

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Criminal and Civil Justice

BILL: CS/SB 1262

INTRODUCER: Judiciary Committee; and Senators Bracy and Rodriguez

SUBJECT: 1920 Ocoee Election Day Riots

DATE: February 17, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Elsesser</u>	<u>Cibula</u>	<u>JU</u>	Fav/CS
2.	<u>Dale</u>	<u>Jameson</u>	<u>ACJ</u>	Pre-meeting
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 1262 creates the Ocoee Election Day Riots Descendant Compensation Fund Program to compensate descendants of individuals who were killed, injured, or otherwise victimized in the November 1920 Ocoee violence, up to \$150,000 per victim, if SB 1264, or similar legislation, is enacted during the 2020 Regular Session or any extension of that session. SB 1264 creates the Ocoee Election Day Riots Descendant Compensation Trust Fund.

The bill also gives qualified businesses in areas affected by the Ocoee riots priority in receiving funds under the Black Business Loan Program.

The bill further directs State officials to take steps to publicize the history of the riots.

The bill authorizes compensation payments not exceeding \$150,000 per victim of the Ocoee violence. The Department of Legal Affairs states that the genealogical research required to assess the validity of individual claims may require additional staffing. Senate Bill 2500, Senate's General Appropriations Bill for Fiscal Year 2020-2021, does not include funding for this program. See Section V.

The bill takes effect July 1, 2020 and is repealed July 1, 2024, unless the trust fund created by SB 1264 is reenacted.

II. Present Situation:

The November 1920 Ocoee Violence

“Racial violence in the United States during the early 1900’s was high, with the number of lynchings of African Americans increasing from 38 in 1917 to 58 in 1918.”¹ Before the presidential election in November 1920, the Ku Klux Klan Grand Master of Florida sent a letter to a politician who had been working to register African-American voters, who tended to vote Republican.² In the letter, the Ku Klux Klan Grand Master threatened that, if the politician continued his efforts to register African Americans, “there would be serious trouble.”³

“The 1920 Census reported 255 African-American residents and 560 white residents of Ocoee.”⁴ Mose Norman, an African-American resident who was not allowed to vote in the general election for failure to pay a poll tax, recorded names of others who had not been permitted to vote in his precinct.⁵ After an altercation with either the local constable or a group of white residents, Norman went to the home of July Perry, another African-American resident, before fleeing Ocoee.⁶

“Later in the day, some white Ocoee residents formed a posse and were deputized” by the Orange County sheriff and were charged with arresting Norman and Perry.⁷ The posse went to Perry’s house, wounding Perry and his 19-year-old daughter, Caretha, with gunfire; Norman had already fled Ocoee.⁸

After retreating and requesting assistance from other areas of Orange County, the posse returned to the house and captured Caretha Perry therein.⁹ July Perry was captured in a sugarcane patch near his house and taken to a hospital to treat his gunshot wounds, after which he was placed in the custody of the Orange County sheriff and was lynched, hanged, and shot by a mob.¹⁰

A mob then set fire to all African-American-owned buildings in northern Ocoee, destroying more than 20 houses, two churches, and one fraternal lodge.¹¹ Based on differing reports, between three and 60 African Americans died resulting from the violence on November 2-3, 1920.¹² In the days following this violence, the remaining African-American residents fled Ocoee, leaving their homes and property.¹³

¹ Office of Program Policy Analysis and Governmental Accountability, *Ocoee Election Day Violence – November 1920*, Report No. 19-15 at 2 (<http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1915rpt.pdf>) (Last visited February 10, 2020).

² *Id.*

³ *Id.*

⁴ *Id.* at 3.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* at 4.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

Compensation for Rosewood Massacre

In 1994, the Legislature and Governor approved the compensation of African-American families who suffered real and personal property damage resulting from the Rosewood Massacre in 1923.¹⁴ That act provided that African-American residents of Rosewood who were present and affected by the violence and who evacuated were eligible for compensation of up to \$150,000.¹⁵ That act appropriated \$1.5 million from the General Revenue Fund for the act's implementation.¹⁶ The act also created the Rosewood Family Scholarship Fund, which awarded up to \$4,000 for tuition to eligible Florida students, with preference given to direct descendants of Rosewood families.¹⁷

The Black Business Loan Program

Section 288.7102, F.S., requires the Department of Economic Opportunity to disburse funds to eligible black business enterprises that cannot obtain capital through conventional lending institutions. Under that section, the Department must establish an application and annual certification process for entities "seeking funds to participate in providing loans, loan guarantees, or investments in black business enterprises" pursuant to that section.

