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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/13/2017	.	
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The Committee on Commerce and Tourism (Gainer) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (5) is added to section 288.8012,
Florida Statutes, to read:

288.8012 Definitions.—As used in ss. 288.80-288.8017, the
term:

(5) "Settlement agreement" means the agreement between the
gulf states and the BP entities with respect to economic claims



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11 arising from the Deepwater Horizon incident.

12 Section 2. Subsections (2), (3), and (4) of section
13 288.8013, Florida Statutes, are amended to read:

14 288.8013 Triumph Gulf Coast, Inc.; Recovery Fund; creation;
15 investment.—

16 (2) (a) Triumph Gulf Coast, Inc., must create and administer
17 the Recovery Fund for the benefit of the disproportionately
18 affected counties. The principal of the fund shall derive from
19 75 percent of all moneys received by the state pursuant to the
20 settlement agreement funds recovered by the Attorney General for
21 economic damage to the state resulting from the Deepwater
22 Horizon disaster, after payment of reasonable and necessary
23 attorney fees, costs, and expenses, including such attorney
24 fees, costs, and expenses pursuant to s. 16.0155.

25 (b)1. After reasonable and necessary payment of attorney
26 fees, costs, and related expenses, 75 percent of the remaining
27 moneys received by the state before June 30, 2017, pursuant to
28 the settlement agreement is appropriated to Triumph Gulf Coast,
29 Inc., and shall be transferred to the Recovery Fund no later
30 than August 1, 2017.

31 2. Seventy-five percent of the moneys received by the state
32 pursuant to the settlement agreement on or after July 1, 2017,
33 is appropriated to the Triumph Gulf Coast, Inc., and shall be
34 transferred to the Recovery Fund no later than 30 days after
35 such funds are received by the state.

36 ~~(3) The Recovery Fund must be maintained as a long-term and~~
37 ~~stable source of revenue, which shall decline over a 30-year~~
38 ~~period in equal amounts each year. Triumph Gulf Coast, Inc.,~~
39 shall establish a trust account at a federally insured financial



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40 institution to hold funds and make deposits and payments, and
41 shall consult with the State Board of Administration and invest
42 moneys from the settlement agreement in appropriate State Board
43 of Administration funds. Earnings generated by investments and
44 interest of the fund, plus the amount of principal available
45 each year, shall be available to make awards pursuant to this
46 act and pay administrative costs. Earnings must ~~shall~~ be
47 accounted for separately from principal funds set forth in
48 subsection (2). Administrative costs are limited to 0.75 ~~2.25~~
49 percent of the principal earnings in a calendar year.
50 Administrative costs include payment of investment fees, travel
51 and per diem expenses of board members, audits, salary or other
52 costs for employed or contracted staff, including required staff
53 under s. 288.8014(9), and other-allowable costs. Triumph Gulf
54 Coast, Inc., shall cause an annual audit to be conducted of the
55 investments of the Recovery Fund by the independent certified
56 public accountant retained as required in s. 288.8014. Any funds
57 remaining in the Recovery Fund after 30 years shall revert to
58 the State Treasury.

59 (4) Triumph Gulf Coast, Inc., shall invest and reinvest the
60 principal of the Recovery Fund in accordance with s. 617.2104,
61 in such a manner not to subject the funds to state or federal
62 taxes, and consistent with an investment policy statement
63 adopted by the corporation.

64 ~~(a) The board of directors shall formulate an investment~~
65 ~~policy governing the investment of the principal of the Recovery~~
66 ~~Fund. The policy shall pertain to the types, kinds, or nature of~~
67 ~~investment of any of the funds, and any limitations, conditions~~
68 ~~or restrictions upon the methods, practices, or procedures for~~



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69 ~~investment, reinvestments, purchases, sales, or exchange~~
70 ~~transactions, provided such policies shall not conflict with nor~~
71 ~~be in derogation of any state constitutional provision or law.~~
72 ~~The policy shall be formulated with the advice of the financial~~
73 ~~advisor in consultation with the State Board of Administration.~~

74 ~~(b) Triumph Gulf Coast, Inc., must competitively procure~~
75 ~~one or more money managers, under the advice of the financial~~
76 ~~advisor in consultation with the State Board of Administration,~~
77 ~~to invest the principal of the Recovery Fund. The applicant~~
78 ~~manager or managers may not include representatives from the~~
79 ~~financial institution housing the trust account for the Recovery~~
80 ~~Fund. The applicant manager or managers must present a plan to~~
81 ~~invest the Recovery Fund to maximize earnings while prioritizing~~
82 ~~the preservation of Recovery Fund principal. Any agreement with~~
83 ~~a money manager must be reviewed by Triumph Gulf Coast, Inc.,~~
84 ~~for continuance at least every 5 years. Plans should include~~
85 ~~investment in technology and growth businesses domiciled in, or~~
86 ~~that will be domiciled in, this state or businesses whose~~
87 ~~principal address is in this state.~~

