate of the funds necessary to relocate the monument or memorial into an escrow account.
- May move the temporarily-relocated monument or memorial only to a site of similar prominence, honor, visibility, and access within the same county or municipality in which the monument or memorial was originally located.
- Must provide to the Division of Historical Resources (DHR), on a form prescribed by DOS in consultation with the [Department of Veterans' Affairs](#) (DVA), notice:

- Of the temporary removal or relocation within 10 days of the local government’s decision.
- That the military necessity has ceased or the construction or infrastructure project has been completed, which notice must be provided within a reasonable timeframe but not more than 30 days after either such event. (Section [2](#))

After the cause for temporary relocation has ceased, the monument or memorial must be moved back to the original location. If that is not possible, then the monument or memorial must be moved to a site with similar prominence, honor, visibility, and access within the same county or municipality as determined by the DHR. The DHR is authorized to request recommendations for such locations from the [Florida Historical Commission](#) or, for a historic Florida military monument or memorial, from the DVA.² (Section [2](#))

The bill requires the DHR to make a written record of its decision to act or defer action on any issue regarding the protection, preservation, or relocation of a historic Florida monument or memorial. Additionally, DHR is prohibited from requiring a local government to expend funds on a historic Florida monument or memorial for any other reason not outlined in the bill. (Section [2](#))

Short Title

The bill provides that it may be cited as the “Historic Florida Monuments and Memorials Protection Act.” (Section [1](#))

Effective Date

The bill provides an effective date upon becoming law. (Section [3](#))

RULEMAKING:

The bill grants rulemaking authority to DOS, in consultation with the DVA, to implement the Historic Florida Monuments and Memorials Protection Act.

Lawmaking is a legislative power; however, the Legislature may delegate a portion of such power to executive branch agencies to create rules that have the force of law. To exercise this delegated power, an agency must have a grant of rulemaking authority and a law to implement.

FISCAL OR ECONOMIC IMPACT:

STATE GOVERNMENT:

The Department of State (DOS) may incur several costs related to the implementation of the bill. In particular, DOS may see an increase in administrative costs relating to the:

- Development of a rule to adopt forms for the local government reporting of determinations to relocate a monument or memorial as a result of construction, military necessity, or an infrastructure project, or the cessation or completion of the cause for temporary relocation.
- Maintenance of records relating to its determinations on any issue regarding the protection, preservation, or relocation of an historic Florida monument or memorial.

The Department of Veterans’ Affairs may see an increase in workload relating to duties added by the bill, but any cost is likely to be absorbed within existing resources.

²The bill defines a “Historic Florida military monument or memorial” as a historic Florida monument or memorial that honors or recounts the military service of any past or present military personnel, including service in an armed conflict since settlers from other countries came to what is now the U.S.

LOCAL GOVERNMENT:

Local governments that choose to temporarily relocate a monument or memorial may need to spend additional funds to ensure such monument or memorial is safely relocated to an authorized site and then restored to its original condition and location (or as close as possible to such location and condition). A local government may also, as a result of lawsuits authorized by the bill, face the payment of monetary damages and attorney fees and costs to a prevailing plaintiff should the local government be sued and lose; moreover, even where the local government prevails in a lawsuit authorized by the bill, such local government would likely incur its own attorney fees and costs in defending the suit.

PRIVATE SECTOR:

The bill authorizes certain individuals or groups to file a lawsuit seeking damages for the prohibited removal, damage, or relocation of an historic Florida monument or memorial. If such group or individual prevails in any such lawsuit, such individual or group may be awarded actual damages (up to the limits imposed in the bill) and reasonable attorney fees.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Department of State

The Department of State (DOS), led by the Secretary of State (secretary) who is appointed by the Governor,³ has several divisions, including the Division of Historical Resources (DHR).⁴ DHR is charged with encouraging the identification, evaluation, protection, preservation, collection, conservation, and interpretation of information about Florida’s historic sites and properties or objects related to Florida’s history and culture.⁵ DHR has the following bureaus:

