

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 533 Arthur G. Dozier School for Boys

SPONSOR(S): Appropriations Committee; Government Operations Subcommittee; Narain and others

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 708

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee	13 Y, 0 N, As CS	Moore	Williamson
2) Appropriations Committee	22 Y, 1 N, As CS	Proctor	Leznoff
3) State Affairs Committee	15 Y, 0 N	Moore	Camechis

SUMMARY ANALYSIS

The Arthur G. Dozier School for Boys (Dozier School or school) was a reform school located in the panhandle town of Marianna that was operated by the state from January 1, 1900, to June 30, 2011. In recent years, former students of the school have come forward to tell stories of repeated physical abuse they were subjected to by staff members as a form of discipline. These men believe there may have been fellow students who died from the abuse and were buried at the school's cemetery.

In 2012, researchers from the University of South Florida (USF) began an investigation to determine the location of missing children buried at the school in order to excavate and repatriate the remains to their families. In January 2016, the researchers issued a report of their findings. The researchers analyzed historical records and determined that nearly 100 boys aged 6 to 18 died at the school between 1900 and 1973. During the investigation, the researchers excavated 55 graves and discovered 51 sets of human remains on the school grounds, only 13 of which were located in the school's cemetery. The researchers made 7 positive identifications and 14 presumptive identifications of the remains they discovered.

The bill requires any historical resource, record, archive, or artifact and any human remains that are recovered from Dozier School to be retained and preserved by USF until the Department of State (DOS) requests custody.

The bill also directs DOS to reimburse the next of kin or pay directly to the provider up to \$7,500 for funeral, reinterment, and grave marker expenses for each child whose body was buried at and exhumed from Dozier School. DOS must contract with USF to identify and locate eligible next of kin of such children.

The bill establishes a task force under DOS to make recommendations to DOS regarding the creation and maintenance of a memorial and the location of a site for the reinterment of unidentified or unclaimed remains.

For Fiscal Year (FY) 2016-17, the bill appropriates \$500,000 in nonrecurring funds from the General Revenue Fund to DOS to implement the bill's requirements. Any funds remaining unexpended or unencumbered as of July 1, 2017, must revert and be appropriated for the same purpose for FY 2017-18.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Arthur G. Dozier School for Boys

The Arthur G. Dozier School for Boys (Dozier School or school) was a reform school located in the panhandle town of Marianna that was operated by the state from January 1, 1900, to June 30, 2011. The school was created by the Florida Legislature in 1897 to provide a place “where young offenders against the laws of our state might be separated from older more vicious associates.”¹ Children were initially committed to the school for criminal offenses, but the law was later amended to identify minor offenses, such as “incurability,” “truancy,” or “dependency” as reasons for a child to be sent there.² Throughout the 1900s, hundreds of boys were sent to the school.

In recent years, men have come forward to tell stories of repeated physical abuse they were subjected to by staff members as a form of discipline.³ These men believe there may have been fellow students who died from the abuse and were buried at the school’s cemetery.⁴ As a result of these allegations, in 2008, former Governor Charlie Crist directed the Florida Department of Law Enforcement (FDLE) to investigate 32 unmarked graves located on property surrounding Dozier School. FDLE reviewed and analyzed public records and official documents and identified 31 individuals who were purportedly buried at the school’s cemetery.⁵ FDLE was also directed to determine whether any crimes were committed, and if so, the perpetrators of those crimes.⁶ FDLE interviewed former students and former school staff, but concluded it could not find enough evidence to support the accusations.⁷

In 2012, researchers from the University of South Florida (USF) began an investigation to determine the location of missing children buried at the school in order to excavate and repatriate the remains to their families.⁸ In January 2016, the researchers issued a report of their findings. The researchers analyzed historical records and determined that nearly 100 boys aged 6 to 18 died at the school between 1900 and 1973.⁹ During the investigation, the researchers excavated 55 graves and discovered 51 sets of human remains on the school grounds, only 13 of which were located in the school’s cemetery.¹⁰ The researchers made 7 positive identifications and 14 presumptive identifications of the remains they discovered.¹¹

Department of State

The Department of State (DOS) has a variety of responsibilities, including collecting and preserving official state records and historically significant records, promoting arts and culture in the state, and facilitating cultural development and services in the state. The Division of Historical Resources, within DOS, is responsible for preserving and promoting Florida’s historical, archaeological, and folk culture resources.

