

1 A bill to be entitled
2 An act relating to local government fiscal
3 transparency; amending s. 11.40, F.S.; expanding the
4 scope of the Legislative Auditing Committee review to
5 include compliance with local government fiscal
6 transparency requirements; amending s. 11.45, F.S.;
7 providing procedures for the Auditor General and local
8 governments to comply with the local government fiscal
9 transparency requirements; amending ss. 125.045 and
10 166.021, F.S.; revising reporting requirements for
11 certain local government economic development
12 incentives; transferring and renumbering s. 218.80,
13 F.S.; creating pt. VIII of ch. 218, consisting of
14 sections 218.801, 218.803, 218.805, 218.81, 218.82,
15 218.83, 218.84, 218.88, and 218.89, F.S.; providing a
16 short title; specifying purpose of the local
17 government fiscal transparency requirements; providing
18 definitions; requiring local governments to post
19 certain voting record information on their websites;
20 requiring the posting of specified links to related
21 sites if certain documentation or details are
22 available; requiring property appraisers to post
23 certain property tax information and history on their
24 websites; requiring local governments to post certain
25 property tax information and history on their

26 | websites; requiring public notices for public hearings
 27 | and meetings prior to certain increases of local
 28 | government tax levies or issuance of new tax-supported
 29 | debt; specifying noticing and advertising requirements
 30 | for such public hearings and meetings; requiring local
 31 | governments to conduct certain debt affordability
 32 | analyses under specified conditions; requiring audits
 33 | of local governments to include affidavits signed by
 34 | the chair of the local government governing board
 35 | providing specified information to accompany audits of
 36 | local governments and filed with the Auditor General;
 37 | providing a method for local governments that do not
 38 | operate a website to post certain required
 39 | information; amending s. 218.32, F.S.; conforming a
 40 | cross-reference; providing this act fulfills an
 41 | important state interest; providing an effective date.

42 |

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

44 |

45 | Section 1. Subsection (2) of section 11.40, Florida
 46 | Statutes, is amended to read:

47 | 11.40 Legislative Auditing Committee.—

48 | (2) Following notification by the Auditor General, the
 49 | Department of Financial Services, or the Division of Bond
 50 | Finance of the State Board of Administration of the failure of a

51 local governmental entity, district school board, charter
52 school, or charter technical career center to comply with the
53 applicable provisions within s. 11.45(5)-(7), s. 218.32(1), s.
54 218.38, ~~or~~ s. 218.503(3), or part VIII of chapter 218, the
55 Legislative Auditing Committee may schedule a hearing to
56 determine if the entity should be subject to further state
57 action. If the committee determines that the entity should be
58 subject to further state action, the committee shall:

59 (a) In the case of a local governmental entity or district
60 school board, direct the Department of Revenue and the
61 Department of Financial Services to withhold any funds not
62 pledged for bond debt service satisfaction which are payable to
63 such entity until the entity complies with the law. The
64 committee shall specify the date such action shall begin, and
65 the directive must be received by the Department of Revenue and
66 the Department of Financial Services 30 days before the date of
67 the distribution mandated by law. The Department of Revenue and
68 the Department of Financial Services may implement the
69 provisions of this paragraph.

70 (b) In the case of a special district created by:

71 1. A special act, notify the President of the Senate, the
72 Speaker of the House of Representatives, the standing committees
73 of the Senate and the House of Representatives charged with
74 special district oversight as determined by the presiding
75 officers of each respective chamber, the legislators who

76 represent a portion of the geographical jurisdiction of the
77 special district, and the Department of Economic Opportunity
78 that the special district has failed to comply with the law.
79 Upon receipt of notification, the Department of Economic
80 Opportunity shall proceed pursuant to s. 189.062 or s. 189.067.
81 If the special district remains in noncompliance after the
82 process set forth in s. 189.0651, or if a public hearing is not
83 held, the Legislative Auditing Committee may request the
84 department to proceed pursuant to s. 189.067(3).

