



Select Committee on Triumph Gulf Coast

January 12, 2017
4:00 PM – 6:00 PM
404 HOB

Meeting Packet

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Select Committee on Triumph Gulf Coast

Start Date and Time: Thursday, January 12, 2017 04:00 pm
End Date and Time: Thursday, January 12, 2017 06:00 pm
Location: Sumner Hall (404 HOB)
Duration: 2.00 hrs

Presentations relating to:

Flow of Deepwater Horizon Funds in Florida

The Gulf Consortium

Relevant Florida Law

NOTICE FINALIZED on 01/05/2017 4:04PM by Kaiser,Debbi

**Flow of Deepwater Horizon
Funds in Florida**



Florida Department of Environmental Protection

Deepwater Horizon Oil Spill

House Select Committee on Triumph Gulf Coast

Drew Bartlett

Deputy Secretary for Ecosystem
Restoration

January 12, 2017





Deepwater Horizon Oil Spill

April 20, 2010 - Explosion and oil spill

July 15, 2010 - Well capped

April 20, 2011 - BP agrees to \$1 billion in NRDA
early restoration

July 6, 2012 - RESTORE Act signed into law

April 4, 2016 - BP Consent Decree entered - \$20.8
billion



State Economic Claims

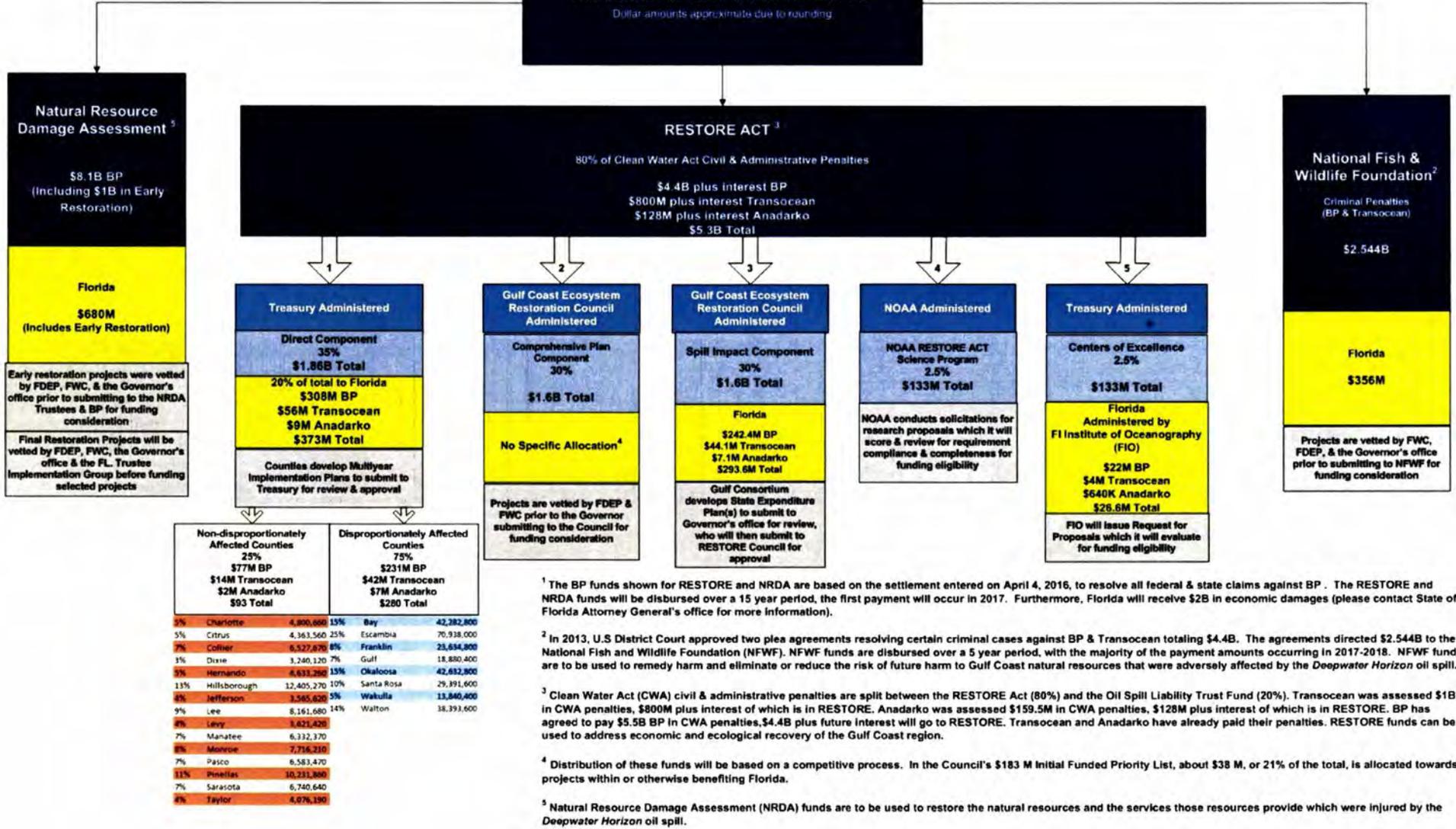
- \$4.9 billion will be paid to resolve the Gulf Coast states' economic claims:
 - Florida: \$2 billion
 - \$400 million in 2016
 - \$106,666,666 in annual payments 2019 thru 2033
 - Louisiana: \$1 billion
 - Alabama: \$1 billion
 - Mississippi: \$750 million
 - Texas: \$150 million
- Triumph Gulf Coast, Inc. (Chapter 288, Part VI, F.S.) created to administer 75% of these funds for the benefit of the eight disproportionately affected Panhandle counties
- An additional \$1 billion will be paid directly to local governments to resolve claims made by more than 400 entities across the 5 Gulf Coast states



