

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 all removal, damage
6 to, or 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; prohibiting local
11 governments from enacting or enforcing specified
12 ordinances, regulations, or rules; providing that
13 local governments and elected or appointed local
14 government officials who violate the preemption are
15 liable; requiring the court to declare certain
16 ordinances, regulations, or rules invalid and issue
17 permanent injunctions against the local government;
18 providing that it is no defense that a local
19 government was acting in good faith or upon the advice
20 of counsel; providing civil penalties for certain
21 officials who engage in certain actions; prohibiting
22 the use of public funds to defend or reimburse
23 unlawful conduct of certain persons; authorizing
24 specified persons and organizations to file suit
25 against specified entities for declaratory or

injunctive relief and actual damages; requiring the court to award prevailing plaintiffs specified fees and damages; providing for standing to bring civil actions; providing that a local government is liable in certain instances; requiring the state to restore or relocate a monument or memorial in certain circumstances within a specified timeframe; requiring the Department of State to withhold certain funding from a local government until a certain reimbursement is made; prohibiting the local government from retroactively receiving such funding; authorizing a local government to temporarily remove and relocate a monument or memorial in certain instances provided certain requirements are met; providing such requirements; authorizing the Division of Historical Resources of the Department of State to request certain recommendations from the Florida Historical Commission and the Department of Veterans' Affairs; requiring the division to make a written record of its decision; prohibiting the division from requiring local governments to expend funds unrelated to specified circumstances; authorizing the department to adopt rules; providing an effective date.

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

51
52 **Section 1.** This act may be cited as the "Historic Florida
53 Monuments and Memorials Protection Act."

54 **Section 2. Section 267.201, Florida Statutes, is created**
55 **to read:**

56 267.201 Protection of historic monuments and memorials.—

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

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

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

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

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

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

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

86 (c) Further, it is the intent of the Legislature to
87 provide statewide uniformity through the division. It is also
88 the Legislature's intent for the division to work actively to
89 protect and preserve each historic Florida monument or memorial
90 and ensure that each such monument or memorial is not removed,
91 damaged, or destroyed, regardless of the location of such
92 monument or memorial in this state, and to consult with the
93 Department of Veterans' Affairs on actions regarding all
94 historic Florida military monuments or memorials.

95 (3) (a) Any removal of, damage to, or destruction of
96 historic Florida monuments or memorials is preempted to the
97 state. Any existing or future local government ordinance,
98 regulation, or rule to the contrary, or any such action by an
99 elected or appointed local government official, other than those
100 authorized in subsection (6), is void.

101 (b) A local government may not enact or enforce any local
102 ordinance, regulation, or rule removing, damaging, or destroying
103 a historic Florida monument or memorial.

104 (4) (a) A local government or an elected or appointed local
105 government official who violates subsection (3) by enacting or
106 enforcing a local ordinance, regulation, or rule impinging upon
107 such preemption is liable as provided in this subsection.

108 (b) If a local government violates paragraph (a), the
109 court must declare the ordinance, regulation, or rule invalid
110 and issue a permanent injunction against the local government,
111 prohibiting the enforcement of such ordinance, regulation, or
112 rule. It is not a defense that, in enacting or enforcing the
113 ordinance, regulation, or rule, the local government was acting
114 in good faith or upon the advice of counsel.

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

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

122 (e)1. A person or an organization described in
123 subparagraph 2. may file suit against a local government or an
124 elected or appointed local government official in any court of
125 this state having jurisdiction over the defendant to the suit

126 for declaratory or injunctive relief and for actual damages, as
127 limited herein, caused by a violation. A court shall award a
128 prevailing plaintiff in any such suit:

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

131 b. The actual damages incurred, up to \$100,000.

132 2. The following have standing to bring a civil action for
133 a violation of paragraph (a):

134 a. A group involved in the design, erection, or
135 maintenance of the monument or memorial or a member of such
136 group; or

137 b. A group or person regularly using the monument or
138 memorial for remembrance.

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

151 or relocating such monument or memorial. All such funds become
152 available to the local government once the state is repaid. The
153 local government may not retroactively collect any of the
154 department funds that otherwise would have been received during
155 the period that state funds were withheld.

156 (6) (a) A local government may temporarily remove and
157 relocate a historic Florida monument or memorial only due to
158 military necessity or for any construction or infrastructure
159 project.

160 (b) The local government proposing to remove and relocate
161 a Florida historic monument or memorial shall put into an escrow
162 account a good faith estimate of the funds necessary to
163 temporarily relocate such monument or memorial.

164 (c) A historic Florida monument or memorial that is
165 temporarily removed must be moved to a site of similar
166 prominence, honor, visibility, and access within the same county
167 or municipality in which the monument or memorial was originally
168 located.

169 (d) 1. A local government shall provide written
170 notification to the division, on a form prescribed by the
171 department in consultation with the Department of Veterans'
172 Affairs:

173 a. Of the temporary removal and relocation of a historic
174 Florida monument or memorial. The written notification must be
175 provided within 10 days after the date of the local government's

176 decision to temporarily remove such monument or memorial.

177 b. That the military necessity has ceased or that the
178 construction or infrastructure project is completed. The written
179 notification must be provided within a reasonable timeframe, but
180 not more than 30 days after the military necessity has ceased or
181 the construction or infrastructure project has been completed.

182 2. The historic Florida monument or memorial must be moved
183 back to the original location or, if that is not possible, to a
184 site with similar prominence, honor, visibility, and access
185 within the same county or municipality, as determined by the
186 division. The division may request recommendations for such
187 locations from the Florida Historical Commission or, for a
188 historic Florida military monument or memorial, from the
189 Department of Veterans' Affairs.

190 (7) The division shall make a written record of its
191 decision to act or defer action on any issue regarding the
192 protection, preservation, or relocation of a historic Florida
193 monument or memorial. The division may not require a local
194 government to expend funds on a historic Florida monument or
195 memorial in instances unrelated to subsection (5) or subsection
196 (6).

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

199 **Section 3.** This act shall take effect upon becoming a
200 law.