- Bureau of Historic Preservation.
- Bureau of Historical Museums.
- Bureau of Archeological Research.⁶

Florida Historical Marker Program

DHR and its bureaus have many programs, including its Florida Historical Marker program. The Florida Historical Marker Program is designed to inform the general public about persons, events, structures, and other topics relating to the history and culture of the state; encourage interest in preserving the historical resources of the state and its localities; promote a sense of community and place among Florida citizens; and provide for the enjoyment and edification of tourists.⁷ The program installs markers or signs that provide the history of certain landmarks and memorials in Florida.⁸

³ [S. 20.10\(1\), F.S.](#)

⁴ [S. 20.10\(2\), F.S.](#)

⁵ [S. 267.031, F.S.](#) See Florida Department of State, Division of Historical Resources, [About](#) (last visited Feb. 12, 2026).

⁶ *Id.*

⁷ [S. 267.074, F.S.](#)

⁸ *Id.*

[Arts, Culture, and Historic Preservation Funding](#)

DOS provides various historical and cultural grants from which local governments may benefit, such as historic preservation grants and arts and culture grants.

Historic Preservation Grants

Historic Preservation grants, administered by DHR, provide funds for projects relating to the identification, acquisition, protection, preservation, rehabilitation, restoration, or construction of historic sites and properties, or Florida history, or the planning of such activities.⁹ Grant funds that are intended to be used to assist in the preservation of historic properties must be made from the Historical Resources Operating Trust Fund and may be awarded only pursuant to applications for such assistance made to DHR.¹⁰

There are two types of Historic Preservation Grants:¹¹

- Small matching grants: Reviewed by a grant panel¹² that is appointed by the secretary and chaired by the Florida Historical Commission.¹³ The grant panel provides the secretary with a ranked list. The secretary submits such list to the Legislature.¹⁴
- Special category grants: Reviewed by the Florida Historical Commission, which submits a ranked list to the secretary. The secretary submits the list to the Legislature.¹⁵

Arts and Culture Grants

DOS also administers arts and culture grants that may only be awarded to:

- Supplement the financial support of artistic and cultural activities and programs that, without the assistance, may otherwise be unavailable to Florida residents.
- Support activities and programs that have substantial artistic and cultural significance and emphasize creativity and professional excellence.
- Support activities and programs that meet the professional standards or standards of authenticity of significant merit, regardless of origin.¹⁶

Florida Historical Commission

The Florida Historical Commission (commission) is composed of 11 members,¹⁷ and serves as an advisory body to the director of DHR. The commission advises DHR on:

- Establishing priorities for the identification, acquisition, protection, and preservation of historic and archaeological sites and properties.
- Establishing criteria for use in assessing the significance of historic and archaeological sites and properties.
- Evaluating proposals for awards of special category historic preservation grants.
- Providing an active outreach program to encourage public understanding of and involvement in the preservation of the state’s historic and archaeological sites and properties.
- Identifying and expressing public goals for historic preservation and gathering public ideas necessary for the formulation of alternative policies.
- Recommending rules relating to the historic preservation programs administered by DHR.¹⁸

⁹ S. [267.0617\(2\), F.S.](#)

¹⁰ S. [267.0617\(3\), F.S.](#)

¹¹ R. 1A-39.001, F.A.C.

¹² DOS, [Small Matching Grant Guidelines](#)(last visited Feb. 7, 2026).

¹³ S. [267.0617\(3\), F.S.](#)

¹⁴ DOS, [Small Matching Grant Guidelines](#)(last visited Feb. 7, 2026).

¹⁵ DOS, [Special Category Grant Guidelines](#) (last visited Feb. 7, 2026).

