

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 25, 2019

TO: Honorable Brian Birdwell, Chair, Senate Committee on Natural Resources & Economic Development

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: SB1663 by Creighton (Relating to the removal, relocation, alteration, or construction of certain monuments, memorials, or designations located on public property; authorizing a civil penalty.), **Committee Report 1st House, Substituted**

Any increase to the General Revenue Fund from the application of civil penalties, as provided by the bill, cannot be estimated at this time.

The bill would add the construction of a monument or memorial on state, municipal, or county owned property as an authorized purpose for which the Historical Commission could distribute funds from the General Revenue-Dedicated Preservation Trust Fund Account 664.

The bill would expand the definition of a monument or memorial under Section 2166.5011, Government Code, to include a cenotaph, bridge name, park name, and area name, and would also apply the provisions of this Section, as amended, to a monument or memorial on the property of a public institution of higher education.

The bill would add provisions regarding the removal, relocation, or alteration of memorials and monuments on state, public institutions of higher education, municipal and county owned property. The bill would authorize a resident to file a complaint with the Office of the Attorney General (OAG) regarding an alleged violation of Section 2166.5011(b), Government Code as amended by this bill, and Section 2166.5012, Government Code, and Section 338.002, Local Government Code, as added by the bill which pertaining to the removal, relocation or alteration of memorials or monuments on state, public institutions of higher education, municipal and county owned property. If the OAG determines that the complaint against the entity is valid, the OAG may file a petition for a writ of mandamus or apply for other appropriate equitable relief in a district court in Travis County, or in a district court in the county in which the suspected violation of Section 338.002 occurred, to compel the entity to comply with the applicable section of statute. If an entity is found by a court as having intentionally violated the applicable sections of statute, the entity would be subject to civil penalties as provided by the bill. The civil penalties would be deposited to the General Revenue Fund.

The sovereign immunity of the state and governmental immunity of a county or municipality to suit would be waived and abolished to the extent of liability created by the bill.

Any potential increase to the General Revenue Fund from the deposit of civil penalties resulting from actions authorized by the bill cannot be estimated at this time.

Based on analysis by the OAG, the provisions of the bill relating to citizen complaints could result in increased court actions related to monuments. OAG estimates additional resources would be required to enforce the provisions of the bill, but it is assumed that these costs could be absorbed within existing agency resources.

Local Government Impact

Travis County does not anticipate significant fiscal implication to the County.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 303 Facilities Commission, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration, 758 Texas State University System, 768 Texas Tech University System Administration, 769 University of North Texas System Administration, 783 University of Houston System Administration, 808 Historical Commission, 809 Preservation Board

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