

By the Committee on Commerce and Tourism; and Senators Gainer, Broxson, and Montford

577-02381-17

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1 A bill to be entitled
2 An act relating to the Recovery Fund for the Deepwater
3 Horizon incident; amending s. 288.8012, F.S.; defining
4 the term "settlement agreement"; amending s. 288.8013,
5 F.S.; revising the funding source of the principal of
6 the Recovery Fund for the Deepwater Horizon incident;
7 requiring that certain funds be transferred to the
8 Recovery Fund within a specified timeframe; deleting a
9 requirement that the Recovery Fund be maintained as a
10 long-term, stable source of revenue, for a specified
11 period; requiring Triumph Gulf Coast, Inc., to consult
12 with the State Board of Administration and to invest
13 moneys from the settlement agreement in certain funds;
14 revising the limit on administrative costs; deleting
15 provisions requiring the board of directors of Triumph
16 Gulf Coast, Inc., to formulate a specified investment
17 policy for the Recovery Fund; deleting provisions
18 requiring Triumph Gulf Coast, Inc., to competitively
19 procure one or more money managers to invest the
20 principal of the Recovery Fund; deleting a provision
21 limiting costs and fees for investment services and
22 requiring such costs and fees to be deducted from
23 earnings as administrative costs; amending s.
24 288.8014, F.S.; increasing the number of members of
25 the board of directors of Triumph Gulf Coast, Inc., as
26 of a specified date; providing for the appointment of
27 the new members; requiring that the new members be
28 residents of certain disproportionately affected
29 counties; revising the duties of the independent

577-02381-17

2017364c1

30 certified public accountant that Triumph Gulf Coast,
31 Inc., is required to retain; deleting provisions
32 requiring Triumph Gulf Coast, Inc., to retain an
33 independent financial advisor and an economic advisor;
34 amending s. 288.8015, F.S.; deleting a provision
35 specifying that expenditures made by the board are
36 made from earnings; amending s. 288.8017, F.S.;

37 revising the source for awards made by Triumph Gulf
38 Coast, Inc.; conforming a provision to changes made by
39 the act; requiring that K-20 institutions have a
40 campus, rather than their home campus, in a
41 disproportionately affected county as a condition of
42 eligibility to receive certain grants; revising annual
43 restrictions on awards; repealing s. 377.43, F.S.,
44 relating to the disbursement of funds received for
45 damages caused by the Deepwater Horizon oil spill;
46 providing a directive to the Division of Law Revision
47 and Information; providing an effective date.

48
49 Be It Enacted by the Legislature of the State of Florida:

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

53 288.8012 Definitions.—As used in ss. 288.80-288.8017, the
54 term:

55 (5) "Settlement agreement" means the agreement between the
56 gulf states and the BP entities with respect to economic claims
57 arising from the Deepwater Horizon incident.

58 Section 2. Subsections (2), (3), and (4) of section

577-02381-17

2017364c1

59 288.8013, Florida Statutes, are amended to read:

60 288.8013 Triumph Gulf Coast, Inc.; Recovery Fund; creation;
61 investment.—

62 (2) (a) Triumph Gulf Coast, Inc., must create and administer
63 the Recovery Fund for the benefit of the disproportionately
64 affected counties. The principal of the fund shall derive from
65 75 percent of all moneys received by the state pursuant to the
66 settlement agreement funds recovered by the Attorney General for
67 economic damage to the state resulting from the Deepwater
68 Horizon disaster, after payment of reasonable and necessary
69 attorney fees, costs, and expenses, including such attorney
70 fees, costs, and expenses pursuant to s. 16.0155.