Environmental Claims

Resolution of Environmental Claims¹

Dollar amounts approximate due to rounding



¹ The BP funds shown for RESTORE and NRDA are based on the settlement entered on April 4, 2016, to resolve all federal & state claims against BP. The RESTORE and NRDA funds will be disbursed over a 15 year period, the first payment will occur in 2017. Furthermore, Florida will receive \$2B in economic damages (please contact State of Florida Attorney General's office for more information).

² In 2013, U.S District Court approved two plea agreements resolving certain criminal cases against BP & Transocean totaling \$4.4B. The agreements directed \$2.544B to the National Fish and Wildlife Foundation (NFWF). NFWF funds are disbursed over a 5 year period, with the majority of the payment amounts occurring in 2017-2018. NFWF funds are to be used to remedy harm and eliminate or reduce the risk of future harm to Gulf Coast natural resources that were adversely affected by the Deepwater Horizon oil spill.

³ Clean Water Act (CWA) civil & administrative penalties are split between the RESTORE Act (80%) and the Oil Spill Liability Trust Fund (20%). Transocean was assessed \$1B in CWA penalties, \$800M plus interest of which is in RESTORE. Anadarko was assessed \$159.5M in CWA penalties, \$128M plus interest of which is in RESTORE. BP has agreed to pay \$5.5B BP in CWA penalties, \$4.4B plus future interest will go to RESTORE. Transocean and Anadarko have already paid their penalties. RESTORE funds can be used to address economic and ecological recovery of the Gulf Coast region.

⁴ Distribution of these funds will be based on a competitive process. In the Council's \$183 M Initial Funded Priority List, about \$38 M, or 21% of the total, is allocated towards projects within or otherwise benefiting Florida.

⁵ Natural Resource Damage Assessment (NRDA) funds are to be used to restore the natural resources and the services those resources provide which were injured by the Deepwater Horizon oil spill.



Natural Resource Damage Assessment \$8.1 Billion total

Natural Resource Damage Assessment ⁵

\$8.1B BP
(Including \$1B in Early
Restoration)

Florida
\$680M
(Includes Early Restoration)

Early restoration projects were vetted by FDEP, FWC, & the Governor's office prior to submitting to the NRDA Trustees & BP for funding consideration

Final Restoration Projects will be vetted by FDEP, FWC, the Governor's office & the FL. Trustee Implementation Group before funding selected projects

- NRDA Early Restoration resulted in 55 authorized projects in Florida totaling about \$152 million
- About \$530 million will be available for future NRDA restoration projects
- BP Payment schedule:
 - \$36.6 million in April 2017
 - \$18.3 million in 2018
 - \$36.6 million in years 2019-2031

RESTORE ACT

80% of Clean Water Act and Administrative Penalties

\$5.33 billion total:

\$4.4 billion plus interest BP; \$800 million plus interest Transocean; \$127.6 million Anadarko



Non-disproportionately Affected Counties 25% \$77M BP \$14M Transocean \$2M Anadarko \$93 Total			Disproportionately Affected Counties 75% \$231M BP \$42M Transocean \$7M Anadarko \$280 Total		
5%	Charlotte	4,800,000	15%	Bay	42,282,800
5%	Citrus	4,361,561	5%	Escambia	70,918,000
7%	Collier	6,527,671	8%	Franklin	23,634,800
5%	Dixie	1,240,120	7%	Gulf	18,880,400
5%	Hernando	4,633,269	15%	Okaloosa	42,632,800
11%	Hillsborough	12,405,271	10%	Santa Rosa	29,391,000
8%	Jefferson	3,565,620	5%	Wakulla	13,840,400
9%	Lee	8,161,680	14%	Walton	38,391,600
8%	Levy	3,621,421			
7%	Manatee	6,832,370			
8%	Monroe	7,716,210			
7%	Pasco	6,583,470			
11%	Pinellas	10,231,860			
7%	Sarasota	6,740,640			
8%	Taylor	4,076,190			

