

CHAPTER 2017-63

House Bill No. 7077

An act relating to the Gulf Coast Economic Corridor; amending s. 288.80, F.S.; conforming provisions to changes made by the act; amending s. 288.8012, F.S.; defining and redefining terms; amending s. 288.8013, F.S.; deleting the creation and identification of purposes of the recovery fund; requiring a specified percentage of payments made to the state under a specified settlement of litigation related to the Deepwater Horizon oil spill be immediately transferred from the General Revenue Fund to the Triumph Gulf Coast Trust Fund; providing an appropriation and for the transfer of funds; providing requirements for the allocation of funds; requiring Triumph Gulf Coast, Inc., to make awards for projects or programs within disproportionately affected counties based on specified minimum allocations; requiring each board of county commissioners for such counties to solicit certain projects and programs from certain elected local governing boards; requiring such boards of county commissioners to provide Triumph Gulf Coast, Inc., with a list of projects and programs that are consistent with certain awards and priorities; providing a requirement for the list; providing for the disposition of any remaining funds; limiting administrative costs; requiring interest in the Triumph Gulf Coast, Inc., trust account to be deposited into the Triumph Gulf Coast Trust Fund; revising provisions related to the investment of funds in the trust account; limiting the annual salary of employees or contracted staff of Triumph Gulf Coast, Inc.; revising annual reporting requirements; amending s. 288.8014, F.S.; expanding the membership of the board of directors; specifying conditions for appointing additional board members; deleting references to the recovery fund; deleting obsolete language; revising conflict of interest restrictions imposed on board members of Triumph Gulf Coast, Inc.; removing the requirement that Triumph Gulf Coast, Inc., retain an independent financial advisor and an economic advisor; revising provisions relating to conflict of interest restrictions imposed on retained staff; amending s. 288.8015, F.S.; conforming a provision to changes made by the act; amending s. 288.8016, F.S.; requiring Triumph Gulf Coast, Inc., to publish on its website specified information before making an award; amending s. 288.8017, F.S.; conforming provisions to changes made by the act; revising provisions governing the uses of awards from Triumph Gulf Coast, Inc.; repealing s. 377.43, F.S., relating to the disbursement of funds received for damages caused by the Deepwater Horizon oil spill; specifying that certain conflict of interest restrictions imposed on board members of the Triumph Gulf Coast, Inc., apply to members appointed on or after a specified date; providing a directive to the Division of Law Revision and Information; providing an effective date.

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

Section 1. Section 288.80, Florida Statutes, is amended to read:

288.80 Short title.—This section and ss. 288.8011-288.8018 ~~ss. 288.8011-288.8017~~ may be cited as the “Gulf Coast Economic Corridor Act.”

Section 2. Section 288.8012, Florida Statutes, is amended to read:

288.8012 Definitions.—As used in ss. 288.8011-288.8018 ~~ss. 288.80-288.8017~~, the term:

(1) “Awardee” means a person, organization, or local government granted an award of funds as authorized in s. 288.8017 ~~from the Recovery Fund~~ for a project or program.

(2) “Department” means the Department of Economic Opportunity.

~~(3)(2)~~ “Disproportionately affected county” means Bay County, Escambia County, Franklin County, Gulf County, Okaloosa County, Santa Rosa County, Walton County, or Wakulla County.

~~(3)~~ “Earnings” means ~~all the income generated by investments and interest.~~

(4) “Settlement agreement” means the agreement entitled “Settlement Agreement Between the Gulf States and the BP Entities with Respect to Economic and Other Claims Arising from the Deepwater Horizon Incident,” which was entered into on October 5, 2015, in the case styled *In re: Oil Spill by the Oil Rig “Deepwater Horizon” in the Gulf of Mexico, on April 20, 2010*, MDL 2179 in the United States District Court for the Eastern District of Louisiana “Recovery Fund” means ~~a trust account established by Triumph Gulf Coast, Inc., for the benefit of the disproportionately affected counties.~~

Section 3. Section 288.8013, Florida Statutes, is amended to read:

288.8013 Triumph Gulf Coast, Inc.; ~~Recovery Fund~~; creation; funding; investment.—

(1) ~~There is created within the department of Economic Opportunity a nonprofit corporation, to be known as Triumph Gulf Coast, Inc., which shall be registered, incorporated, organized, and operated in compliance with chapter 617, and which is not a unit or entity of state government. Triumph Gulf Coast, Inc., may receive, hold, invest, and administer the Recovery Fund in support of this act. Triumph Gulf Coast, Inc., is a separate budget entity and is not subject to control, supervision, or direction by the department of Economic Opportunity in any manner, including, but not limited to, personnel, purchasing, transactions involving real or personal property, and budgetary matters.~~

