

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 2129 – SB 2138

January 22, 2016

SUMMARY OF BILL: Abolishes the *Tennessee Heritage Protection Act of 2013* (Public Chapter 75, 108th General Assembly). Establishes the *Tennessee Heritage Protection Act of 2016*. Prohibits a memorial of any historical conflict, historic entity, historic event, historic figure, or historic organization, that is, or is located on, public property, from being removed, relocated, altered or disturbed, in addition to prohibitions created by the 2013 Public Chapter against renaming or rededicating any such memorial. Defines “historical conflict,” “historical entity,” “historic event,” “historic figure,” and “historic organization.”

Requires any public entity seeking to file a petition for waiver to provide notice to the public, stating that a copy of the petition and all supporting reports will be provided to any interested party at no cost, from the public entity seeking the waiver.

An initial hearing before the Historical Commission on a petition for waiver shall be granted no sooner than 60 days after the petition is filed. The initial hearing will take place during a regularly scheduled meeting of the Commission. A final hearing will be held no sooner than 180 days from when the petition was originally filed, or from the date an amendment to the petition was filed, and will take place during a regularly scheduled meeting.

Requires all hearings regarding a petition for waiver to be recorded. Copies of the record and all exhibits shall be available to any interested entity, group, or individual at the cost of the public entity seeking the waiver. Places the proof of burden on the public entity seeking the waiver to demonstrate by clear and convincing evidence that a material or substantial need for a waiver based on historical or other compelling public interest exists. Any designated national historic landmark on the national register of historic places shall carry a presumption in favor of preservation of the memorial. The Commission may grant a waiver by a two-thirds vote of the entire membership of the Commission. Any waiver failing to receive a two-thirds vote shall be denied. The Commission is required to provide written determination of the Commission’s findings and the grounds on which the relief is granted or denied within 30 calendar days from the final hearing. The effective date of the determination shall not be less than 120 days after notice of the Commission’s determination is posted on the Commission website.

Any party aggrieved by a final determination of the Commission may file a petition for review in the chancery court of Davidson County, or alternatively, in the county in which the memorial is located or, in the case of a memorial that is located in multiple counties, the county in which the memorial is predominately located. Any person who demonstrates real interest in a memorial through aesthetic, architectural, cultural, economic, environmental, or historic injury, or through administrative involvement in the waiver process may seek injunctive relief in the chancery court of Davidson County.

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ESTIMATED FISCAL IMPACT:

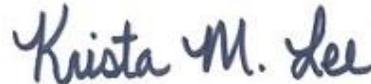
NOT SIGNIFICANT

Assumptions:

- The *Tennessee Heritage Protection Act of 2013* authorized any entity in control of public property on which a memorial is located to file a petition for waiver, stating the reason or reasons upon which the waiver is sought. The Commission is authorized to grant a petition for waiver during any regularly scheduled meeting.
- There have been no petitions for waiver filed with the Commission since the April 1, 2013 enactment of the *Tennessee Heritage Protection Act of 2013*.
- A small increase in cases in the court system, which will result in additional state and local government expenditures for processing the cases. These expenditures are estimated to be not significant.
- According to the Tennessee Department of Environment and Conservation, the Department estimates no increase in state expenditures to hear petitions for waivers as initial and final hearings will take place during regularly scheduled meetings of the Historical Commission.
- The public entity providing the petition for waiver is required to bear all costs associated with distribution of notices, exhibits, reports, testimonies, and evidence.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

/jdb