- \$65 million currently available to 23 Counties through Transocean and Anadarko payments
- Additional \$308 million will become available through future BP payments
- BP Payment schedule:
 - \$21.2 million in April 2017
 - \$10.6 million in 2018
 - \$21.2 million in years 2019-2031

RESTORE ACT

80% of Clean Water Act and Administrative Penalties

\$5.33 billion total:

\$4.4 billion plus interest BP; \$800 million plus interest Transocean; \$127.6 million Anadarko

2

Projects Authorized To Date

**Gulf Coast Ecosystem
Restoration Council
Administered**

**Comprehensive Plan
Component
30%**

\$1.6B Total

No Specific Allocation⁴

**Projects are vetted by FDEP &
FWC prior to the Governor
submitting to the Council for
funding consideration**



**7 Florida Sponsored Projects –
\$16.4 million**



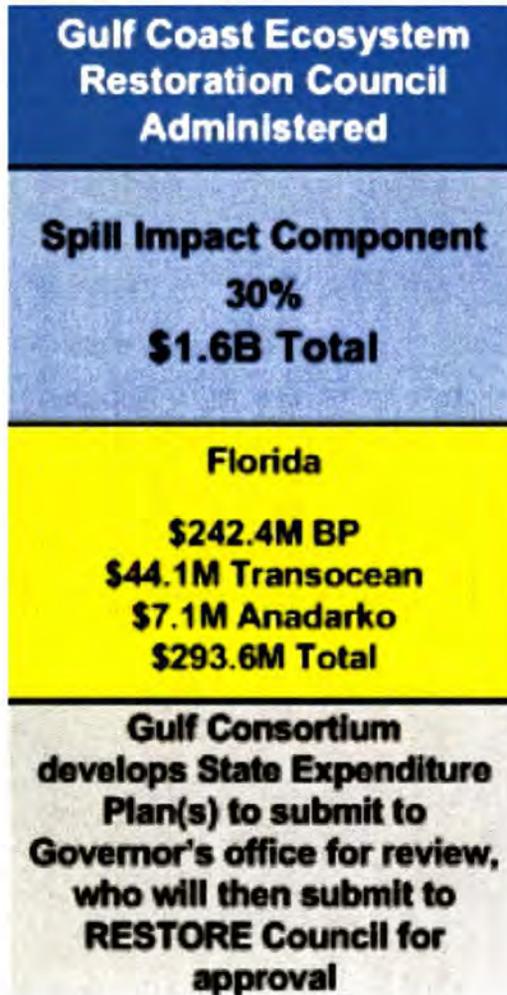
**5 Federal Agency Projects –
\$10.2 million**

RESTORE ACT

80% of Clean Water Act and Administrative Penalties

\$5.33 billion total:

\$4.4 billion plus interest BP; \$800 million plus interest Transocean; \$127.6 million Anadarko



- \$51.2 million currently available to Gulf Consortium through Transocean and Anadarko payments
- Additional \$242.4 million will become available through future BP payments
- BP Payment schedule:
 - \$16.7 million in April 2017
 - \$8.4 million in 2018
 - \$16.7 million in years 2019-2031

RESTORE ACT

80% of Clean Water Act and Administrative Penalties

\$5.33 billion total:

\$4.4 billion plus interest BP; \$800 million plus interest Transocean; \$127.6 million Anadarko

4

NOAA Administered

**NOAA RESTORE ACT
Science Program
2.5%
\$133M Total**

NOAA conducts solicitations for research proposals which it will score & review for requirement compliance & completeness for funding eligibility

5

Treasury Administered

**Centers of Excellence
2.5%
\$133M Total**

**Florida
Administered by
FI Institute of Oceanography
(FIO)**

**\$22M BP
\$4M Transocean
\$640K Anadarko
\$26.6M Total**

FIO will issue Request for Proposals which it will evaluate for funding eligibility

- \$4.6 million currently available to FIO through Transocean and Anadarko payments
- Additional \$22 million will become available through future BP payments
- BP Payment schedule:
 - \$1.5 million in April 2017
 - \$0.76 million in 2018
 - \$1.5 million in years 2019-2031



National Fish & Wildlife Foundation Criminal Penalties \$2.54 billion total

Year	Projects	Amount
2013	6	\$14.7 million
2014	9	\$34.4 million
2015	6	\$19.7 million
2016	4	\$32.1 million

National Fish & Wildlife Foundation²

Criminal Penalties
(BP & Transocean)

\$2.544B

Florida

\$356M

Projects are vetted by FWC, FDEP, & the Governor's office prior to submitting to NFWF for funding consideration