85 2. A local ordinance, notify the chair or equivalent of
86 the local general-purpose government pursuant to s. 189.0652 and
87 the Department of Economic Opportunity that the special district
88 has failed to comply with the law. Upon receipt of notification,
89 the department shall proceed pursuant to s. 189.062 or s.
90 189.067. If the special district remains in noncompliance after
91 the process set forth in s. 189.0652, or if a public hearing is
92 not held, the Legislative Auditing Committee may request the
93 department to proceed pursuant to s. 189.067(3).

94 3. Any manner other than a special act or local ordinance,
95 notify the Department of Economic Opportunity that the special
96 district has failed to comply with the law. Upon receipt of
97 notification, the department shall proceed pursuant to s.
98 189.062 or s. 189.067(3).

99 (c) In the case of a charter school or charter technical
100 career center, notify the appropriate sponsoring entity, which

101 may terminate the charter pursuant to ss. 1002.33 and 1002.34.

102 Section 2. Paragraphs (d) through (j) of subsection (7) of
 103 section 11.45, Florida Statutes, are redesignated as paragraphs
 104 (e) through (k), respectively, and a new paragraph (d) is added
 105 to that subsection to read:

106 11.45 Definitions; duties; authorities; reports; rules.—

107 (7) AUDITOR GENERAL REPORTING REQUIREMENTS.—

108 (d) During the Auditor General's review of audit reports,
 109 he or she shall contact each local government, as defined in s.
 110 218.805(2), that is not in compliance with part VIII of chapter
 111 218 and request evidence of corrective action. The local
 112 government shall provide the Auditor General with evidence of
 113 the initiation of corrective action within 45 days after the
 114 date it is requested by the Auditor General and evidence of
 115 completion of corrective action within 180 days after the date
 116 it is requested by the Auditor General. If the local government
 117 fails to comply with the Auditor General's request or is unable
 118 to take corrective action within the required timeframe, the
 119 Auditor General shall notify the Legislative Auditing Committee.

120 Section 3. Subsection (5) of section 125.045, Florida
 121 Statutes, is amended to read:

122 125.045 County economic development powers.—

123 (5) (a) By January 15 of each year ~~By January 15, 2011, and~~
 124 ~~annually thereafter~~, each county shall report to the Office of
 125 Economic and Demographic Research ~~the~~ economic development

126 incentives in excess of \$25,000 given to businesses ~~any business~~
127 during the county's previous fiscal year. The Office of Economic
128 and Demographic Research shall compile the information from the
129 counties into a report and provide the report to the President
130 of the Senate, the Speaker of the House of Representatives, and
131 the Department of Economic Opportunity. The county shall
132 identify whether the economic development incentive is provided
133 directly by the county or by another entity on behalf of the
134 county, as well as the source of local dollars, and any state or
135 federal dollars obligated for the incentive. Economic
136 development incentives, for purposes of this report, are
137 classified as follows ~~include:~~

138 1. Class one: ~~Direct~~ Financial incentives ~~of monetary~~
139 ~~assistance~~ provided to an individual ~~a business from the county~~
140 ~~or through an organization authorized by the county.~~ Such
141 incentives include: ~~, but are not limited to, grants, loans,~~
142 ~~equity investments, loan insurance and guarantees, and training~~
143 ~~subsidies.~~

144 a. Grants.

145 b. Tax-based credits, refunds, or exemptions.

146 c. Fee-based credits, refunds, or exemptions.

147 d. Loans, loan insurance, or loan guarantees.

148 e. Below-market rate leases or deeds for real property.

149 f. Job training or recruitment.

150 g. Subsidized or discounted government services.

151 h. Infrastructure improvements.

152 2. Class two: General assistance, services, and support
 153 provided collectively to businesses with a common interest or
 154 purpose. Such incentives include:

155 a. Technical assistance and training.

156 b. Business incubators and accelerators.

157 c. Infrastructure improvements ~~Indirect incentives in the~~
 158 ~~form of grants and loans provided to businesses and community~~
 159 ~~organizations that provide support to businesses or promote~~
 160 ~~business investment or development.~~

161 3. Class three: Business recruitment, retention, or
 162 expansion efforts provided to benefit an individual business or
 163 class of businesses. Such incentives include:

164 a. Marketing and market research.

165 b. Trade missions and trade shows.

166 c. Site selection.

167 d. Targeted assistance with the permitting and licensing
 168 process.

