

1-1 By: Creighton S.B. No. 1663
 1-2 (In the Senate - Filed March 6, 2019; March 14, 2019, read
 1-3 first time and referred to Committee on Natural Resources &
 1-4 Economic Development; April 26, 2019, reported adversely, with
 1-5 favorable Committee Substitute by the following vote: Yeas 6,
 1-6 Nays 4; April 26, 2019, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8 Birdwell	X			
1-9 Zaffirini			X	
1-10 Fallon	X			
1-11 Flores	X			
1-12 Hancock	X			
1-13 Hinojosa		X		
1-14 Hughes	X			
1-15 Miles		X		
1-16 Paxton	X			
1-17 Powell		X		
1-18 Rodríguez		X		

1-20 COMMITTEE SUBSTITUTE FOR S.B. No. 1663 By: Hancock

1-21 A BILL TO BE ENTITLED
 1-22 AN ACT

1-23 relating to the removal, relocation, alteration, or construction of
 1-24 certain monuments, memorials, or designations located on public
 1-25 property; authorizing a civil penalty.

1-26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-27 SECTION 1. Section 442.015(b), Government Code, is amended
 1-28 to read as follows:

1-29 (b) The commission may use distributions from the Texas
 1-30 preservation trust fund account to provide financial assistance to
 1-31 public or private entities for the acquisition, survey,
 1-32 restoration, or preservation, or for planning and educational
 1-33 activities leading to the preservation, of historic property in the
 1-34 state that is listed in the National Register of Historic Places or
 1-35 designated as a State Archeological Landmark or Recorded Texas
 1-36 Historic Landmark, or that the commission determines is eligible
 1-37 for such listing or designation or for the construction of a
 1-38 monument or memorial described by Section 2166.5011(c) or by
 1-39 Section 338.003, Local Government Code. The financial assistance
 1-40 may be in the amount and form and according to the terms that the
 1-41 commission by rule determines. The commission shall give priority
 1-42 to property the commission determines to be endangered by
 1-43 demolition, neglect, underuse, looting, vandalism, or other threat
 1-44 to the property. Gifts and grants deposited to the credit of the
 1-45 account specifically for any eligible projects may be used only for
 1-46 the type of projects specified. If such a specification is not
 1-47 made, the gift or grant shall be unencumbered and accrue to the
 1-48 benefit of the Texas preservation trust fund account. If such a
 1-49 specification is made, the entire amount of the gift or grant may be
 1-50 used during any period for the project or type of project specified.

1-51 SECTION 2. Section 2166.5011, Government Code, is amended
 1-52 to read as follows:

1-53 Sec. 2166.5011. REMOVAL, RELOCATION, ~~[OR]~~ ALTERATION, OR
 1-54 CONSTRUCTION OF A MONUMENT OR MEMORIAL. (a) In this section,
 1-55 "monument or memorial" means a permanent monument, memorial, or
 1-56 other designation, including a statue, portrait, plaque, seal,
 1-57 symbol, cenotaph, building name, bridge name, park name, area name,
 1-58 or street name, that:

- 1-59 (1) is located on state property; and
- 1-60 (2) honors an event or person of historic significance

2-1 ~~[a citizen of this state for military or war-related service].~~
 2-2 (b) Notwithstanding any other provision of this code and
 2-3 except as provided by Section 2166.5012, a monument or memorial
 2-4 that has been located on state property:
 2-5 (1) for at least 25 years may be removed, relocated, or
 2-6 altered only by approval of a concurrent resolution authorizing the
 2-7 removal, relocation, or alteration, including alteration to
 2-8 maintain historical accuracy, by a two-thirds vote of the members
 2-9 of each house of the legislature; or
 2-10 (2) for less than 25 years may be removed, relocated,
 2-11 or altered, including alteration to maintain historical accuracy,
 2-12 only by formal action of the governing body of or the single state
 2-13 officer who governs the state agency that erected the monument or
 2-14 memorial[-
 2-15 (1) by the legislature,
 2-16 (2) by the Texas Historical Commission,
 2-17 (3) by the State Preservation Board; or
 2-18 (4) as provided by Subsection (c)].
 2-19 (c) An additional [A] monument or memorial may be added
 2-20 [removed, relocated, or altered in a manner otherwise provided by
 2-21 this code as necessary to accommodate construction, repair, or
 2-22 improvements] to the [monument or memorial or to the] surrounding
 2-23 state property on which a [the] monument or memorial is located to
 2-24 complement or contrast with the monument or memorial. [Any monument
 2-25 or memorial that is permanently removed under this subsection must
 2-26 be relocated to a prominent location.]
 2-27 (d) Notwithstanding Section 2166.003, this section applies
 2-28 to a monument or memorial on property of an institution of higher
 2-29 education, as defined by Section 61.003, Education Code.
 2-30 SECTION 3. Subchapter K, Chapter 2166, Government Code, is
 2-31 amended by adding Sections 2166.5012 and 2166.5015 to read as
 2-32 follows:
 2-33 Sec. 2166.5012. CERTAIN DESIGNATIONS BY INSTITUTIONS OF
 2-34 HIGHER EDUCATION. (a) In this section:
 2-35 (1) "Designation" includes a designation of a
 2-36 portrait, plaque, seal, symbol, building name, bridge name, park
 2-37 name, area name, or street name.
 2-38 (2) "Institution of higher education" has the meaning
 2-39 assigned by Section 61.003, Education Code.
 2-40 (b) Notwithstanding Section 2166.003, an institution of
 2-41 higher education may rename or alter a designation only if:
 2-42 (1) the governing board of the institution of higher
 2-43 education has previously adopted rules providing for the naming,
 2-44 renaming, or altering of a designation in recognition of
 2-45 philanthropic gifts to the institution; and
 2-46 (2) the renaming or alteration is approved by the
 2-47 governing board.
 2-48 Sec. 2166.5015. COMPLAINT; EQUITABLE RELIEF; CIVIL
 2-49 PENALTY. (a) A resident of this state may file a complaint with
 2-50 the attorney general if the resident asserts facts supporting an
 2-51 allegation that an entity has violated Section 2166.5011(b) or
 2-52 2166.5012. The resident must include a sworn statement with the
 2-53 complaint stating that to the best of the resident's knowledge all
 2-54 of the facts asserted in the complaint are true and correct.
 2-55 (b) If the attorney general determines that a complaint
 2-56 filed under Subsection (a) against an entity is valid, the attorney
 2-57 general may file a petition for a writ of mandamus or apply for
 2-58 other appropriate equitable relief in a district court in Travis
 2-59 County to compel the entity that is suspected of violating Section
 2-60 2166.5011(b) or 2166.5012 to comply with those sections.
 2-61 (c) An entity that is found by a court as having
 2-62 intentionally violated Section 2166.5011(b) or 2166.5012 is
 2-63 subject to a civil penalty in an amount of:
 2-64 (1) not less than \$1,000 and not more than \$1,500 for
 2-65 the first violation; and
 2-66 (2) not less than \$25,000 and not more than \$25,500 for
 2-67 each subsequent violation.
 2-68 (d) Each day of a continuing violation of Section
 2-69 2166.5011(b) or 2166.5012 constitutes a separate violation for