Projects Authorized in Florida

Total Deepwater Horizon projects authorized to date

Funding	No. of Projects	Amount
NRDA	55	\$152 million
RESTORE	12	\$26 million
NFWF	25	\$101 million
MOEX Offshore LLC*	8	\$10 million
Total	100	\$ 289 million

* \$10 million civil settlement by a 10% non-operating investor in the lease on the Macondo well at the time of the *Deepwater Horizon* oil spill



Contact Information

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Presentation to House Select Committee on Triumph Gulf Coast

Sarah M. Bleakley, Esq.
Nabors, Giblin & Nickerson, P.A.
Gulf Consortium General Counsel
January 12, 2017

RESTORE Act Funds for Florida

- * Direct County Allocation: Bucket 1
- * Restoration Council Allocation: Bucket 2
- * Gulf Consortium Allocation: Bucket 3

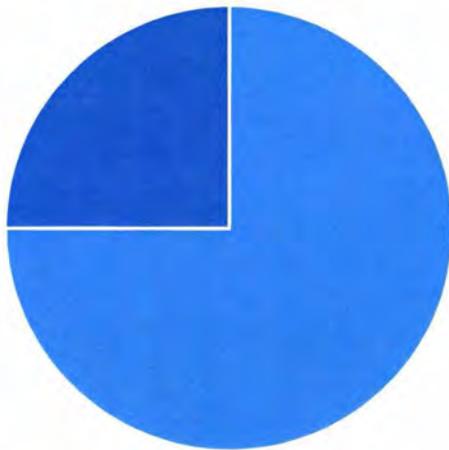
Bucket 1: Direct Allocation To States and in Florida to the Counties

- * 7% of Restoration Trust Fund (RTF) to each of the 5 Gulf States
- * Federal grants for environmental and economic restoration
- * Uniquely, all of Florida's 7 % share is directed to the 23 Gulf Coast Counties

Bucket 1: Direct Allocation Among FL Counties

Jefferson
Taylor
Dixie
Levy
Citrus
Hernando
Pasco
Pinellas
Hillsborough
Manatee
Sarasota
Charlotte
Lee
Collier
Monroe

Consortium Counties



Escambia
Santa Rosa
Okaloosa
Bay
Gulf
Franklin
Wakulla

- * \$373 million total
- * 75% earmarked for the 8 counties Disproportionately Affected- \$280 million
- * 25 % for the other 15 Gulf Coast counties-\$93 million

Direct Allocation to Counties Bucket 1: Administration

- * RESTORE requires each county develop a Multi-Year Implementation Plan
- * U.S. Treasury approval of county plans required
- * U.S. Treasury oversight, including audits, rules, transparency, public participation, and conformance to the uniform grant & procurement requirements
- * State law applies, including public records, open meetings, audits, budgeting, etc.
- * 23 Counties are in various stages of development, submittal and implementation of the plans
- * Treasury posts status of implementation and grant awards :
<https://www.treasury.gov/services/restore-act/Pages/home.aspx>

Restoration Council Allocation: Bucket 2 Competitive Project Funding

- * 30% of the Restore Funds are allocated to the Council to develop and carry out a *Comprehensive Plan*
- * Use of funds: The federal act requires the Council to undertake “projects and programs, using the best available science, that would restore and protect natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, coastal wetlands, and economy of the Gulf Coast.”
- * Council projects are competitively selected, from projects submitted by one of the Council’s membership States or federal agencies.
- * Florida has successfully competed for Council funds. See DEP slide 7.

Bucket 2: Restoration Council Allocation

- * New Federal/State Agency
- * 11 Member Council
 - * Governors of each of the five Gulf Coast States
 - * One each from the following 6 federal agencies
 - * Secretary of Interior
 - * Secretary of the Army
 - * Secretary of Commerce
 - * EPA Administrator
 - * Secretary of Agriculture
 - * Head of Coast Guard

Gulf Consortium Allocation: Bucket 3

- * RESTORE Act allocates 30 % of RESTORE Funds to the Gulf Coast States to develop and implement a State Expenditure Plan.
- * Unique among the 5 Gulf Coast States, Florida's share is expressly directed to "a consortia of local political subdivisions that includes at a minimum a least 1 representative of each affected county." RESTORE Act.
- * The Consortium develops the State Expenditure Plan, submits it for approval to the Governor, who submits it to the Council for approval.
- * Use of funds include environmental and economic projects, programs and activities as defined in the RESTORE Act and as consistent with the Restoration Council Comprehensive Plan.

Gulf Consortium Fundamentals

- * Gulf Consortium is a public entity created by interlocal agreement among the boards of county commissioners of the 23 counties; adopted in September 2012
- * Governance: Each county has one representative on the Board of Directors
- * Consortium is subject to state law requirements of open meetings, public records, audits, budgeting, etc.
- * In June, 2013, the Governor and Consortium entered into a Memorandum of Agreement that expresses terms of mutual cooperation in developing the State Expenditure Plan.