169 e. Business plan or project development ~~Fee-based or tax-~~
 170 ~~based incentives, including, but not limited to, credits,~~
 171 ~~refunds, exemptions, and property tax abatement or assessment~~
 172 ~~reductions.~~

173 ~~4. Below market rate leases or deeds for real property.~~

174 (b) A county shall report its economic development
 175 incentives in the format specified by the Office of Economic and

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176 Demographic Research.

177 (c) The Office of Economic and Demographic Research shall
178 compile the economic development incentives provided by each
179 county in a manner that shows the total of each class of
180 economic development incentives provided by each county and all
181 counties. To the extent possible, the office shall compare the
182 results of the economic development incentives provided by all
183 counties to the results of state incentives provided in similar
184 classes.

185 Section 4. Paragraph (e) of subsection (8) of section
186 166.021, Florida Statutes, is amended to read:

187 166.021 Powers.—

188 (8)

189 (e)1. By January 15 of each year ~~By January 15, 2011, and~~
190 ~~annually thereafter,~~ each municipality having annual revenues or
191 expenditures greater than \$250,000 shall report to the Office of
192 Economic and Demographic Research ~~the~~ economic development
193 incentives in excess of \$25,000 given to businesses ~~any business~~
194 during the municipality's previous fiscal year. The Office of
195 Economic and Demographic Research shall compile the information
196 from the municipalities into a report and provide the report to
197 the President of the Senate, the Speaker of the House of
198 Representatives, and the Department of Economic Opportunity. The
199 municipality shall identify whether the economic development
200 incentive was provided directly by the municipality or by

201 another entity on behalf of the municipality, as well as the
 202 source of local dollars, and any state or federal dollars
 203 obligated for the incentive. Economic development incentives,
 204 for purposes of this report, are classified as follows include:

205 a. Class one: Direct Financial incentives ~~of monetary~~
 206 ~~assistance~~ provided to an individual ~~a business from the~~
 207 ~~municipality or through an organization authorized by the~~
 208 ~~municipality.~~ Such incentives include: ~~, but are not limited to,~~
 209 ~~grants, loans, equity investments, loan insurance and~~
 210 ~~guarantees, and training subsidies.~~

- 211 (I) Grants.
- 212 (II) Tax-based credits, refunds, or exemptions.
- 213 (III) Fee-based credits, refunds, or exemptions.
- 214 (IV) Loans, loan insurance, or loan guarantees.
- 215 (V) Below-market rate leases or deeds for real property.
- 216 (VI) Job training or recruitment.
- 217 (VII) Subsidized or discounted government services.
- 218 (VIII) Infrastructure improvements.

219 b. Class two: General assistance, services, and support
 220 provided collectively to businesses with a common interest or
 221 purpose. Such incentives include:

- 222 (I) Technical assistance and training.
- 223 (II) Business incubators and accelerators.
- 224 (III) Infrastructure improvements ~~Indirect incentives in~~
 225 ~~the form of grants and loans provided to businesses and~~

226 ~~community organizations that provide support to businesses or~~
 227 ~~promote business investment or development.~~

228 c. Class three: Business recruitment, retention, or
 229 expansion efforts provided to benefit an individual business or
 230 class of businesses. Such incentives include:

- 231 (I) Marketing and market research.
- 232 (II) Trade missions and trade shows.
- 233 (III) Site selection.
- 234 (IV) Targeted assistance with the permitting and licensing
 235 process.

236 (V) Business plan or project development ~~Fee-based or tax-~~
 237 ~~based incentives, including, but not limited to, credits,~~
 238 ~~refunds, exemptions, and property tax abatement or assessment~~
 239 ~~reductions.~~

240 ~~d. Below market rate leases or deeds for real property.~~

241 2. A municipality shall report its economic development
 242 incentives in the format specified by the Office of Economic and
 243 Demographic Research.

244 3. The Office of Economic and Demographic Research shall
 245 compile the economic development incentives provided by each
 246 municipality in a manner that shows the total of each class of
 247 economic development incentives provided by each municipality
 248 and all municipalities. To the extent possible, the office shall
 249 compare the results of the economic development incentives
 250 provided by all municipalities to the results of state

251 incentives provided in similar classes.