(2) Seventy-five percent of all payments to the state pursuant to the settlement agreement shall be transferred immediately by the Chief Financial Officer from the General Revenue Fund to the Triumph Gulf Coast Trust Fund ~~Triumph Gulf Coast, Inc., must create and administer the Recovery Fund for the benefit of the disproportionately affected counties.~~

The principal of the fund shall derive from ~~75 percent of all funds recovered by the Attorney General for economic damage to the state resulting from the Deepwater Horizon disaster, after payment of reasonable and necessary attorney fees, costs, and expenses, including such attorney fees, costs, and expenses pursuant to s. 16.0155.~~

(a) Such funds are appropriated to Triumph Gulf Coast, Inc., and shall be released by the department for deposit into the trust account established by Triumph Gulf Coast, Inc., pursuant to subsection (3) as follows:

1. Seventy-five percent of the moneys received by the state pursuant to the settlement agreement on or before July 1, 2017, shall be immediately released to Triumph Gulf Coast, Inc.

2. Seventy-five percent of the moneys received by the state pursuant to the settlement agreement after July 1, 2017, shall be released to Triumph Gulf Coast, Inc., no later than 30 days after such funds are transferred to the Triumph Gulf Coast Trust Fund.

(b) Triumph Gulf Coast, Inc., shall make awards for projects or programs within the geographic boundaries of each disproportionately affected county based on the following minimum allocations:

1. At least 40 percent of the moneys transferred to Triumph Gulf Coast, Inc., pursuant to subparagraph (a)1., must be allocated equally among the eight disproportionately affected counties based on a minimum allocation of at least 5 percent per county.

2. For each transfer of funds to Triumph Gulf Coast, Inc., pursuant to subparagraph (a)2., at least 32 percent of the moneys must be allocated equally among the eight disproportionately affected counties based on a minimum allocation of at least 4 percent per county.

(c) Each board of county commissioners shall solicit proposed projects and programs from other elected local governing boards within the county and shall provide Triumph Gulf Coast, Inc., with a list of proposed projects and programs located within its county. The submitted list of proposed projects and programs must include projects and programs submitted by other elected local governing boards and projects and programs recommended by the board of county commissioners.

(d) Any remaining funds shall be allocated by Triumph Gulf Coast, Inc., for administrative costs and to make awards pursuant to s. 288.8017. Administrative costs may not exceed 0.75 percent of the funds released to Triumph Gulf Coast, Inc.

~~(3) The Recovery Fund must be maintained as a long term and stable source of revenue, which shall decline over a 30-year period in equal amounts each year. Triumph Gulf Coast, Inc., shall establish a trust account at a federally insured financial institution to hold funds received from the Triumph Gulf Coast Trust Fund and make deposits and payments. Interest~~

~~earned in the trust account shall be deposited monthly into the Triumph Gulf Coast Trust Fund. Triumph Gulf Coast, Inc., may invest surplus funds in the Local Government Surplus Funds Trust Fund, pursuant to s. 218.407, and interest earned, net of fees, shall be transferred monthly into the Triumph Gulf Coast Trust Fund Earnings generated by investments and interest of the fund, plus the amount of principal available each year, shall be available to make awards pursuant to this act and pay administrative costs. Earnings shall be accounted for separately from principal funds set forth in subsection (2). Administrative costs may are limited to 2.25 percent of the earnings in a calendar year. Administrative costs include payment of investment fees, travel and per diem expenses of board members, audits, salary or other costs for employed or contracted staff, including required staff under s. 288.8014(9), and other allowable costs. The annual salary for any employee or contracted staff may not exceed \$130,000 and associated benefits may not exceed 35 percent of salary Any funds remaining in the Recovery Fund after 30 years shall revert to the State Treasury.~~

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

~~(a) The board of directors shall formulate an investment policy governing the investment of the principal of the Recovery Fund. The policy shall pertain to the types, kinds, or nature of investment of any of the funds, and any limitations, conditions or restrictions upon the methods, practices, or procedures for investment, reinvestments, purchases, sales, or exchange transactions, provided such policies shall not conflict with nor be in derogation of any state constitutional provision or law. The policy shall be formulated with the advice of the financial advisor in consultation with the State Board of Administration.~~