Restoration Council: Bucket 3 Oversight Duties

- * The Council consists of Governors from the five states and the heads of six federal agencies.
- * Council approves Bucket 3 State Expenditure Plans developed and submitted by the 5 Gulf Coast States.
- * Council awards and oversees the federal grants funding for projects, programs and activities for Gulf Coast States.
- * U. S. Treasury has audit responsibilities.

Consortium Distribution Among Counties

23 Consortium Counties



■ Bay	■ Charlotte	■ Citrus	■ Collier	■ Dixie	■ Escambia
■ Franklin	■ Gulf	■ Hernando	■ Hillsborough	■ Jefferson	■ Lee
■ Levy	■ Manatee	■ Monroe	■ Okaloosa	■ Pasco	■ Pinellas
■ Santa Rosa	■ Sarasota	■ Taylor	■ Wakulla		

- * \$293.6 million total from RESTORE Act
- * \$242 of the total is from the BP settlement and is available incrementally over a 15 year time period.
- * Remainder is in trust fund available for distribution upon Council approval of the state expenditure plan and approval of federal grants.
- * Board approved Even Steven Shares for allocation of the amounts among the counties to be incorporated into the State Expenditure Plan.
- * Averages for each county \$900k per year or \$12.7 million over the 15 years.

Gulf Consortium Administration

- * Currently managed by contract with the Florida Association of Counties, the Consortium is in process of competitively procuring a management company.
- * Leon County provides procurement services.
- * Consortium competitively bid for General Counsel.
- * Consortium competitively bid for services to develop the State Expenditure Plan and grant funding. Environmental Science Associates (ESA).
- * Leon County Clerk of Court provides financial services related to grant funds.
- * In June 2016, Council awarded a \$4.6 million federal grant to the Consortium to develop the SEP.

Consortium: State Expenditure Plan

- * Consortium is in the process of gathering projects from each of the 23 counties for inclusion into the State Expenditure Plan.
- * ESA consultant has met with each county, solicited projects, conducted a cursory evaluation of the projects, developed a very preliminary list and reported to the Gulf Consortium in November 2016.
- * Water quality projects dominate.

Consortium Looking Ahead

- * Continue partnership with DEP and Governor.
- * Develop a more refined State Expenditure Plan.
 - * County approval of projects
 - * Conduct feasibility studies as necessary
 - * Sequence projects over the 15 year funding cycle.
- * Adopt and submit the State Expenditure Plan to the Governor and then the Council.
- * Navigate the RESTORATION Council processes and the federal grant process.

Questions?

More Information:

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<http://www.fl-counties.com/gulf-consortium>



FLORIDA HOUSE OF
REPRESENTATIVES

Florida Law Governing State Economic Damages from the Deepwater Horizon Oil Spill





Payment Schedule for Florida Claim Payment

2016.....	\$400,000,000
2017.....	
2018.....	
2019.....	\$106,666,666
2020.....	\$106,666,666
2021.....	\$106,666,666
2022.....	\$106,666,666
2023.....	\$106,666,666
2024.....	\$106,666,666
2025.....	\$106,666,666
2026.....	\$106,666,666
2027.....	\$106,666,666
2028.....	\$106,666,666
2029.....	\$106,666,666
2030.....	\$106,666,666
2031.....	\$106,666,666
2032.....	\$106,666,666
2033.....	\$106,666,676



Deposit of Settlement Funds

“When a state agency or officer settles an action in which the state will receive moneys, the funds shall be placed in the General Revenue Fund or in the trust fund that is associated with the agency's or officer's authority to pursue the legal action.” (Section 216.216, F.S.)

“Subsequent inconsistent laws shall supersede this chapter only to the extent that they do so by express reference to this section.” (Section 216.351, F.S.)



Section 377.43, Florida Statutes

(Passed in 2011)

- Any funds received by the state from any governmental or private entity for damages caused by the Deepwater Horizon oil spill shall be deposited into the applicable state trust funds and expended pursuant to state law or as approved by the Legislative Budget Commission.
- The Department of Environmental Protection is designated the lead agency for expending the funds designated for environmental restoration efforts. The Department of Economic Opportunity is designated the lead agency for expending the funds designated for economic incentives and diversification.



Section 377.43, Florida Statutes

(Passed in 2011)

- Seventy-five percent of such moneys may be used for allowed expenditures related to the eight disproportionately affected counties.
- The remaining twenty-five percent of such moneys may be used for allowed expenditures related to non-disproportionately affected counties.
- The eight disproportionately affected counties are: Bay, Escambia, Franklin, Gulf, Okaloosa, Santa Rosa, Walton and Wakulla Counties.



