

2016 Regular Session

HOUSE BILL NO. 944

BY REPRESENTATIVE CARMODY

CULTURE/REC/TOUR: Provides relative to preservation of memorials on public property

1 AN ACT

2 To enact R.S. 25:915 and R.S. 36:209(I), relative to memorials on public property; to
3 prohibit actions by state and local governmental entities that would be detrimental
4 to such memorials; to create and provide for a board in the Department of Culture,
5 Recreation and Tourism authorized to grant waivers from this prohibition; and to
6 provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. This Act shall be known as the Louisiana Heritage Act.

9 Section 2. R.S. 25:915 is hereby enacted to read as follows:

10 §915. Memorial preservation

11 A. The Legislature of Louisiana finds that:

12 (1) Public memory is an essential constituent element of the public welfare.

13 (2) The actions, achievements, and even errors of our predecessors are
14 critical elements of public memory. Continuing debate over the rightness or
15 wrongness of historic actions, even ancient ones, serves a vital civic education
16 purpose and nurtures civic engagement. By contrast, the erasure and denial of
17 historic realities undermines healthy democratic participation in contemporary
18 decisions by denying citizens knowledge of similar historical characters and
19 circumstances, which knowledge might help them avoid repeating the errors of the
20 past.

21 (3) Notwithstanding contemporary reevaluation of the justifications of a
22 historic event or of the total personality of the persons involved in such events, the

1 bravery, leadership, or character of those who put themselves at grave personal risk
2 in pursuit of higher values which at that time they believed as true is always worthy
3 of recognition. Our state and nation would not exist without the private citizens,
4 public officials, first responders, and military personnel who have taken tremendous
5 private risks for the public good; we all benefit from their example. We should not
6 now scrutinize the personal lives or intentions of those who have made great
7 contributions to Louisiana or American culture, society, and government such that
8 the greatness of their contributions is lost in judgments made with the benefit of
9 hindsight or in context which is removed in time and circumstance.

10 (4) The removal and renaming of public memorials that draw attention to
11 culture-defining and society-shaping persons and events is one method of erasing the
12 past from the public memory and depriving citizens of examples of the greatness
13 they are called to; consequently, such actions undermine the foundation of
14 democracy and threaten the public welfare.

15 (5) Therefore, pursuant to Article VI, Section 9(B) of the Constitution of
16 Louisiana, the provisions of this Section constitute an exercise, by the legislature, of
17 the police powers of the state and are applicable to every state agency and political
18 subdivision of the state.

19 B.(1) Except as otherwise provided by this Section, no state or local
20 governmental entity shall relocate, remove, alter, rename, or otherwise disturb or
21 permit any relocation, removal, alteration, renaming, or other disturbance of any
22 statue, monument, plaque, or similar object that was erected or installed on public
23 property to commemorate a person, group of persons, event, or achievement and that
24 has been in place for more than thirty years.

25 (2) Except as otherwise provided in this Section, no public facility, such as
26 a school, street, building, or park, that has been named or dedicated in honor of a
27 person for more than thirty years shall be renamed or rededicated.

28 (3) For purposes of this Section, "memorial" refers both to monuments and
29 other objects and to named or dedicated public facilities.

1 C.(1) The Memorial Preservation Board, created in Subsection D of this
2 Section, may waive the prohibitions contained in this Section in particular cases if
3 requested to do so. In granting waivers, the board shall, considering the totality of
4 circumstances, waive the prohibitions only to the degree necessary to achieve a
5 specific public purpose and shall attempt to minimize the disruption of the historical
6 value of the memorial. A waiver granted by the board shall include conditions,
7 limitations, and specific instructions regarding the action to be taken as necessary to
8 ensure that the intent of this Paragraph is achieved.

9 (2) Waivers may be granted for the following purposes:

10 (a) Public safety.

11 (b) The repair or preservation of the memorial itself.

12 (c) Public works projects.

13 (d) Public consensus that the historic information on which the recognition
14 of the person or event was based was inaccurate.

15 (e) Other purposes deemed appropriate by the board and consistent with this
16 Section.