Section 1003.42(2)(h), F.S.

Section 1003.42(2)(h), F.S., requires members of the instructional staff of Florida public schools to teach about "[t]he history of African Americans, including the history of African peoples before the political conflicts that led to the development of slavery, the passage to America, the enslavement experience, abolition, and the contributions of African Americans to society."

III. Effect of Proposed Changes:

The bill creates the Ocoee Election Day Riots Descendant Compensation Fund Program to compensate descendants of individuals who were killed, injured, or otherwise victimized in the November 1920 Ocoee violence, up to \$150,000 per victim. If a victim has multiple descendants, the compensation amount is to be prorated among "eligible claimants."

The bill describes the requirements of an application for compensation, which include proof of relation to an Ocoee violence victim and an agreement not to seek a claim bill from the Legislature regarding the violence. The bill requires the Department of Legal Affairs to accept and process these applications.

The bill amends s. 288.7102, F.S., related to the Black Business Loan Program, to require the Department of Economic Opportunity to prioritize applications from black business enterprises in areas directly impacted by the Ocoee violence.

¹⁴ Ch. 94-359, 1994 Laws of Fla.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.* at 3298.

The bill directs the Commissioner of Education's African American History Task Force to examine ways in which the history of the Ocoee violence can be taught pursuant to s. 1003.42(2)(h), F.S. The task force is required to submit recommendations to the commissioner by March 1, 2021.

The bill also directs the Secretary of State to determine ways in which the Museum of Florida History and other state museums can propagate the history of the Ocoee violence and to seek such history's inclusion in the National Museum of African American History and Culture of the Smithsonian Institution.

The bill directs the Secretary of Environmental Protection to assess if any state park may be named in recognition of any victim of the Ocoee violence. The bill encourages district school boards to consider naming facilities in recognition of victims of the Ocoee violence.

The bill takes effect July 1, 2020 and is repealed July 1, 2024 unless the trust fund created by SB 1264 is reenacted.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill authorizes compensation payments of \$150,000 per victim of the Ocoee violence.

C. Government Sector Impact:

If SB 1264 or similar legislation becomes law in 2020 (creating the Ocoee Election Day Riots Descendant Compensation Trust Fund), CS/SB 1262 authorizes compensation payments not exceeding \$150,000 per “individual who was killed, injured or otherwise victimized” by the violence that occurred in Ocoee in 1920.

The number of potential claims is unknown. However, Office of Program Policy Analysis and Government Accountability (OPPAGA) reported that the highest number reported killed was 60 persons.¹⁸ If sixty applications for compensation were received, and depending upon the amount appropriated for the Ocoee claimants, the potential fiscal impact could be as much as \$9 million, excluding any claims submitted that are associated with other individuals who were injured or otherwise victimized.

SB 2500, the Senate’s General Appropriations Bill for Fiscal Year 2020-2021, does not include funding for this program.

The Department of Legal Affairs states that the genealogical research required to assess validity of individual claims may require additional staffing.

VI. Technical Deficiencies:

The bill provides that if multiple descendants of a single individual apply for compensation, the amount of compensation must be prorated among any “eligible claimants.” However, the term “eligible claimants” is not defined. The bill lacks clarity regarding the distribution or allocation of compensation among the descendants of a victim of the Ocoee violence.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 288.7102 of the Florida Statutes.

This bill creates section 16.63 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Judiciary on January 21, 2020:

The Committee Substitute differs from the underlying bill by identifying the bill number for the linked bill creating the trust fund described in SB 1264.

¹⁸ Office of Program Policy Analysis and Government Accountability Report No. 19-15
<http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1915rpt.pdf> (Last visited February 16, 2020).

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