¹⁶ S. [265.286\(7\), F.S.](#)

¹⁷ S. [267.0612\(1\), F.S.](#)

¹⁸ S. [267.0612\(6\), F.S.](#)

Department of Veterans' Affairs

The Department of Veterans' Affairs' (DVA), is an agency that reports to the Governor and Cabinet, and is composed of the following three divisions:

- Division of Administration and Public Information.
- Division of Veterans' Benefits and Assistance.
- Division of Long-term Care.¹⁹

DVA is required to provide assistance to all former, present, and future members of the Armed Forces of the United States and their spouses and dependents in preparing claims for and securing compensation, hospitalization, career training, and other benefits or privileges available to such persons.²⁰ DVA works with the Department of Transportation to contract with not-for-profit groups for the installation of monuments and memorials honoring Florida's military veterans at highway rest areas around the state.²¹

Penalties Associated with Destroying Memorials or Historic Property

Current law provides that it is a second-degree felony for any person to willfully and maliciously destroy or demolish any memorial or historic property, or to willfully and maliciously pull down a memorial or historic property,²² unless authorized by the owner of the memorial or the historic property.²³ Anyone convicted of this crime is required to pay restitution, which includes the full cost of repair or replacement of the memorial or historic property.²⁴

Local Government Powers

The Florida Constitution grants counties and municipalities broad "home rule" authority.²⁵ Non-charter county governments may exercise those powers of self-government that are provided by general or special law.²⁶ Counties operating under a county charter have all powers of self-government not inconsistent with general law or special law approved by the vote of the electors.²⁷ Municipalities have governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform municipal functions and provide municipal services, and exercise any power for municipal purposes except when expressly prohibited by law.²⁸

Government Speech

The First Amendment to the United States Constitution provides that "Congress shall make no law ... abridging the freedom of speech..."²⁹ In 1940, the United States Supreme Court held that the Fourteenth Amendment's concept of liberty embraced the liberties guaranteed by the First Amendment, providing, in pertinent part, that "[n]o State shall make or enforce any law which shall abridge the privileges or immunities or citizens of the United States; nor

¹⁹ [S. 20.37, F.S.](#); [Art. IV, s. 11, FLA. CONST.](#)

²⁰ [S. 292.05\(1\), F.S.](#)

²¹ [S. 337.111, F.S.](#)

²² [S. 806.135\(1\), F.S.](#), defines the term "historic property" as any building, structure, site, or object that has been officially designated as a historic building, historic structure, historic site, or historic object through a federal, state, or local designation program. The provision also defines the term "memorial" as a plaque, statue, marker, flag, banner, cenotaph, religious symbol, painting, seal, tombstone, structure name, or display that is constructed and located with the intent of being permanently displayed or perpetually maintained; is dedicated to a historical person, an entity, an event, or a series of events; and honors or recounts the military service of any past or present U.S. Armed Forces military personnel, or the past or present public service of a resident of the geographical area comprising the state or the U.S.

²³ [S. 806.135\(2\), F.S.](#)

²⁴ [S. 806.135\(3\), F.S.](#)

²⁵ [Art. VIII, FLA. CONST.](#)

²⁶ [Art. VIII s.1\(f\), FLA. CONST.](#); [s. 125.01\(1\), F.S.](#)

²⁷ [Art. VIII s.1\(g\), FLA. CONST.](#)

²⁸ [Art. VIII s.2\(b\), FLA. CONST.](#); [s. 166.021\(1\), F.S.](#)

²⁹ The First Amendment was ratified on December 15, 1791, as part of the Bill of Rights; that is, the first ten Amendments to the United States Constitution. Library of Congress, *The Bill of Rights*, <https://www.loc.gov/item/today-in-history/december-15/#:~:text=On%20December%2015%2C%201791%2C%20the.of%20peaceful%20assembly%20and%20petition> (last visited Feb. 9, 2026).

shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction equal protection of the laws.”³⁰ Thus, courts apply the First Amendment to the states through the Fourteenth Amendment, therefore generally prohibiting the states from enacting laws which abridge the freedom of speech, which, freedom, noted the United States Supreme Court, “is the indispensable condition of nearly every other form of freedom.”³¹

In interpreting the scope of the First Amendment’s Free Speech Clause, the United States Supreme Court has found that such Clause restricts government regulation of private speech – that is, the speech of private citizens and businesses; significantly, however, the Court has also found that such Clause does not regulate “government speech” – that is, the speech of a government entity.³² Thus, under the First Amendment’s Free Speech Clause, a government entity has the right to speak for itself, and is generally entitled to say what it wishes and to select the views that it wants to express.³³