252 Section 5. Section 218.80, Florida Statutes, is
253 transferred and renumbered as section 218.795, Florida Statutes.

254 Section 6. Part VIII of chapter 218, Florida Statutes,
255 consisting of ss. 218.801, 218.803, 218.805, 218.81, 218.82,
256 218.83, 218.84, 218.88, and 218.89, is created to read:

257 PART VIII

258 LOCAL GOVERNMENT FISCAL TRANSPARENCY ACT

259 218.801 Short title.—This part may be cited as the "Local
260 Government Fiscal Transparency Act."

261 218.803 Purpose.—The purpose of this part is to promote
262 the fiscal transparency of local governments when using public
263 funds by requiring additional public noticing of proposed local
264 government actions that would increase taxes, enact new taxes,
265 extend expiring taxes, or issue tax-supported debt and requiring
266 voting records of local governing bodies related to such actions
267 to be easily and readily accessible by the public.

268 218.805 Definitions.—As used in this part, the term:

269 (1) "Debt" means bonds, loans, promissory notes, lease-
270 purchase agreements, certificates of participation, installment
271 sales, leases, or any other financing mechanisms or financial
272 arrangements, whether or not a debt for legal purposes, for
273 financing or refinancing the acquisition, construction,
274 improvement, or purchase of capital outlay projects.

275 (2) "Local government" means any county, municipality,

276 school district, special district dependent to a county or
 277 municipality, municipal service taxing unit, or independent
 278 special district, but does not include special dependent or
 279 independent districts established to provide hospital services,
 280 provided such special districts do not levy, assess, and collect
 281 ad valorem taxes.

282 (3) "Tax increase" means:

283 (a) For ad valorem taxes, any increase in a local
 284 government's millage rate above the rolled-back rate as defined
 285 in s. 200.065(1).

286 (b) For all other taxes, a tax enactment, extension, or an
 287 increase in the tax rate.

288 (4) "Tax-supported debt" means debt with a duration of
 289 more than 5 years secured in whole or in part by state or local
 290 tax levies, whether such security is direct or indirect,
 291 explicit or implicit, and includes, but is not limited to, debt
 292 for which annual appropriations pledged for payment are from
 293 government fund types receiving tax revenues or shared revenues
 294 from state tax sources. The term does not include debt secured
 295 solely by revenues generated by the project that is financed
 296 with the debt.

297 218.81 Voting Record Access.—

298 (1) Each local government shall post on its website, in a
 299 manner that is easily accessible to the public, a history of the
 300 voting record of each action taken by the local governing board

301 that addressed a tax increase or new tax-supported debt
302 issuance, except debt that was refinanced or refunded and that
303 did not extend the term or increase the outstanding principal
304 amount of the original debt, as follows:

305 (a) By October 1, 2018, the voting record history from the
306 preceding year;

307 (b) By October 1, 2019, the voting record history from the
308 preceding 2 years;

309 (c) By October 1, 2020, the voting record history from the
310 preceding 3 years; and

311 (d) By October 1, 2021, and thereafter, the voting record
312 history required pursuant to this subsection from the preceding
313 4 years.

314 (2) The website must provide links to allow users to
315 navigate to related sites if supporting details or documentation
316 are available.

317 (3) In any public notice of a tax increase or the issuance
318 of new tax-supported debt, each local government shall include
319 with the public notice the website address where the voting
320 records can be accessed.

321 218.82 Property tax information and history.—

322 (1) Each county property appraiser, as defined in s.
323 192.001, shall maintain a website that includes, in a manner
324 easily accessible to the public, links that provide access to:

325 (a) The notice of proposed property taxes and non-ad

326 valorem assessments required under s. 200.069 for each parcel of
327 property in that county; and

328 (b) A history of the millage rate and the amount of tax
329 levied by each taxing authority on each parcel as follows:

330 1. By October 1, 2018, the history from the 2 preceding
331 years;

332 2. By October 1, 2019, the history from the 3 preceding
333 years; and

334 3. By October 1, 2020, and thereafter, the history from
335 the 4 preceding years.