88 ~~(c) Costs and fees for investment services shall be~~
89 ~~deducted from the earnings as administrative costs. Fees for~~
90 ~~investment services shall be no greater than 150 basis points.~~

91 ~~(d) Annually, Triumph Gulf Coast, Inc., shall cause an~~
92 ~~audit to be conducted of the investment of the Recovery Fund by~~
93 ~~the independent certified public accountant retained in s.~~
94 ~~288.8014. The expense of such audit shall be paid from earnings~~
95 ~~for administrative purposes.~~

96 Section 3. Subsections (2) and (9) of section 288.8014,
97 Florida Statutes, are amended to read:



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98 288.8014 Triumph Gulf Coast, Inc.; organization; board of
99 directors.-

100 (2) Triumph Gulf Coast, Inc., initially shall be governed
101 by a five-member ~~5-member~~ board of directors. Each of the
102 Trustees of the State Board of Administration, the President of
103 the Senate, and the Speaker of the House of Representatives
104 shall ~~each~~ appoint one member from the private sector. As of the
105 effective date of this act, the number of board members
106 increases to seven, with the President of the Senate and the
107 Speaker of the House of Representatives each appointing an
108 additional private sector member from one of the four least
109 populous disproportionately affected counties as identified by
110 the United States Census Bureau in its March 2017 estimates of
111 county population, so that two such counties are represented on
112 the board. The board of directors shall annually elect a
113 chairperson from among the board's members. The chairperson may
114 be removed by a majority vote of the members. His or her
115 successor shall be elected to serve for the balance of the
116 removed chairperson's term. The chairperson is responsible to
117 ensure records are kept of the proceedings of the board of
118 directors and is the custodian of all books, documents, and
119 papers filed with the board; the minutes of meetings of the
120 board; and the official seal of Triumph Gulf Coast, Inc.

121 (9) (a) Triumph Gulf Coast, Inc., is permitted to hire or
122 contract for all staff necessary to the proper execution of its
123 powers and duties to implement this act. The corporation is
124 required to retain:

125 1. An independent certified public accountant licensed in
126 this state pursuant to chapter 473 to inspect the records of and



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127 to annually audit the expenditure of the funds earnings and
128 available principal disbursed by Triumph Gulf Coast, Inc.; and

129 ~~2. An independent financial advisor to assist Triumph Gulf~~
130 ~~Coast, Inc., in the development and implementation of a~~
131 ~~strategic plan consistent with the requirements of this act.~~

132 ~~3. An economic advisor who will assist in the award~~
133 ~~process, including the development of priorities, allocation~~
134 ~~decisions, and the application and process; will assist the~~
135 ~~board in determining eligibility of award applications and the~~
136 ~~evaluation and scoring of applications; and will assist in the~~
137 ~~development of award documentation.~~

138 2.4. A legal advisor with expertise in not-for-profit
139 investing and contracting and who is a member of The Florida Bar
140 to assist with contracting and carrying out the intent of this
141 act.

142 (b) Triumph Gulf Coast, Inc., shall require all employees
143 of the corporation to comply with the code of ethics for public
144 employees under part III of chapter 112. Retained staff under
145 paragraph (a) must agree to refrain from having any direct
146 interest in any contract, franchise, privilege, project,
147 program, or other benefit arising from an award by Triumph Gulf
148 Coast, Inc., during the term of his or her appointment and for 2
149 years after the termination of such appointment.

150 (c) Retained staff under paragraph (a) shall be available
151 to consult with the board of directors and shall attend meetings
152 of the board of directors. These individuals shall not be
153 permitted to vote on any matter before the board.

154 Section 4. Subsection (2) of section 288.8015, Florida
155 Statutes, is amended to read:



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156 288.8015 Board of directors; powers.—In addition to the
157 powers and duties prescribed in chapter 617 and the articles and
158 bylaws adopted in compliance with that chapter, the board of
159 directors may:

160 (2) Make expenditures including any necessary
161 administrative expenditure ~~from earnings~~ consistent with its
162 powers.

163

164 Under no circumstances may the credit of the State of Florida be
165 pledged on behalf of Triumph Gulf Coast, Inc.

166 Section 5. Subsections (1) and (3) of section 288.8017,
167 Florida Statutes, are amended to read:

168 288.8017 Awards.—

169 (1) Triumph Gulf Coast, Inc., shall make awards from
170 available funds ~~earnings and principal~~ derived under s.
171 288.8013(2) to projects or programs that meet the priorities for
172 economic recovery, diversification, and enhancement of the
173 disproportionately affected counties, ~~notwithstanding s. 377.43~~.
174 Awards may be provided for:

175 (a) Ad valorem tax reduction within disproportionately
176 affected counties;

177 (b) Payment of impact fees adopted pursuant to s. 163.31801
178 and imposed within disproportionately affected counties;

