

By: Gerdes, Bumgarner, et al.

H.B. No. 3227

Substitute the following for H.B. No. 3227:

By: Metcalf

C.S.H.B. No. 3227

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

SECTION 2. Section 2166.5011, Government Code, is amended to read as follows:

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

(1) is located on state owned or leased property; and

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

(b) Notwithstanding any other provision of this code, a monument or memorial located on state owned or leased property:

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

(2) for less than 25 years may be removed, relocated, or altered, including alteration to maintain historical accuracy, 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 owned or leased property on which a ~~[the]~~ monument or memorial
12 is located to complement or contrast with the monument or memorial.
13 ~~[Any monument or memorial that is permanently removed under this~~
14 ~~subsection must 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 (e) This section does not apply to the Alamo complex. This
19 subsection expires January 2, 2028.

20 (f) Subsection (b)(1) does not apply to real property the
21 Texas Facilities Commission is authorized to convey on behalf of
22 the state under Chapter 113 (S.B. 1349), Acts of the 86th
23 Legislature, Regular Session, 2019, as described by Section 2 of
24 that chapter.

25 SECTION 3. Subchapter K, Chapter 2166, Government Code, is
26 amended by adding Section 2166.5012 to read as follows:

27 Sec. 2166.5012. ALAMO CENOTAPH. (a) In this section,

1 "Alamo Cenotaph" means the memorial to the Alamo defenders located
2 in the Alamo complex.

3 (b) Notwithstanding any other law, no entity may alter,
4 remove, or relocate the Alamo Cenotaph from the location where the
5 cenotaph was first placed following its completion.

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

8 CHAPTER 338. MONUMENTS AND MEMORIALS

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

15 Sec. 338.002. REMOVAL, RELOCATION, OR ALTERATION. A
16 monument or memorial located on municipal or county property:

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

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

25 Sec. 338.003. ADDITIONAL MONUMENT OR MEMORIAL. An
26 additional monument or memorial may be added to the surrounding
27 municipal or county property on which a monument or memorial is

1 located to complement or contrast with the monument or memorial.

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

3 (a) A municipality or county resident, as applicable, may file with
4 the attorney general a complaint asserting facts supporting an
5 allegation that the municipality or county has violated Section
6 338.002. The resident must include with the complaint a sworn
7 statement stating to the best of the resident's knowledge all of the
8 facts asserted in the complaint are true and correct.

9 (b) If the attorney general determines a complaint filed
10 under Subsection (a) against a municipality or county is valid, the
11 attorney general may file a petition for a writ of mandamus or apply
12 for other appropriate equitable relief in a district court in
13 Travis County or in the county in which the suspected violation of
14 Section 338.002 is alleged to have occurred to compel the
15 municipality or county to comply with that section.

16 (c) A municipality or county found by a court to have
17 intentionally violated Section 338.002 is subject to a civil
18 penalty in an amount of:

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

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

23 (d) Each day of a continuing violation of Section 338.002
24 constitutes a separate violation for purposes of a civil penalty
25 under this section.

26 (e) The court hearing an action brought under this section
27 against a municipality or county shall determine the amount of the

1 civil penalty.

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

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

7 SECTION 5. This Act takes effect immediately if it receives
8 a vote of two-thirds of all the members elected to each house, as
9 provided by Section 39, Article III, Texas Constitution. If this
10 Act does not receive the vote necessary for immediate effect, this
11 Act takes effect September 1, 2025.