

SUBJECT: Authorization to change monuments and memorials on state property

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 6 ayes — Swinford, Paxton, Christian, B. Cook, Flynn, Parker

0 nays

2 present not voting — Farrar, Veasey

1 absent — Van Arsdale

WITNESSES: None

BACKGROUND: Government Code, sec. 2166.5011 prohibits the removal, relocation, or alteration of a monument or memorial on state property that honors a state citizen for military or war-related service unless that change is authorized by the Legislature, the Texas Historical Commission, or the State Preservation Board. A monument or memorial includes a statue, portrait, plaque, seal, symbol, building name, or street name. A monument or memorial may be removed, relocated or altered if necessary to accommodate the construction, repair, or improvement of the monument or the surrounding grounds. If permanently removed from its original site, it must be relocated to a prominent location.

Government Code, sec. 2166.003(a)(1), (2), and (4) exempts from the requirement of approval by the Legislature, the Texas Historical Commission, or the State Preservation Board to be removed, relocated, or altered:

- projects constructed by and for the Texas Department of Transportation (TxDOT);
- projects constructed by and for a state institution of higher education; and
- projects constructed by the Texas Parks and Wildlife Department (TPWD).

DIGEST: HB 459 would expand the definition of the monuments or memorials that are subject to the restrictions on removal, relocation, or alteration in Government Code, sec. 2166.5011 to include projects that honor current and former citizens of what is now the United States.

Projects constructed by TxDOT, state college and universities, or TPWD would not be exempt from the restrictions in sec. 2166.5011 governing the unauthorized removal, relocation, or alteration of monuments or memorials.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.

**SUPPORTERS
SAY:**

HB 459 would ensure the full and complete depiction of Texas history by protecting monuments of all U.S. citizens whose service to this state has been honored with a monument or memorial on state property. Under current law, only monuments and memorials of Texas citizens who served in the military or war-related service, including Confederate soldiers, have this protection. Meanwhile, monuments of many important historical figures are not protected because they did not serve in the military or in war-related service or because they were not citizens of this state.

HB 459 would ensure that all monuments on any type of state property, including public universities, that honor citizens of the United States be protected from arbitrary or capricious removal, relocation, or alteration in order to conform to changing conceptions of the propriety or value of those monuments. For example, the proposed Tejano and Juneteenth monuments, should they be approved and erected, would not be protected under current law because they would not depict military figures. Monuments on state property, which often are paid for with funding from public groups, should not be moved or altered without proper consideration.

While the Texas Historical Commission has guidelines and policies on monument removal, they have not proven adequate. In at least one prominent example in June 2000, two Confederate plaques were removed from the Texas Supreme Court building without proper authorization, clearly demonstrating that monuments and memorials have been and can be moved without consulting with the Historical Commission, the Legislature, or the State Preservation Board. Under the changes made by

the Legislature in 2001, some monuments and memorials, including those to Confederate soldiers, now are protected. This protection should be extended to all monuments on state property.

OPPONENTS
SAY:

HB 459 is unnecessary. The State Preservation Board and the Historical Commission already oversee the removal and relocation of monuments and memorials on the Capitol grounds and state property.

Public universities should retain the right to determine the monuments and memorials on their campuses, including their removal or relocation, without being second guessed by another agency. HB 459 could prevent or delay the relocation of controversial monuments, such as that of Jefferson Davis on the University of Texas at Austin campus. As inclusive institutions that serve diverse populations, universities should be able to remove or relocate monuments to reflect changing needs.

NOTES:

During the 2005 regular session, HB 946 by Miller, which is almost identical to HB 459, passed the House by 145-0, but died in the Senate Administration Committee.