336

337 This subsection does not apply to information that is otherwise
338 exempt from public disclosure.

339 (2) Each local government shall post on its website, in a
340 manner that is easily accessible to the public, links that
341 provide access to a history of each of its millage rates and the
342 total annual amount of revenue generated by each of these
343 levies, as follows:

344 (a) By October 1, 2018, the history from the 2 preceding
345 years;

346 (b) By October 1, 2019, the history from the 3 preceding
347 years; and

348 (c) By October 1, 2020, and thereafter, the history from
349 the 4 preceding years.

350 218.83 Expanded public noticing of tax increases and new

351 tax-supported debt issuance.—

352 (1) For the purpose of this section, the term "tax
353 increase" does not include an ad valorem tax increase.

354 (2) A local government that intends to vote on a proposed
355 tax increase or the issuance of new tax-supported debt shall
356 advertise a public hearing to solicit public input concerning
357 the proposed tax increase or new tax-supported debt issuance.
358 This public hearing must occur at least 14 days prior to the
359 date that the local governing body meets to take a final vote on
360 the tax increase or issuance of new tax-supported debt. Any
361 hearing required under this subsection shall be held after 5
362 p.m. if scheduled on a day other than Saturday. No hearing shall
363 be held on a Sunday. The general public shall be allowed to
364 speak and to ask questions relevant to the tax increase or the
365 tax-supported debt issuance. The local government shall provide
366 public notice as set forth in subsection (4).

367 (3) (a) If, following the public hearing required under
368 subsection (2), the local government intends to proceed with a
369 vote to approve a tax increase or the new issuance of tax-
370 supported debt, the local government shall provide public notice
371 in the manner set forth in subsection (4) at least 10 days prior
372 to the date of the scheduled public meeting.

373 (b) For a tax increase, the notice shall also include, at
374 a minimum:

375 1. A statement prominently posted that the local

376 government intends to vote on a proposed new tax enactment, tax
 377 extension or tax rate increase.

378 2. The time and place of the meeting.

379 3. The amount of the tax increase, including both the rate
 380 and total amount of annual revenue expected to be generated and
 381 the expected annual revenue expressed as a percentage of the
 382 government's general fund revenue.

383 4. A detailed explanation of the intended uses of the
 384 levy.

385 5. A statement indicating whether the local government
 386 expects to use the proceeds to secure debt.

387 (c) For new tax-supported debt issuance, the notice shall
 388 also include, at a minimum:

389 1. A statement prominently posted that the local
 390 government intends to vote on a proposed new issuance of tax-
 391 supported debt.

392 2. The time and place of the meeting.

393 3. A truth in bonding statement in substantially the
 394 following form:

395 The ...(insert local government name)... is proposing to
 396 issue \$...(insert principal)... of debt or obligation for the
 397 purpose of ...(insert purpose).... This debt or obligation is
 398 expected to be repaid over a period of ...(insert term of
 399 issue)... years. At a forecasted interest rate of ...(insert
 400 rate of interest)..., total interest paid over the life of the

401 debt or obligation will be \$...(insert sum of interest
402 payments).... The source of repayment or security for this
403 proposal is the ...(insert the local government name)...
404 existing ...(insert fund).... Authorizing this debt or
405 obligation will result in \$...(insert the annual amount)... of
406 ...(insert local government name)... ...(insert fund)... moneys
407 not being available to finance the other services of the
408 ...(insert local government name)... each year for ...(insert
409 the length of the debt or obligation)....

410 4. Presentation of the debt affordability ratios
411 calculated pursuant to s. 218.84, described in substantially the
412 following form:

413 The following ratios measure the affordability of
414 outstanding and proposed new long-term, tax-supported debt
415 issued by...(insert local government name)... The ratios show
416 debt service as a percentage of the revenues available to
417 support that debt, including the new debt being proposed
418 ...(insert 5 year history and 2 year projection of debt
419 affordability ratio).