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

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

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

~~(4)(5) Triumph Gulf Coast, Inc., shall report on June 30 and December 30 of each year to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the financial status of the Recovery Fund and its investments, the established priorities, the project and program selection process, including a list of all submitted projects and programs and reasons for approval or denial, and the status of all approved awards.~~

~~(5)(6) The Auditor General shall conduct an operational audit of the Recovery Fund and Triumph Gulf Coast, Inc., annually. Triumph Gulf Coast, Inc., shall provide to the Auditor General any detail or supplemental data required.~~

Section 4. Subsections (2), (3), (4), (7), and (9) of section 288.8014, Florida Statutes, are amended to read:

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

(2) Triumph Gulf Coast, Inc., shall initially be governed by a five-member ~~5-member~~ board of directors. Each of the Trustees of the State Board of Administration, the President of the Senate, and the Speaker of the House of Representatives shall each appoint one member from the private sector. As of the effective date of this act, the number of board members is increased to seven, with the President of the Senate and the Speaker of the House of Representatives each appointing an additional member from the private sector in one of the four least populous disproportionately affected counties, as identified by the United States Census Bureau in its April 2016 estimates of county populations, to ensure that two such counties are represented on the board. The board of directors shall annually elect a chairperson from among the board's members. The chairperson may be removed by a majority vote of the members. His or her successor shall be elected to serve for the balance of the removed chairperson's term. The chairperson is responsible to ensure records are kept of the proceedings of the board of directors and is the custodian of all books, documents, and papers filed with the board; the minutes of meetings of the board; and the official seal of Triumph Gulf Coast, Inc.

(3) Notwithstanding s. 20.052(4)(c), each initial appointment to the board of directors by the Board of Trustees of the State Board of Administration shall serve for a term that ends 4 years after the Legislature appropriates funds to Triumph Gulf Coast, Inc. ~~the Recovery Fund~~. To achieve staggered terms among the members of the board, each initial appointment to the board of directors by the President of the Senate and the Speaker of the House of Representatives shall serve for a term that ends 5 years after the Legislature appropriates funds to Triumph Gulf Coast, Inc. ~~the Recovery Fund~~. Thereafter, each member of the board of directors shall

serve for a term of 4 years. A member is not eligible for reappointment to the board; ~~except~~, however, any member appointed to fill a vacancy for a term of 2 years or less may be reappointed for an additional term of 4 years. ~~The initial appointments to the board must be made by November 15, 2013.~~ Vacancies on the board of directors shall be filled by the officer who originally appointed the member. A vacancy that occurs before the scheduled expiration of the term of the member shall be filled for the remainder of the unexpired term.

(4) The Legislature determines that it is in the public interest for the members of the board of directors to be subject to the requirements of ss. 112.313, 112.3135, and 112.3143, notwithstanding the fact that the board members are not public officers or employees. For purposes of those sections, the board members shall be considered to be public officers or employees. In addition to the postemployment restrictions of s. 112.313(9), a person appointed to the board of directors must agree to refrain from having any direct interest in any contract, franchise, privilege, project, program, or other benefit arising from an award by Triumph Gulf Coast, Inc., during the term of his or her appointment and for 6 2 years after the termination of such appointment. It is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, for a person to accept appointment to the board of directors in violation of this subsection or to accept a direct interest in any contract, franchise, privilege, project, program, or other benefit granted by Triumph Gulf Coast, Inc., to an awardee within 6 2 years after the termination of his or her service on the board. Further, each member of the board of directors who is not otherwise required to file financial disclosure under s. 8, Art. II of the State Constitution or s. 112.3144 shall file disclosure of financial interests under s. 112.3145.

(7) The board of directors shall meet at least quarterly, upon the call of the chairperson or at the request of a majority of the membership, to ~~review the Recovery Fund~~, establish and review priorities for economic recovery, diversification, and enhancement of the ~~in~~ disproportionately affected counties, and determine use of funds ~~the earnings~~ available. A majority of the members of the board of directors constitutes a quorum. Members may not vote by proxy.