17 D.(1) The Memorial Preservation Board is hereby created within the
18 Department of Culture, Recreation and Tourism, office of historic preservation, for
19 the purpose of considering requests for waivers from the prohibitions of this Section.

20 (2) The board shall be comprised of seven members: the governor shall
21 appoint three members, the lieutenant governor shall appoint two members, and the
22 president of the Louisiana Senate and the speaker of the Louisiana House of
23 Representatives shall each appoint one member.

24 (3) Members shall serve four-year terms concurrent with the governor. A
25 vacancy shall be filled in the manner of the original appointment for the remainder
26 of the unexpired term.

27 (4) The appointments required by this Subsection shall be made by March
28 first of each year in which a new gubernatorial term begins. The lieutenant governor
29 shall convene an organizational meeting of the board by April first of each such year.

1 At the organizational meeting, the board shall elect, from its members, a chairman
2 and such other officers as it deems necessary.

3 (5) The staff of the division of historic preservation in the Department of
4 Culture, Recreation and Tourism shall assist the board in its work.

5 (6) The board shall meet at the call of the chairman as often as required to
6 carry out its duties.

7 (7) Members of the board shall serve without compensation.

8 (8) A majority of board membership is a quorum for the transaction of
9 business. No waiver shall be granted by the board unless the waiver is approved by
10 a majority of the board membership.

11 (9) The board shall adopt rules for the orderly transaction of business and
12 shall promulgate forms and procedures for applying for and approving waivers.

13 Section 3. R.S. 36:209(I) is hereby enacted to read as follows:

14 §209. Transfer of boards, commissions, departments, and agencies to Department
15 of Culture, Recreation and Tourism

16 * * *

17 I. The Memorial Preservation Board (R.S. 25:915) is hereby placed within
18 the Department of Culture, Recreation and Tourism as provided for agencies
19 transferred in accordance with R.S. 36:802.

20 * * *

21 Section 4. Initial appointments of members of the Memorial Preservation Board
22 shall be made by June 1 of 2016, and the lieutenant governor shall convene the initial
23 organizational meeting of the board by July 1 of 2016.

24 Section 5. This Act shall become effective upon signature by the governor or, if not
25 signed by the governor, upon expiration of the time for bills to become law without signature
26 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
27 vetoed by the governor and subsequently approved by the legislature, this Act shall become
28 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 944 Original

2016 Regular Session

Carmody

Abstract: Prohibits state and local governmental entities from taking actions with respect to removal or destruction of memorials and from renaming any public facility named after or dedicated to a person. Creates a board authorized to grant exceptions.

Proposed law prohibits a state or local governmental entity from:

- (1) Relocating, removing, altering, renaming, or otherwise disturbing or permitting any such disturbance of a statue, monument, memorial, or plaque that was erected or installed on public property to commemorate a person, group of persons, event, or achievement and that has been in place for more than 30 years.
- (2) Renaming or rededicating a public facility that has been named or dedicated in honor of a person for more than 30 years.

Proposed law creates the Memorial Preservation Bd. within the Dept. of Culture, Recreation and Tourism, which is authorized to grant waivers to the prohibitions contained in proposed law. Provides that in granting such waivers, the board shall waive the prohibitions only to the degree necessary and shall attempt to minimize the disruption of the historical value of the memorial or facility. Authorizes granting waivers for the following purposes:

- (1) Public safety.
- (2) The repair or preservation of the memorial itself.
- (3) Public works projects.
- (4) Public consensus that the historic information on which the recognition of the person or event was based was inaccurate.
- (5) Other purposes deemed appropriate by the board and consistent with proposed law.

Proposed law provides as follows with respect to the Memorial Preservation Bd.:

- (1) Comprised of seven members, three appointed by the governor, two appointed by the lieutenant governor, one appointed by the president of the Senate and one appointed by the speaker of the House of Representatives.
- (2) Members serve four-year terms concurrent with the governor.
- (3) Provides that the staff of the division of historic preservation in the Dept. of Culture, Recreation and Tourism shall assist the board in its work.
- (4) Members of the board serve without compensation.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 25:915 and R.S. 36:209(I))