

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

April 17, 2021

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

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB4538 by Cyrier (Relating to the removal, relocation, alteration, or construction of certain monuments or memorials located on municipal or county property; providing civil penalties.), **As Introduced**

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 as defined by the bill in the Local Government Code.

The bill would amend the Local Government Code by adding a definition for what constitutes a monument or memorial. The bill would add provisions to the Local Government Code regarding the removal, relocation, or alteration of memorials and monuments on state, municipal and county owned property.

The bill would authorize a resident of a municipality or county to file a complaint with the Office of the Attorney General (OAG) regarding an alleged violation of Section 338.002, Local Government Code, as added by this bill, pertaining to the removal, relocation or alteration of memorials or monuments on 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 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 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 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, 808 Historical Commission, 809 Preservation Board

LBB Staff: JMc, AJL, LCO, CST