3-1 purposes of a civil penalty under this section.
3-2 (e) The court that hears an action brought under this
3-3 section against an entity shall determine the amount of the civil
3-4 penalty.

3-5 (f) A civil penalty collected under this section shall be
3-6 deposited to the credit of the general revenue fund.

3-7 (g) Sovereign immunity of this state to suit is waived and
3-8 abolished to the extent of liability created by this section.

3-9 SECTION 4. Subtitle C, Title 10, Local Government Code, is
3-10 amended by adding Chapter 338 to read as follows:

3-11 CHAPTER 338. MONUMENTS AND MEMORIALS

3-12 Sec. 338.001. DEFINITION. In this chapter, "monument or
3-13 memorial" means a permanent monument, memorial, or other
3-14 designation, including a statue, portrait, plaque, seal, symbol,
3-15 cenotaph, building name, bridge name, park name, area name, or
3-16 street name, that honors an event or person of historic
3-17 significance.

3-18 Sec. 338.002. REMOVAL, RELOCATION, OR ALTERATION. A
3-19 monument or memorial that has been located on municipal or county
3-20 property:

3-21 (1) for at least 25 years may be removed, relocated, or
3-22 altered, including alteration to maintain historical accuracy,
3-23 only by approval of a majority of the voters of the municipality or
3-24 county, as applicable, voting at an election held for that purpose;
3-25 or

3-26 (2) for less than 25 years may be removed, relocated,
3-27 or altered, including alteration to maintain historical accuracy,
3-28 only by the governing body of the municipality or the commissioners
3-29 court of the county, as applicable.

3-30 Sec. 338.003. ADDITIONAL MONUMENT OR MEMORIAL. An
3-31 additional monument or memorial may be added to the surrounding
3-32 municipal or county property on which a monument or memorial is
3-33 located to complement or contrast with the monument or memorial.

3-34 Sec. 338.004. COMPLAINT; EQUITABLE RELIEF; CIVIL PENALTY.

3-35 (a) A resident of a municipality or county, as applicable, may
3-36 file a complaint with the attorney general if the resident asserts
3-37 facts supporting an allegation that the municipality or county has
3-38 violated Section 338.002. The resident must include a sworn
3-39 statement with the complaint stating that to the best of the
3-40 resident's knowledge all of the facts asserted in the complaint are
3-41 true and correct.

3-42 (b) If the attorney general determines that a complaint
3-43 filed under Subsection (a) against a municipality or county is
3-44 valid, the attorney general may file a petition for a writ of
3-45 mandamus or apply for other appropriate equitable relief in a
3-46 district court in Travis County or in the county in which the
3-47 suspected violation of Section 338.002 is alleged to have occurred
3-48 to compel the municipality or county to comply with that section.

3-49 (c) A municipality or county that is found by a court as
3-50 having intentionally violated Section 338.002 is subject to a civil
3-51 penalty in an amount of:

3-52 (1) not less than \$1,000 and not more than \$1,500 for
3-53 the first violation; and

3-54 (2) not less than \$25,000 and not more than \$25,500 for
3-55 each subsequent violation.

3-56 (d) Each day of a continuing violation of Section 338.002
3-57 constitutes a separate violation for purposes of a civil penalty
3-58 under this section.

3-59 (e) The court that hears an action brought under this
3-60 section against a municipality or county shall determine the amount
3-61 of the civil penalty.

3-62 (f) A civil penalty collected under this section shall be
3-63 deposited to the credit of the general revenue fund.

3-64 (g) Sovereign immunity of this state and governmental
3-65 immunity of a county or municipality to suit is waived and abolished
3-66 to the extent of liability created by this section.

3-67 SECTION 5. This Act takes effect immediately if it receives
3-68 a vote of two-thirds of all the members elected to each house, as
3-69 provided by Section 39, Article III, Texas Constitution. If this

4-1 Act does not receive the vote necessary for immediate effect, this
4-2 Act takes effect September 1, 2019.

4-3 * * * * *