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

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

82 ~~(3) The Recovery Fund must be maintained as a long term and~~
83 ~~stable source of revenue, which shall decline over a 30-year~~
84 ~~period in equal amounts each year. Triumph Gulf Coast, Inc.,~~
85 shall establish a trust account at a federally insured financial
86 institution to hold funds and make deposits and payments, and
87 shall consult with the State Board of Administration and invest

577-02381-17

2017364c1

88 moneys from the settlement agreement in appropriate State Board
89 of Administration funds. Earnings generated by investments and
90 interest of the fund, plus the amount of principal available
91 each year, shall be available to make awards pursuant to this
92 act and pay administrative costs. Earnings must ~~shall~~ be
93 accounted for separately from principal funds set forth in
94 subsection (2). Administrative costs are limited to 0.75 ~~2.25~~
95 percent of the principal earnings in a calendar year.
96 Administrative costs include payment of investment fees, travel
97 and per diem expenses of board members, audits, salary or other
98 costs for employed or contracted staff, including required staff
99 under s. 288.8014(9), and other allowable costs. Triumph Gulf
100 Coast, Inc., shall cause an annual audit to be conducted of the
101 investments of the Recovery Fund by the independent certified
102 public accountant retained as required in s. 288.8014. Any funds
103 remaining in the Recovery Fund after 30 years shall revert to
104 the State Treasury.

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

110 ~~(a) The board of directors shall formulate an investment~~
111 ~~policy governing the investment of the principal of the Recovery~~
112 ~~Fund. The policy shall pertain to the types, kinds, or nature of~~
113 ~~investment of any of the funds, and any limitations, conditions~~
114 ~~or restrictions upon the methods, practices, or procedures for~~
115 ~~investment, reinvestments, purchases, sales, or exchange~~
116 ~~transactions, provided such policies shall not conflict with nor~~

577-02381-17

2017364c1

117 ~~be in derogation of any state constitutional provision or law.~~
118 ~~The policy shall be formulated with the advice of the financial~~
119 ~~advisor in consultation with the State Board of Administration.~~

120 ~~(b) Triumph Gulf Coast, Inc., must competitively procure~~
121 ~~one or more money managers, under the advice of the financial~~
122 ~~advisor in consultation with the State Board of Administration,~~
123 ~~to invest the principal of the Recovery Fund. The applicant~~
124 ~~manager or managers may not include representatives from the~~
125 ~~financial institution housing the trust account for the Recovery~~
126 ~~Fund. The applicant manager or managers must present a plan to~~
127 ~~invest the Recovery Fund to maximize earnings while prioritizing~~
128 ~~the preservation of Recovery Fund principal. Any agreement with~~
129 ~~a money manager must be reviewed by Triumph Gulf Coast, Inc.,~~
130 ~~for continuance at least every 5 years. Plans should include~~
131 ~~investment in technology and growth businesses domiciled in, or~~
132 ~~that will be domiciled in, this state or businesses whose~~
133 ~~principal address is in this state.~~

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

137 ~~(d) Annually, Triumph Gulf Coast, Inc., shall cause an~~
138 ~~audit to be conducted of the investment of the Recovery Fund by~~
139 ~~the independent certified public accountant retained in s.~~
140 ~~288.8014. The expense of such audit shall be paid from earnings~~
141 ~~for administrative purposes.~~

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

144 288.8014 Triumph Gulf Coast, Inc.; organization; board of
145 directors.—

577-02381-17

2017364c1

146 (2) Triumph Gulf Coast, Inc., initially shall be governed
147 by a five-member ~~5-member~~ board of directors. Each of the
148 Trustees of the State Board of Administration, the President of
149 the Senate, and the Speaker of the House of Representatives
150 shall ~~each~~ appoint one member from the private sector. As of the
151 effective date of this act, the number of board members
152 increases to seven, with the President of the Senate and the
153 Speaker of the House of Representatives each appointing an
154 additional private sector member from one of the four least
155 populous disproportionately affected counties as identified by
156 the United States Census Bureau in its March 2017 estimates of
157 county population, so that two such counties are represented on
158 the board. The board of directors shall annually elect a
159 chairperson from among the board's members. The chairperson may
160 be removed by a majority vote of the members. His or her
161 successor shall be elected to serve for the balance of the
162 removed chairperson's term. The chairperson is responsible to
163 ensure records are kept of the proceedings of the board of
164 directors and is the custodian of all books, documents, and
165 papers filed with the board; the minutes of meetings of the
166 board; and the official seal of Triumph Gulf Coast, Inc.