¹ FDLE Office of Executive Investigations, *Arthur G. Dozier School for Boys Abuse Investigation*, Case No. EI-04-0005 (Jan. 29, 2010), available at <http://thewhitehouseboys.com/abusereport.pdf> [hereinafter FDLE Abuse Report].

² Erin Kimmerle, E. Christian Wells, & Antoinette Jackson, Florida Institute for Forensic Anthropology & Applied Sciences, *Report on the Investigation into the Deaths and Burials at the Former Arthur G. Dozier School for Boys in Marianna, Florida*, January 2016, available at <http://news.usf.edu/article/articlefiles/7173-usf-final-dozier-summary-2016.pdf>.

³ FDLE Office of Executive Investigations, *Arthur G. Dozier School for Boys: Marianna, Florida*, Case No. EI-73-8455 (May 14, 2009), p.1, available at <http://www.tampabay.com/specials/2009/reports/marianna/Dozier-summary.pdf>.

⁴ *Id.* at 1.

⁵ *Id.* at 18.

⁶ FDLE Abuse Report, *supra* note 1, at 1.

⁷ *See id.* at 13.

⁸ Kimmerle, *supra* note 2, at 12.

⁹ *Id.* at 14.

¹⁰ *Id.* at 12.

¹¹ *Id.*

Advisory Bodies

Section 20.052, F.S., provides that an advisory body created by specific statutory enactment as an adjunct to an executive agency must be established, evaluated, or maintained in accordance with certain requirements. An advisory body may be created only when it is found to be necessary and beneficial to the furtherance of a public purpose,¹² and it must be terminated by the Legislature when it is no longer necessary and beneficial to the furtherance of the public purpose.¹³ The private citizen members of an advisory body that is adjunct to an executive agency must be appointed by the Governor, the head of the department, the executive director of the department, or a Cabinet officer.¹⁴

Effect of Proposed Changes

The bill requires USF to retain custody of any historical resource, record, archive, artifact, public research, or medical record recovered from Dozier School until DOS requests custody. USF must also retain custody of any human remains exhumed from the school until the remains are returned to the next of kin or reburied. DOS is directed to contract with USF for the identification and location of eligible next of kin for the children whose remains were exhumed.

The bill also directs DOS to reimburse the next of kin or pay directly to the provider up to \$7,500 for each child's funeral, reinterment, and grave marker expenses. To receive reimbursement, the next of kin must submit receipts for or documentation of expenses to DOS. If expenses are to be paid directly to the provider, the funeral home or other similar entity must submit an invoice to DOS. The reimbursements and payments must be made in accordance with current prompt payment laws. Charitable donations made toward a burial are not eligible for reimbursement. DOS must report to the Legislature on the status of its payments and reimbursements by February 1, 2018.

By July 1, 2016, USF must provide DOS with the contact information for the next of kin for each set of human remains that has been returned to a next of kin. For any identification of next of kin occurring on or after July 1, 2016, USF must provide location information of the next of kin to DOS at least 5 days before returning the human remains to the next of kin. DOS must notify the next of kin within 15 business days about the available payment or reimbursement options.