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

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

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

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

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

~~(b) All Triumph Gulf Coast, Inc., shall require all employees of the corporation shall to comply with the code of ethics for public employees under part III of chapter 112. Retained staff under paragraph (a) must agree to refrain from having any direct interest in any contract, franchise, privilege, project, program, or other benefit arising from an award of funds by Triumph Gulf Coast, Inc., during the term of his or her appointment and for 6 2 years after the termination of such appointment.~~

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

Section 5. Subsection (2) of section 288.8015, Florida Statutes, is amended to read:

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

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

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

Section 6. Subsection (4) of section 288.8016, Florida Statutes, is amended to read:

288.8016 Triumph Gulf Coast, Inc.; duties.—Triumph Gulf Coast, Inc., shall have the following duties:

(4) Operate in a transparent manner, providing public access to information, notice of meetings, awards, and the status of projects and programs. To this end, Triumph Gulf Coast, Inc., shall maintain a website that provides public access to this information. At least 14 calendar days before approving an award pursuant to s. 288.8017, Triumph Gulf Coast, Inc., shall publish on the website a summary of the project or program and indicate its intent to approve the award.

Section 7. Section 288.8017, Florida Statutes, is amended to read:

288.8017 Awards.—

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

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

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

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

~~(b)(d) Local match requirements of s. 288.0655 ss. 288.0655, 288.0659, 288.1045, and 288.106 for projects in the disproportionately affected counties;~~

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

(c)(f) Public infrastructure projects for construction, expansion, or maintenance which that are shown to enhance economic recovery, diversification, and enhancement of development in the disproportionately affected counties;

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

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

(f) Grants to support programs that provide participants in the disproportionately affected counties with transferrable, sustainable workforce skills that are not confined to a single employer; and

(g)(i) Grants to the tourism entity created under s. 288.1226 for the purpose of advertising and promoting tourism and, Fresh From Florida, and grants to promote workforce and infrastructure, or related content on behalf of one or all of the disproportionately affected counties.

(2) Triumph Gulf Coast, Inc., shall establish an application procedure for awards and a scoring process for the selection of projects and programs that have the potential to generate increased economic activity in the disproportionately affected counties, giving priority to projects and programs that:

(a) Generate maximum estimated economic benefits, based on tools and models not generally employed by economic input-output analyses, including cost-benefit, return-on-investment, or dynamic scoring techniques to determine how the long-term economic growth potential of the disproportionately affected counties may be enhanced by the investment.

(b) Increase household income in the disproportionately affected counties above national average household income.

~~(c) Expand high growth industries or establish new high growth industries in the region.~~

~~1. Industries that are supported must have strong growth potential in the disproportionately affected counties.~~

~~2. An industry's growth potential is defined based on a detailed review of the current industry trends nationally and the necessary supporting asset base for that industry in the disproportionately affected counties region.~~

~~(c)(d) Leverage or further enhance key regional assets, including educational institutions, research facilities, and military bases.~~

~~(d)(e) Partner with local governments to provide funds, infrastructure, land, or other assistance for the project.~~

~~(f) Have investment commitments from private equity or private venture capital funds.~~

~~(g) Provide or encourage seed stage investments in start-up companies.~~

~~(h) Provide advice and technical assistance to companies on restructuring existing management, operations, or production to attract advantageous business opportunities.~~

~~(e)(i) Benefit the environment, in addition to the economy.~~

~~(f)(j) Provide outcome measures for programs of excellence support, including terms of intent and metrics.~~

(g)(k) Partner with K-20 educational institutions or school districts located within the disproportionately affected counties as of January 1, 2017.

(h) Are recommended by the board of county commissioners of the county in which the project or program will be located.

(i)(4) Partner with convention and visitor bureaus, tourist development councils, or chambers of commerce located within the disproportionately affected counties.

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

(4) A contract executed by Triumph Gulf Coast, Inc., with an awardee must include provisions requiring a performance report on the contracted activities, must account for the proper use of funds provided under the contract, and must include provisions for recovery of awards in the event the award was based upon fraudulent information or the awardee is not meeting the performance requirements of the award. Awardees must regularly report to Triumph Gulf Coast, Inc., the expenditure of funds and the status of the project or program on a schedule determined by the corporation.

Section 8. Section 377.43, Florida Statutes, is repealed.

Section 9. The revision made by this act to s. 288.8014(4), Florida Statutes, applies only to persons who are appointed to serve on the board of directors of Triumph Gulf Coast, Inc., on or after July 1, 2017.

Section 10. The Division of Law Revision and Information is directed to replace the phrase "the effective date of this act" where it occurs in this act with the date this act takes effect.

Section 11. This act shall take effect upon becoming a law.

Approved by the Governor June 2, 2017.

Filed in Office Secretary of State June 2, 2017.