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

171 1. An independent certified public accountant licensed in
172 this state pursuant to chapter 473 to inspect the records of and
173 to annually audit the expenditure of the funds ~~earnings and~~
174 ~~available principal~~ disbursed by Triumph Gulf Coast, Inc.; and

577-02381-17

2017364c1

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

178 ~~3. An economic advisor who will assist in the award~~
179 ~~process, including the development of priorities, allocation~~
180 ~~decisions, and the application and process; will assist the~~
181 ~~board in determining eligibility of award applications and the~~
182 ~~evaluation and scoring of applications; and will assist in the~~
183 ~~development of award documentation.~~

184 2.4. A legal advisor with expertise in not-for-profit
185 investing and contracting and who is a member of The Florida Bar
186 to assist with contracting and carrying out the intent of this
187 act.

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

196 (c) Retained staff under paragraph (a) shall be available
197 to consult with the board of directors and shall attend meetings
198 of the board of directors. These individuals shall not be
199 permitted to vote on any matter before the board.

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

202 288.8015 Board of directors; powers.—In addition to the
203 powers and duties prescribed in chapter 617 and the articles and

577-02381-17

2017364c1

204 bylaws adopted in compliance with that chapter, the board of
205 directors may:

206 (2) Make expenditures including any necessary
207 administrative expenditure ~~from earnings~~ consistent with its
208 powers.

209

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

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

214 288.8017 Awards.—

215 (1) Triumph Gulf Coast, Inc., shall make awards from
216 available funds ~~earnings and principal~~ derived under s.
217 288.8013(2) to projects or programs that meet the priorities for
218 economic recovery, diversification, and enhancement of the
219 disproportionately affected counties, ~~notwithstanding s. 377.43.~~
220 Awards may be provided for:

221 (a) Ad valorem tax reduction within disproportionately
222 affected counties;

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

225 (c) Administrative funding for economic development
226 organizations located within the disproportionately affected
227 counties;

228 (d) Local match requirements of ss. 288.0655, 288.0659,
229 288.1045, and 288.106 for projects in the disproportionately
230 affected counties;

231 (e) Economic development projects in the disproportionately
232 affected counties;

577-02381-17

2017364c1

233 (f) Infrastructure projects that are shown to enhance
234 economic development in the disproportionately affected
235 counties;

236 (g) Grants to local governments in the disproportionately
237 affected counties to establish and maintain equipment and
238 trained personnel for local action plans of response to respond
239 to disasters, such as plans created for the Coastal Impacts
240 Assistance Program;

241 (h) Grants to support programs of excellence that prepare
242 students for future occupations and careers at K-20 institutions
243 that have ~~home~~ campuses in the disproportionately affected
244 counties. Eligible programs include those that increase
245 students' technology skills and knowledge; encourage industry
246 certifications; provide rigorous, alternative pathways for
247 students to meet high school graduation requirements; strengthen
248 career readiness initiatives; fund high-demand programs of
249 emphasis at the bachelor's and master's level designated by the
250 Board of Governors; and, similar to or the same as talent
251 retention programs created by the Chancellor of the State
252 University System and the Commission of Education, encourage
253 students with interest or aptitude for science, technology,
254 engineering, mathematics, and medical disciplines to pursue
255 postsecondary education at a state university within the
256 disproportionately affected counties; and

257 (i) Grants to the tourism entity created under s. 288.1226
258 for the purpose of advertising and promoting tourism, Fresh From
259 Florida, or related content on behalf of one or all of the
260 disproportionately affected counties.

261 (3) Triumph Gulf Coast, Inc., may make awards as

577-02381-17

2017364c1

262 applications are received or may establish application periods
263 for selection. Awards may not be used to finance 100 percent of
264 any project or program. Triumph Gulf Coast, Inc., may require a
265 one-to-one private-sector match or higher for an award, if
266 applicable and deemed prudent by the board of directors. An
267 awardee may not receive all of the ~~earnings or~~ available funds
268 ~~principal~~ in any given year.

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

270 Section 7. The Division of Law Revision and Information is
271 directed to replace the phrase "the effective date of this act"
272 where it occurs in this act with the date the act becomes
273 effective.

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