Section 377.43, Florida Statutes

(Passed in 2011)

- Seventy-five percent of the moneys may be used in the eight disproportionately affected counties for:
 - Scientific research into the impact of the oil spill on fisheries and coastal wildlife and vegetation along the shoreline and the development of strategies to implement restoration measures suggested by such research
 - Environmental restoration of coastal areas damaged by the oil spill
 - Economic incentives, and



Section 377.43, Florida Statutes

(Passed in 2011)

- Initiatives to expand and diversify the economies of any county.
- The remaining 25 percent of such moneys may be used in non-disproportionately affected counties for:
 - Scientific research into the impact of the oil spill on fisheries and coastal wildlife and vegetation along the state's shoreline, and the development of strategies to implement restoration measures suggested by such research



Section 377.43, Florida Statutes

(Passed in 2011)

- Environmental restoration of coastal areas damaged by the oil spill
- Economic incentives, and
- Initiatives to expand and diversify the economies of any county.



Gulf Coast Economic Corridor Act

(Passed in 2013 and Amended in 2014)

- The act addresses the use of 75 percent of all funds recovered by the Attorney General for economic damage to the state resulting from the Deepwater Horizon disaster.
- The statute does not address the initial deposit of funds, but does create Triumph Gulf Coast, Inc., and directs it to create and administer the Recovery Fund for the benefit of the eight disproportionately affected counties.
- The statute provides for the principal of the Recovery Fund to be derived from the seventy-five percent of funds recovered by the Attorney General.



Gulf Coast Economic Corridor Act

(Passed in 2013 and Amended in 2014)

- Triumph Gulf Coast, Inc., is created as a nonprofit corporation within the Department of Economic Opportunity, but is not a unit or entity of state government, and is a separate budget entity not subject to control, supervision, or direction by the department in any manner.
- A five member board of directors is to govern Triumph Gulf Coast, Inc. The board is composed of individuals from the private sector, with the Trustees of the State Board of Administration, the President of the Senate, and the Speaker of the House of Representatives each appointing one member to the board.



Gulf Coast Economic Corridor Act

(Passed in 2013 and Amended in 2014)

- Members of the board serve without compensation for a term of 4 years.
- However, travel and per diem expenses as provided under s. 112.061, F.S., are allowed.
- The initial appointments to the board must be made by November 15, 2013.



Gulf Coast Economic Corridor Act

(Passed in 2013 and Amended in 2014)

- Members of the board are subject to the standards of conduct, post-employment restrictions, and disclosure requirements that are required of public officers and employees.
- The statute provides for the removal of board members.
- Triumph Gulf Coast, Inc., is authorized to invest and reinvest the principal of the Recovery Fund (Fund) in accordance with s. 617.2104, F.S., in order to maintain a stable source of revenue. Funds are to be expensed over a 30-year period in equal amounts each year.



Gulf Coast Economic Corridor Act

(Passed in 2013 and Amended in 2014)

- Triumph Gulf Coast is required to procure one or more money managers and must retain:
 - An independent certified public accountant
 - An independent financial advisor
 - An economic advisor
 - A legal advisor

- Administrative costs are limited to 2.25 percent of the earnings in a calendar year.



Gulf Coast Economic Corridor Act

(Passed in 2013 and Amended in 2014)

- In addition to managing the Fund, Triumph Gulf Coast, Inc., is created to make awards from available earnings and principal derived from the Fund to projects or programs that meet the priorities for economic recovery, diversification, and enhancement of the disproportionately affected counties.
- **Notwithstanding s. 377.43, F.S.**, awards from the Fund may be provided for the following in the disproportionately affected counties:



Gulf Coast Economic Corridor Act

(Passed in 2013 and Amended in 2014)

- Ad valorem tax reduction
- Payment of impact fees adopted pursuant to s. 163.31801, F.S.
- Administrative funding for economic development organizations
- Local match requirements for projects related to the:
 - Rural Infrastructure Fund;



Gulf Coast Economic Corridor Act

(Passed in 2013 and Amended in 2014)

- Local Government Distressed Area Matching Grant Program
- Qualified Defense Contractor and Space Flight Business Tax Refund Program
- Tax Refund Program for Qualified Target Industry Businesses
- Economic development projects



Gulf Coast Economic Corridor Act

(Passed in 2013 and Amended in 2014)

- Infrastructure projects that are shown to enhance economic development
- Grants to local governments to establish and maintain equipment and trained personnel for local action plans of response to respond to disasters
- Grants to support programs of excellence that prepare students for future occupations and careers at K-20 institutions



Gulf Coast Economic Corridor Act

(Passed in 2013 and Amended in 2014)

- Grants to the tourism entity created under s. 288.1226, F.S., for the purpose of advertising and promoting tourism, Fresh From Florida, or related content on behalf of one or all of the disproportionately affected counties.