The bill establishes an eight-member task force known as the "Dozier Task Force" under DOS to make recommendations to DOS regarding the creation and maintenance of a memorial, and the location of a site for the reinterment of unidentified or unclaimed remains. The bill designates the following task force members:

- The Secretary of State, or his or her designee, who must serve as the chair;
- One person appointed by the President of the Florida State Conference of the National Association for the Advancement of Colored People;
- One representative of the Florida Council of Churches, appointed by the executive director of the council;
- A next of kin of a deceased ward buried at Dozier School appointed by the Attorney General;
- One representative who promotes the welfare of people who are former wards of Dozier School appointed by the Chief Financial Officer;
- One person appointed by the President of the Senate;
- One person appointed by the Speaker of the House of Representatives; and
- One person appointed by the Jackson County Board of County Commissioners.

By October 1, 2016, the task force must submit its recommendations to DOS, the Governor and Cabinet, the President of the Senate, the Speaker of the House of Representatives, and the Minority Leaders of the Senate and the House of Representatives. The bill repeals the task force on December 31, 2016.

The bill authorizes DOS to adopt rules necessary to administer the bill's requirements.

¹² Section 20.052(1), F.S.

¹³ Section 20.052(2), F.S.

¹⁴ Section 20.052(5)(a), F.S.

For Fiscal Year (FY) 2016-17, the bill appropriates \$500,000 in nonrecurring funds from the General Revenue Fund to DOS to implement the bill's requirements and provides that any unexpended or unencumbered funds must revert on July 1, 2017, and be appropriated for the same purpose for FY 2017-2018.

B. SECTION DIRECTORY:

Section 1 creates an unnumbered section of law relating to the preservation of Dozier School records and artifacts and compensation for families with children buried at the school.

Section 2 creates an unnumbered section of law relating to the establishment of the Dozier Task Force.

Section 3 provides an appropriation.

Section 4 provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill appropriates \$500,000 in nonrecurring funds from the General Revenue Fund to DOS for the purpose of providing funds to the next of kin of children buried at Dozier School, or directly to a provider, funeral home, or other similar entity, so the bodies may be reinterred. It also provides that any unexpended or unencumbered funds must revert on July 1, 2017, and be appropriated for the same purpose for FY 2017-2018.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes DOS to adopt rules to administer the bill's requirements.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 26, 2016, the Government Operations Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment:

- Increased the maximum amount of money that may be paid for funeral, reinterment, and grave marker expenses to the next of kin of each child who was buried at the school from \$5,000 to \$7,500;
- Required the next of kin to submit receipts to DOS to receive reimbursement;
- Authorized DOS to pay a funeral home or other similar entity directly upon receipt of an invoice;
- Required DOS to identify and locate eligible next of kin by December 31, 2017, instead of within six months of the bill's effective date;
- Required DOS to report to the Legislature on the status of payments and reimbursements;
- Established a task force to make recommendations to DOS regarding the creation of a memorial and the location of a site for the reinterment of unidentified or unclaimed remains; and
- Reduced the amount of funds appropriated to DOS from \$1.5 million to \$500,000.

On February 16, 2016, the Appropriations Committee adopted a strike-all amendment. The strike-all amendment:

- Required any records or archives recovered from Dozier School by USF to remain in the custody of USF for preservation until DOS requests custody;
- Required any human remains exhumed from Dozier School by USF to remain in their custody for identification purposes until the remains are returned to the next of kin or reburied;
- Directed DOS to contract with USF for the identification and location of eligible next of kin;
- Directed USF, no later than July 1, 2016, to provide DOS with contact information for the next of kin for each set of human remains that has been returned to a next to kin;
- Required USF to provide location information of identified next of kin to DOS at least 5 days before returning the human remains to the next of kin;
- Required DOS to notify the next of kin about the payment or reimbursement options within 15 business days after receiving the location information of the next of kin;
- Required DOS, by February 1, 2018, to submit a report to the Governor and Cabinet, the President of the Senate, and the Speaker of the House of Representatives regarding any payments and reimbursements made pursuant to the bill;
- Prescribed the membership of the task force and the submission of its recommendations; and
- Delayed the repeal date for the task force to December 31, 2016.

The bill was reported favorably as a committee substitute. This analysis is drafted to the committee substitute as approved by the Appropriations Committee.