179 (c) Administrative funding for economic development
180 organizations located within the disproportionately affected
181 counties;

182 (d) Local match requirements of ss. 288.0655, 288.0659,
183 288.1045, and 288.106 for projects in the disproportionately
184 affected counties;



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185 (e) Economic development projects in the disproportionately
186 affected counties;

187 (f) Infrastructure projects that are shown to enhance
188 economic development in the disproportionately affected
189 counties;

190 (g) Grants to local governments in the disproportionately
191 affected counties to establish and maintain equipment and
192 trained personnel for local action plans of response to respond
193 to disasters, such as plans created for the Coastal Impacts
194 Assistance Program;

195 (h) Grants to support programs of excellence that prepare
196 students for future occupations and careers at K-20 institutions
197 that have ~~home~~ campuses in the disproportionately affected
198 counties. Eligible programs include those that increase
199 students' technology skills and knowledge; encourage industry
200 certifications; provide rigorous, alternative pathways for
201 students to meet high school graduation requirements; strengthen
202 career readiness initiatives; fund high-demand programs of
203 emphasis at the bachelor's and master's level designated by the
204 Board of Governors; and, similar to or the same as talent
205 retention programs created by the Chancellor of the State
206 University System and the Commission of Education, encourage
207 students with interest or aptitude for science, technology,
208 engineering, mathematics, and medical disciplines to pursue
209 postsecondary education at a state university within the
210 disproportionately affected counties; and

211 (i) Grants to the tourism entity created under s. 288.1226
212 for the purpose of advertising and promoting tourism, Fresh From
213 Florida, or related content on behalf of one or all of the



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214 disproportionately affected counties.

215 (3) Triumph Gulf Coast, Inc., may make awards as
216 applications are received or may establish application periods
217 for selection. Awards may not be used to finance 100 percent of
218 any project or program. Triumph Gulf Coast, Inc., may require a
219 one-to-one private-sector match or higher for an award, if
220 applicable and deemed prudent by the board of directors. An
221 awardee may not receive all of the ~~earnings or~~ available funds
222 ~~principal~~ in any given year.

223 Section 6. Section 377.43, Florida Statutes, is repealed.

224 Section 7. The Division of Law Revision and Information is
225 directed to replace the phrase "the effective date of this act"
226 where it occurs in this act with the date the act becomes
227 effective.

228 Section 8. This act shall take effect upon becoming a law.

229
230 ===== T I T L E A M E N D M E N T =====

231 And the title is amended as follows:

232 Delete everything before the enacting clause
233 and insert:

234 A bill to be entitled

235 An act relating to the Recovery Fund for the Deepwater
236 Horizon incident; amending s. 288.8012, F.S.; defining
237 the term "settlement agreement"; amending s. 288.8013,
238 F.S.; revising the funding source of the principal of
239 the Recovery Fund for the Deepwater Horizon incident;
240 requiring that certain funds be transferred to the
241 Recovery Fund within a specified timeframe; deleting a
242 requirement that the Recovery Fund be maintained as a



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243 long-term, stable source of revenue, for a specified
244 period; requiring Triumph Gulf Coast, Inc., to consult
245 with the State Board of Administration and to invest
246 moneys from the settlement agreement in certain funds;
247 revising the limit on administrative costs; deleting
248 provisions requiring the board of directors of Triumph
249 Gulf Coast, Inc., to formulate a specified investment
250 policy for the Recovery Fund; deleting provisions
251 requiring Triumph Gulf Coast, Inc., to competitively
252 procure one or more money managers to invest the
253 principal of the Recovery Fund; deleting a provision
254 limiting costs and fees for investment services and
255 requiring such costs and fees to be deducted from
256 earnings as administrative costs; amending s.
257 288.8014, F.S.; increasing the number of members of
258 the board of directors of Triumph Gulf Coast, Inc., as
259 of a specified date; providing for the appointment of
260 the new members; requiring that the new members be
261 residents of certain disproportionately affected
262 counties; revising the duties of the independent
263 certified public accountant that Triumph Gulf Coast,
264 Inc., is required to retain; deleting provisions
265 requiring Triumph Gulf Coast, Inc., to retain an
266 independent financial advisor and an economic advisor;
267 amending s. 288.8015, F.S.; deleting a provision
268 specifying that expenditures made by the board are
269 made from earnings; amending s. 288.8017, F.S.;
270 revising the source for awards made by Triumph Gulf
271 Coast, Inc.; conforming a provision to changes made by



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272 the act; requiring that K-20 institutions have a
273 campus, rather than their home campus, in a
274 disproportionately affected county as a condition of
275 eligibility for its students to receive certain
276 grants; revising annual restrictions on awards;
277 repealing s. 377.43, F.S., relating to the
278 disbursement of funds received for damages caused by
279 the Deepwater Horizon oil spill; providing a directive
280 to the Division of Law Revision and Information;
281 providing an effective date.