Gulf Coast Economic Corridor Act

(Passed in 2013 and Amended in 2014)

- Annually, Triumph Gulf Coast, Inc., must have an audit conducted by the certified public accountant it is required to retain.
- Triumph Gulf Coast, Inc., must submit biannual status reports to the Governor, the President, and the Speaker.
- The Auditor General is required to conduct an operational audit of the Recovery Fund and Triumph Gulf Coast, Inc., annually, and every two years must conduct an operational audit of a local government entity's funds related to the Deepwater Horizon oil spill.

2016 Florida Statutes

CHAPTER 288 PART VI GULF COAST ECONOMIC CORRIDOR

288.80	Short title
288.8011	Gulf Coast Economic Corridor; legislative intent.
288.8012	Definitions.
288.8013	Triumph Gulf Coast, Inc.; Recovery Fund; creation; investment.
288.8014	Triumph Gulf Coast, Inc.; organization; board of directors.
288.8015	Board of directors; powers.
288.8016	Triumph Gulf Coast, Inc.; duties.
288.8017	Awards.
288.8018	Gulf Coast audits.

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

History.—s. 51, ch. 2013-39.

288.8011 Gulf Coast Economic Corridor; legislative intent.—The Legislature recognizes that fully supporting areas affected by the Deepwater Horizon disaster to ensure goals for economic recovery and diversification are achieved is in the best interest of the citizens of the state. The Legislature intends to provide a long-term source of funding for efforts of economic recovery and enhancement in the Gulf Coast region. The Legislature finds that it is important to help businesses, individuals, and local governments in the Gulf Coast region recover.

History.—s. 52, ch. 2013-39.

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

- (1) “Awardee” means a person, organization, or local government granted an award of funds from the Recovery Fund for a project or program.
- (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) “Recovery Fund” means a trust account established by Triumph Gulf Coast, Inc., for the benefit of the disproportionately affected counties.

History.—s. 53, ch. 2013-39.

288.8013 Triumph Gulf Coast, Inc.; Recovery Fund; creation; 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) 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.

2016 Florida Statutes

(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 and make deposits and payments. 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 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. 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.

(5) Triumph Gulf Coast, Inc., shall report on June 30 and December 30 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 reasons for approval or denial, and the status of all approved awards.

(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.

History.—s. 54, ch. 2013-39; s. 7, ch. 2014-218.

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

(1) Triumph Gulf Coast, Inc., is subject to the provisions of chapter 19 relating to public records and those provisions of chapter 286 relating to public meetings and records.

(2) Triumph Gulf Coast, Inc., shall be governed by a 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. 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

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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 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 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 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 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.

(5) Each member of the board of directors shall serve without compensation, but shall receive travel and per diem expenses as provided in s. 112.061 while in the performance of his or her duties.

(6) Each member of the board of directors is accountable for the proper performance of the duties of office, and each member owes a fiduciary duty to the people of the state to ensure that awards provided are disbursed and used, and investments are made, as prescribed by law and contract. An appointed member of the board of directors may be removed by the officer that appointed the member for malfeasance, misfeasance, neglect of duty, incompetence, permanent inability to perform official duties, unexcused absence from three consecutive meetings of the board, arrest or indictment for a crime that is a felony or a misdemeanor involving theft or a crime of dishonesty, or pleading nolo contendere to, or being found guilty of, any crime.

(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 in disproportionately affected counties, and determine use of the earnings available. A majority of the members of the board of directors constitutes a quorum. Members may not vote by proxy.

(8) The executive director of the Department of Economic Opportunity, or his or her designee, the secretary of the Department of Environmental Protection, or his or her designee, and the chair of the Committee of 8 Disproportionally Affected Counties, or his or her designee, shall be available to consult with the board of directors and may be requested to attend meetings of the board of directors. These individuals shall not be permitted to vote on any matter before the board.

(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 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.

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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.

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) Triumph Gulf Coast, Inc., shall require all employees of the corporation 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 by Triumph Gulf Coast, Inc., during the term of his or her appointment and for 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.

History.—s. 55, ch. 2013-39; s. 8, ch. 2014-218.

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:

(1) Make and enter into contracts and other instruments necessary or convenient for the exercise of its powers and functions.

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

(3) Adopt, use, and alter a common corporate seal. Notwithstanding any provision of chapter 617 to the contrary, this seal is not required to contain the words “corporation not for profit.”

(4) Adopt, amend, and repeal bylaws, not inconsistent with the powers granted to it or the articles of incorporation, for the administration of the activities of Triumph Gulf Coast, Inc., and the exercise of its corporate powers.

(5) Use the state seal, notwithstanding the provisions of s. 15.03, when appropriate, for standard corporate identity applications. Use of the state seal is not intended to replace use of a corporate seal as provided in this section.

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

History.—s. 56, ch. 2013-39.