420 (4) The notice provided by a local government announcing a
421 public hearing to take public input as set forth in subsection
422 (2) or the public meeting to take a final vote as set forth in
423 subsection (3) must meet the following requirements:

424 (a) The local government must advertise notice in a
425 newspaper of general circulation in the county or counties where

426 the local government exists. A local government may advertise in
427 a geographically limited insert of a general circulation
428 newspaper if the region encompassed by the insert contains the
429 jurisdictional boundaries of the local government. The newspaper
430 must be of general interest with readership in the community and
431 not one of limited subject matter, pursuant to chapter 50. The
432 advertisement must be at least one-quarter page in size of a
433 standard size newspaper or a half-page in size of a tabloid size
434 newspaper and the headline in the advertisement shall be in a
435 type no smaller than 18 point. The advertisement may not be
436 placed in that portion of the newspaper where legal notices and
437 classified advertisements appear. The advertisement must appear
438 in a newspaper that is published at least 5 days a week unless
439 the only newspaper in the county is published less than 5 days a
440 week. If the advertisement appears in a geographically limited
441 insert of a general circulation newspaper, the insert must be
442 one that is published at least twice a week throughout the local
443 government's jurisdiction. In lieu of publishing the notice set
444 out in this paragraph, the local government may mail a copy of
445 the notice to each elector residing within the jurisdiction of
446 the local government; and

447 (b) The local government must post on its website in a
448 manner that is easily accessible to the public the information
449 required under subsections (2) and (3), as applicable.

450 (5) This section does not apply to the refinancing or

451 refunding of debt that does not extend the term or increase the
452 outstanding principal amount of the original debt.

453 218.84 Local government debt fiscal responsibility.-

454 (1) It is the public policy of this state to encourage
455 local governments to exercise prudence in authorizing and
456 issuing debt. Before a local government authorizes debt, it must
457 consider its ability to meet its total debt service requirements
458 in light of other demands on the local government's fiscal
459 resources. Each local government shall perform a debt
460 affordability analysis as set forth in subsection (2) and the
461 governing board shall consider the analysis before approving the
462 issuance of new tax-supported debt.

463 (2) The debt affordability analysis shall, at a minimum,
464 consist of the calculation of the local government's actual debt
465 affordability ratio for the 5 fiscal years prior to the year the
466 debt is expected to be issued and a projection of the ratio for
467 at least the first 2 fiscal years in which the new debt is
468 expected to be issued. The analysis shall include a comparison
469 of the debt affordability ratio with and without the new debt
470 issuance.

471 (3) The debt affordability ratio for a given fiscal year
472 shall be a ratio:

473 (a) The denominator of which is the total annual revenues
474 available to pay debt service on outstanding tax-supported debt
475 of the local government; and

476 (b) The numerator of which is the total annual debt
477 service for outstanding tax-supported debt of the local
478 government.

479 218.88 Audits.— Audits of financial statements of local
480 governments which are performed by a certified public accountant
481 pursuant to s. 218.39 and submitted to the Auditor General must
482 be accompanied by an affidavit executed by the chair of the
483 governing board of the local government stating that the local
484 government has complied with this part and must be filed with
485 the Auditor General, or in the event the local government has
486 not complied with this part, the affidavit shall instead include
487 a description of the noncompliance and corrective action taken
488 by the local government to correct the noncompliance and to
489 prevent such noncompliance in the future.

490 218.89 Local government websites.—If a local government is
491 required under this part to post information on its website, but
492 does not operate an official website, the local government must
493 provide the county or counties within which the local government
494 is located the information required to be posted, and each such
495 county shall post the required information on its website.

496 Section 7. Paragraph (e) of subsection (1) of section
497 218.32, Florida Statutes, is amended to read:

498 218.32 Annual financial reports; local governmental
499 entities.—

500 (1)

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501 (e) Each local governmental entity that is not required to
502 provide for an audit under s. 218.39 must submit the annual
503 financial report to the department no later than 9 months after
504 the end of the fiscal year. The department shall consult with
505 the Auditor General in the development of the format of annual
506 financial reports submitted pursuant to this paragraph. The
507 format must include balance sheet information used by the
508 Auditor General pursuant to s. 11.45(7)(g) ~~11.45(7)(f)~~. The
509 department must forward the financial information contained
510 within the annual financial reports to the Auditor General in
511 electronic form. This paragraph does not apply to housing
512 authorities created under chapter 421.

513 Section 8. The Legislature finds that this act fulfills an
514 important state interest.

515 Section 9. This act shall take effect July 1, 2018.