

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

Senate Bill 418

FISCAL
NOTE

BY SENATORS MAYNARD, AZINGER, KARNES, RUCKER,

SMITH, SYPOLT, CLINE, AND BOSO

[Introduced January 30, 2018; Referred
to the Committee on Government Organization; and then
to the Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §29-1-8c, relating to the West Virginia Monument and Memorial Protection Act
 3 of 2018; prohibiting the removal, renaming, alteration, or relocation, of any statue,
 4 monument, memorial, nameplate, plaque, school, street, bridge, building, park, preserve,
 5 or reserve recognized by the West Virginia State Historic Preservation Office and which
 6 is located on public property and has been erected for, or named, or dedicated in honor
 7 of certain historical, military, labor, civil rights, and Native American events, figures, and
 8 organizations; prohibiting any person from preventing the governmental entity having
 9 responsibility for maintaining the items, structures, or areas from taking proper measures
 10 to protect, preserve, care for, repair, or restore the items, structures, or areas recognized
 11 by the West Virginia State Historic Preservation Office; and authorizing the West Virginia
 12 State Historic Preservation Office to grant waivers under certain circumstances.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. DIVISION OF CULTURE AND HISTORY.

§29-1-8c. Protection of Monuments and Memorials; penalties.

1 (a) Short title.-- This section shall be known and may be cited as the "West Virginia
 2 Monument and Memorial Protection Act of 2018".

3 (b) No statue, monument, memorial, nameplate, plaque, school, street, bridge, building,
 4 park, preserve, or reserve recognized by the West Virginia State Historic Preservation Office
 5 which is located on public property may be removed, renamed, altered, or relocated, except as
 6 provided in subsection (f) of this section, if such has been erected for, or named or dedicated in
 7 honor of leaders, persons, and events including any historical figure event or, organization in:

8 (A) The military history of West Virginia;

9 (B) The history of industrial development in West Virginia, including the labor union
 10 movement and activities, mining disasters or mine wars;

11 (C) The struggle for African-American Civil Rights, or the struggle for Women's Civil

12 Rights; or

13 (D) The history of Native Americans or American Indians in West Virginia.

14 (c) For the purposes of this section, "public property" means all property owned or leased
15 by the State of West Virginia; and, any county, municipality, or any other entity or political
16 subdivision that is created by act of the Legislature to perform any public function.

17 (d) No person may prevent a governmental entity from taking appropriate measures, for
18 the protection, preservation, care, repair, or restoration of those items, structures, or areas
19 described in subsection (b) of this section.

20 (e) This section shall apply to items, structures, or areas described in subsection (b) of
21 this section which have attained the age of 50 years. This section shall not apply to items,
22 structures, or areas described in subsection (b) of this section that are located on public property
23 under the control of, or acquired by, the Department of Transportation which may interfere with
24 the construction, maintenance, or operation of the public transportation system. The department
25 shall strive to ensure that any such items, structures, or areas are preserved to the greatest extent
26 possible.

27 (f) Any entity exercising control of public property on which an item, structure or area
28 described in subsection (b) of this section is located, may petition the West Virginia State Historic
29 Preservation Office for a permit to remove, alter or relocate the item, structure or area. A petition
30 for a permit shall be in writing and shall state the reason, or reasons, for which the permit is
31 sought. Upon good cause shown, the West Virginia State Historic Preservation Office may grant
32 the permit request and may include reasonable conditions and instructions to ensure that any
33 items, structures, or areas are preserved to the greatest extent possible. An entity may lawfully
34 remove, alter or relocate an item, structure or area under authority, and in compliance with, the
35 terms of a permit issued pursuant to this subsection.

NOTE: The purpose of this bill is to prohibit the relocation, removal, alteration, or renaming, of any statue, monument, memorial, nameplate, or plaque which is located on public property and has been erected for, or named, or dedicated in honor of certain historical

military, labor, civil rights, and Native American events, figures, and organizations; to prohibit any person from preventing the governmental entity having responsibility for maintaining the items, structures, or areas from taking proper measures to protect, preserve, care for, repair, or restore the items, structures, or areas; and to establish a process by which the West Virginia State Historic Preservation Office may grant waivers under certain circumstances.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.