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

(1) Manage responsibly and prudently all funds received, and ensure that the use of such funds is in accordance with all applicable laws, bylaws, or contractual requirements.

(2) Administer the program created under this act.

(3) Monitor, review, and annually evaluate awardees and their projects or programs to determine whether an award should be continued, terminated, reduced, or increased.

(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.

History.—s. 57, ch. 2013-39.

288.8017 Awards.—

(1) Triumph Gulf Coast, Inc., shall make awards from available 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:

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- (a) Ad valorem tax 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;
 - (d) Local match requirements of 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;
 - (f) Infrastructure projects that are shown to enhance economic development in the disproportionately affected counties;
 - (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;
 - (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 within the disproportionately affected counties; and
 - (i) Grants to the tourism entity created under s. 288.1226 for the purpose of advertising and promoting tourism, Fresh From Florida, 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.
 - (d) Leverage or further enhance key regional assets, including educational institutions, research facilities, and military bases.
 - (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.
 - (i) Benefit the environment in addition to the economy.
 - (j) Provide outcome measures for programs of excellence support, including terms of intent and metrics.

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(k) Partner with K-20 educational institutions or school districts located within the disproportionately affected counties.

(l) 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 earnings or available principal in any given year.

(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 status of the project or program on a schedule determined by the corporation.

History.—s. 58, ch. 2013-39.

288.8018 Gulf Coast audits.—

(1) The scope of a financial audit conducted pursuant to s. 218.39 shall include funds related to the Deepwater Horizon oil spill for any year in which a local government entity receives or expends funds related to the Deepwater Horizon oil spill, including any funds under s. 288.8017 or under 33 U.S.C. s. 1321(t). The scope of review for these funds shall include, but is not limited to, compliance with state and federal laws related to the receipt and expenditure of these funds.

(2) Every 2 years, the Auditor General shall conduct an operational audit, as defined in s. 11.45, of a local government entity's funds related to the Deepwater Horizon oil spill to evaluate the local government entity's performance in administering laws, policies, and procedures governing the expenditure of funds related to the Deepwater Horizon oil spill in an efficient and effective manner. The scope of review shall include, but is not limited to, evaluating internal controls, internal audit functions, reporting and performance requirements required for use of the funds, and compliance with state and federal law. The audit shall include any funds the local government entity receives or expends related to the Deepwater Horizon oil spill, including any funds under s. 288.8017 or under 33 U.S.C. s. 1321(t).

(3) In addition to the rules of the Auditor General adopted under s. 11.45(8), the Auditor General shall adopt rules for the form and conduct of all financial audits performed by independent certified public accountants and for audits of local government entities conducted under this section for funds received under 33 U.S.C. s. 1321(t). Such rules shall take into account the rules for such audits set forth by the Secretary of the Treasury pursuant to 33 U.S.C. s. 1321(t).

(4) The Auditor General may report findings to the Secretary of the Treasury of the United States in addition to the reporting requirements under state law.

History.—s. 59, ch. 2013-39.

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CHAPTER 377

377.43 Disbursement of funds received for damages caused by the Deepwater Horizon oil spill.—

(1) For purposes of this section, the term “Disproportionally Affected County” means Bay County, Escambia County, Franklin County, Gulf County, Okaloosa County, Santa Rosa County, Walton County, or Wakulla County.

(2) Any funds received by the state from any governmental or private entity for damages caused by the Deepwater Horizon oil spill shall be deposited into the applicable state trust funds and expended pursuant to state law or as approved by the Legislative Budget Commission.

(3) Seventy-five percent of such moneys may be used for:

(a) Scientific research into the impact of the oil spill on fisheries and coastal wildlife and vegetation along any Disproportionally Affected County’s shoreline and the development of strategies to implement restoration measures suggested by such research;

(b) Environmental restoration of coastal areas damaged by the oil spill in any Disproportionally Affected County;

(c) Economic incentives directed to any Disproportionally Affected County; and

(d) Initiatives to expand and diversify the economies of any Disproportionally Affected County.

(4) The remaining 25 percent of such moneys may be used for:

(a) Scientific research into the impact of the oil spill on fisheries and coastal wildlife and vegetation along any of the state’s shoreline that is not a Disproportionally Affected County’s shoreline, and the development of strategies to implement restoration measures suggested by such research;

(b) Environmental restoration of coastal areas damaged by the oil spill in any county other than a Disproportionally Affected County;

(c) Economic incentives directed to any county other than a Disproportionally Affected County; and

(d) Initiatives to expand and diversify the economies of any county other than a Disproportionally Affected County.

(5) (a) The Department of Environmental Protection is the lead agency for expending the funds designated for environmental restoration efforts.

(b) The Department of Economic Opportunity is the lead agency for expending the funds designated for economic incentives and diversification efforts.

History.—s. 499, ch. 2011-142.