

By: Creighton

S.B. No. 1560

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the removal, relocation, alteration, or construction of
3 certain monuments or memorials located on public property;
4 authorizing a civil penalty.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section [442.015\(b\)](#), Government Code, is amended
7 to read as follows:

8 (b) The commission may use distributions from the Texas
9 preservation trust fund account to provide financial assistance to
10 public or private entities for the acquisition, survey,
11 restoration, or preservation, or for planning and educational
12 activities leading to the preservation, of historic property in the
13 state that is listed in the National Register of Historic Places or
14 designated as a State Archeological Landmark or Recorded Texas
15 Historic Landmark, or that the commission determines is eligible
16 for such listing or designation or for the construction of a
17 monument or memorial described by Section [2166.5011\(c\)](#) or by
18 Section 338.003, Local Government Code. The financial assistance
19 may be in the amount and form and according to the terms that the
20 commission by rule determines. The commission shall give priority
21 to property the commission determines to be endangered by
22 demolition, neglect, underuse, looting, vandalism, or other threat
23 to the property. Gifts and grants deposited to the credit of the
24 account specifically for any eligible projects may be used only for

1 the type of projects specified. If such a specification is not
2 made, the gift or grant shall be unencumbered and accrue to the
3 benefit of the Texas preservation trust fund account. If such a
4 specification is made, the entire amount of the gift or grant may be
5 used during any period for the project or type of project specified.

6 SECTION 2. Section [2166.5011](#), Government Code, is amended
7 to read as follows:

8 Sec. 2166.5011. REMOVAL, RELOCATION, [~~OR~~] ALTERATION, OR
9 CONSTRUCTION OF A MONUMENT OR MEMORIAL. (a) In this section,
10 "monument or memorial" means a permanent monument, memorial, or
11 other designation, including a statue, portrait, plaque, seal,
12 symbol, cenotaph, building name, bridge name, park name, area name,
13 or street name, that:

14 (1) is located on state property; and

15 (2) honors an event or person of historical
16 significance [~~a citizen of this state for military or war-related~~
17 ~~service~~].

18 (b) Notwithstanding any other provision of this code, a
19 monument or memorial that has been located on state property:

20 (1) for at least 25 years may be removed, relocated, or
21 altered only by approval of a concurrent resolution authorizing the
22 removal, relocation, or alteration, including alteration to
23 maintain historical accuracy, by a two-thirds vote of the members
24 of each house of the legislature; or

25 (2) for less than 25 years may be removed, relocated,
26 or altered, including alteration to maintain historical accuracy,
27 only by formal action of the governing body of or the single state

1 officer who governs the state agency that erected the monument or
2 memorial[-

- 3 ~~(1) by the legislature,~~
4 ~~(2) by the Texas Historical Commission,~~
5 ~~(3) by the State Preservation Board, or~~
6 ~~(4) as provided by Subsection (c)].~~

7 (c) An additional [A] monument or memorial may be added
8 ~~[removed, relocated, or altered in a manner otherwise provided by~~
9 ~~this code as necessary to accommodate construction, repair, or~~
10 ~~improvements] to the [monument or memorial or to the] surrounding~~
11 ~~state property on which a [the] monument or memorial is located to~~
12 ~~complement or contrast with the monument or memorial. [Any monument~~
13 ~~or memorial that is permanently removed under this subsection must~~
14 ~~be relocated to a prominent location.]~~

15 (d) Notwithstanding Section 2166.003, this section applies
16 to a monument or memorial on property of an institution of higher
17 education, as defined by Section 61.003, Education Code.

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

20 CHAPTER 338. MONUMENTS AND MEMORIALS

21 Sec. 338.001. DEFINITION. In this chapter, "monument or
22 memorial" means a permanent monument, memorial, or other
23 designation, including a statue, portrait, plaque, seal, symbol,
24 cenotaph, building name, bridge name, park name, area name, or
25 street name, that honors an event or person of historical
26 significance.

27 Sec. 338.002. REMOVAL, RELOCATION, OR ALTERATION. A

1 monument or memorial that has been located on municipal or county
2 property:

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

8 (2) for less than 25 years may be removed, relocated,
9 or altered, including alteration to maintain historical accuracy,
10 only by the governing body of the municipality or the commissioners
11 court of the county, as applicable.

12 Sec. 338.003. ADDITIONAL MONUMENT OR MEMORIAL. An
13 additional monument or memorial may be added to the surrounding
14 municipal or county property on which a monument or memorial is
15 located to complement or contrast with the monument or memorial.

16 Sec. 338.004. COMPLAINT; EQUITABLE RELIEF; CIVIL PENALTY.

17 (a) A resident of a municipality or county, as applicable, may file
18 a complaint with the attorney general if the resident asserts facts
19 supporting an allegation that the municipality or county has
20 violated Section 338.002. The resident must include a sworn
21 statement with the complaint stating that to the best of the
22 resident's knowledge all of the facts asserted in the complaint are
23 true and correct.

24 (b) If the attorney general determines that a complaint
25 filed under Subsection (a) against a municipality or county is
26 valid, the attorney general may file a petition for a writ of
27 mandamus or apply for other appropriate equitable relief in a

1 district court in Travis County or in the county in which the
2 suspected violation of Section 338.002 is alleged to have occurred
3 to compel the municipality or county to comply with that section.

4 (c) A municipality or county that is found by a court as
5 having intentionally violated Section 338.002 is subject to a civil
6 penalty in an amount of:

7 (1) not less than \$1,000 and not more than \$1,500 for
8 the first violation; and

9 (2) not less than \$25,000 and not more than \$25,500 for
10 each subsequent violation.

11 (d) Each day of a continuing violation of Section 338.002
12 constitutes a separate violation for purposes of a civil penalty
13 under this section.

14 (e) The court that hears an action brought under this
15 section against a municipality or county shall determine the
16 amount of the civil penalty.

17 (f) A civil penalty collected under this section shall be
18 deposited to the credit of the general revenue fund.

19 (g) Sovereign immunity of this state and governmental
20 immunity of a county or municipality to suit is waived and abolished
21 to the extent of liability created by this section.

22 SECTION 4. This Act takes effect immediately if it receives
23 a vote of two-thirds of all the members elected to each house, as
24 provided by Section 39, Article III, Texas Constitution. If this
25 Act does not receive the vote necessary for immediate effect, this
26 Act takes effect September 1, 2023.