In conceptualizing what constitutes “government speech,” the United States Supreme Court has found that “[p]ermanent monuments displayed on public property typically represent government speech” because such monuments are, “by definition,...structure[s]...designed as a means of expression.”³⁴ In recent years, however, a rise in the enactment of statutes preempting to state governments decisions regarding the relocation or removal of historic monuments and memorials has led to litigation between local and state governments on the question of whether such statutes impermissibly infringe upon a local government’s First Amendment right to free speech, and whether local governments even have an independent right to free speech under the government speech doctrine.

In one such case, the City of Norfolk, Virginia sued the Commonwealth of Virginia in circuit court to challenge Virginia’s historic monuments and memorials preemption statute, in pertinent part, on First Amendment grounds; the City of Norfolk argued in support of its position that cities in their capacity as cities generally enjoy a right to free speech, and Virginia’s statute, which had the effect of compelling Norfolk to maintain a monument on its property, constituted coerced speech.³⁵ However, the circuit court ultimately dismissed Norfolk’s lawsuit as moot (therefore, without ruling on the merits of Norfolk’s arguments) when Virginia passed new legislation authorizing local governments to remove, relocate, or alter historic monuments and memorials.³⁶

In a state case arising in Alabama, the State of Alabama sued the City of Birmingham, Alabama, in state circuit court for violating Alabama’s historic monuments and memorials preemption statute by erecting a twelve-foot-high plywood screen around a local historic monument to block it from public view; Birmingham argued in its defense that Alabama’s statute violated Birmingham’s First Amendment right to free speech by preventing Birmingham from conveying a particular message, which message, Birmingham contended, was a form of protected government speech.³⁷ The circuit court ultimately agreed with Birmingham, holding that the monument in question represented government speech and that, in abridging Birmingham’s right to decide how it wants to articulate that speech (that is, by prohibiting screen placement around the monument), the Alabama statute violated Birmingham’s First Amendment rights.³⁸ However, the Alabama Supreme Court later reversed the circuit court’s ruling, holding that Birmingham, as a subdivision of the State of Alabama, lacked an independent right to free speech.³⁹ Furthermore, the Alabama Supreme Court held that the circuit court’s decision reflected a misunderstanding of the government speech doctrine, noting that “a determination that a certain form of expression is government speech means that the [First Amendment’s] Free Speech Clause has no application.”⁴⁰ In

³⁰ *Cantwell v. Connecticut*, 310 U.S. 296 (1940).

³¹ *Curtis Pub. Co. v. Butts*, 388 U.S. 130 (1967).

³² *Johanns v. Livestock Marketing Assn.*, 544 U.S. 550 (2005).

³³ *Bd. of Regents of Univ. of Wis. System v. Southworth*, 529 U.S. 217 (2000); *Rosenberger v. Rector, et al.*, 515 U.S. 819 (1995).

³⁴ *Pleasant Grove v. City of Summum*, 555 U.S. 460 (2009).

³⁵ *City of Norfolk v. Commonwealth*, No. CL19-7430 (Norfolk Cir. Ct. filed Aug. 19, 2019).

³⁶ *Id.*

³⁷ *State v. City of Birmingham*, CV-17-903426 (Ala. Cir. Ct. Jefferson County Jan. 2019).

³⁸ *Id.*

³⁹ *State v. City of Birmingham*, 299 So. 3d 220 (Ala. 2019).

⁴⁰ *Id.*

other words, the Alabama Supreme Court reasoned that, while the government speech doctrine is a defense to a free speech challenge leveled against a government entity by a private citizen who may wish the government to speak, or not to speak, on certain issues, the doctrine does not accord a government entity an affirmative First Amendment right.⁴¹

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Government Operations Subcommittee	12 Y, 5 N	2/11/2026	Toliver	Walker
Judiciary Committee	14 Y, 5 N	2/17/2026	Kramer	Mawn
State Affairs Committee				

⁴¹ *Id.*