

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

April 28, 2021

TO: Honorable Ken King, Chair, House Committee on Culture, Recreation & Tourism

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB2713 by Hefner (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

The fiscal implications of the bill cannot be determined at this time due to the unavailability of data related to civil penalties resulting from actions authorized by the bill.

The bill would amend the Government Code to authorize the Historical Commission to distribute funds from the General Revenue-Dedicated Preservation Trust Fund Account 664 for the construction of a monument or memorial on state, municipal, or county property.

The bill would reenact and amend Section 443.0081 of the Government Code regarding the Historical Representation Advisory Committee, which shall provide advice and guidance on the addition and removal of monuments in the Capitol Complex.

The bill would expand the definition of a monument or memorial under Section 2166.5011, Government Code to include cenotaph, bridge name, park name, and area name. The bill would add provisions regarding the removal, relocation, or alteration, or construction of memorials and monuments on state property that is owned or leased. This includes property of an institution of higher education, as defined by the Education Code, Section 61.00. 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) and Section 2166.5012, Government Code, as amended by this bill, pertaining to the removal, relocation or alteration of memorials or monuments on state owned or leased 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 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 section 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 bill would add Local Government Code Chapter 338, applying similar provisions to municipal and county property.

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.

According to the Comptroller of Public Accounts, 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, however any additional legal work resulting from the bill could be absorbed using current resources.

Local Government Impact

The fiscal implications of the bill cannot be determined at this time.

Source Agencies: 212 Office of Court Admin, 302 Office of the Attorney General, 303 Facilities Commission, 304 Comptroller of Public Accounts, 305 General Land Office, 710 Texas A&M Univ System Admin, 720 UT Sys Admin, 758 Texas State University System, 768 Texas Tech Univ Sys Admin, 769 UNT System Administration, 783 Univ of Houston Sys Admin, 808 Historical Commission, 809 Preservation Board

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