

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; creating pt. VIII of ch.
10 218, consisting of sections 218.80, 218.801, 218.805,
11 218.81, 218.82, 218.83, 218.84, 218.88, and 218.89,
12 F.S.; providing a short title; specifying purpose of
13 the local government fiscal transparency requirements;
14 providing definitions; requiring local governments to
15 post certain voting record information on their
16 websites; requiring the posting of specified links to
17 related sites if certain documentation or details are
18 available; requiring property appraisers to post
19 certain property tax information and history on their
20 websites; requiring local governments to post certain
21 property tax information and history on their
22 websites; requiring public notices for public hearings
23 and meetings prior to certain increases of local
24 government tax levies or issuance of new tax-supported
25 debt; specifying noticing and advertising requirements

26 | for such public hearings and meetings; requiring local
 27 | governments to conduct certain debt affordability
 28 | analyses under specified conditions; revising duties
 29 | required of certain certified public accountants and
 30 | the Auditor General when conducting audits of local
 31 | governments; providing a method for local governments
 32 | that do not operate a website to post certain required
 33 | information; providing this act fulfills an important
 34 | state interest; amending s. 218.32, F.S.; conforming a
 35 | cross-reference; providing an effective date.

36 |
 37 | Be It Enacted by the Legislature of the State of Florida:

38 |
 39 | Section 1. Subsection (2) of section 11.40, Florida
 40 | Statutes, is amended to read:

41 | 11.40 Legislative Auditing Committee.—

42 | (2) Following notification by the Auditor General, the
 43 | Department of Financial Services, or the Division of Bond
 44 | Finance of the State Board of Administration of the failure of a
 45 | local governmental entity, district school board, charter
 46 | school, or charter technical career center to comply with the
 47 | applicable provisions within s. 11.45(5)-(7), s. 218.32(1), s.
 48 | 218.38, ~~or~~ s. 218.503(3), or part VIII of chapter 218, the
 49 | Legislative Auditing Committee may schedule a hearing to
 50 | determine if the entity should be subject to further state

51 | action. If the committee determines that the entity should be
52 | subject to further state action, the committee shall:

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

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

65 | 1. A special act, notify the President of the Senate, the
66 | Speaker of the House of Representatives, the standing committees
67 | of the Senate and the House of Representatives charged with
68 | special district oversight as determined by the presiding
69 | officers of each respective chamber, the legislators who
70 | represent a portion of the geographical jurisdiction of the
71 | special district, and the Department of Economic Opportunity
72 | that the special district has failed to comply with the law.
73 | Upon receipt of notification, the Department of Economic
74 | Opportunity shall proceed pursuant to s. 189.062 or s. 189.067.
75 | If the special district remains in noncompliance after the

76 process set forth in s. 189.0651, or if a public hearing is not
77 held, the Legislative Auditing Committee may request the
78 department to proceed pursuant to s. 189.067(3).

79 2. A local ordinance, notify the chair or equivalent of
80 the local general-purpose government pursuant to s. 189.0652 and
81 the Department of Economic Opportunity that the special district
82 has failed to comply with the law. Upon receipt of notification,
83 the department shall proceed pursuant to s. 189.062 or s.
84 189.067. If the special district remains in noncompliance after
85 the process set forth in s. 189.0652, or if a public hearing is
86 not held, the Legislative Auditing Committee may request the
87 department to proceed pursuant to s. 189.067(3).

88 3. Any manner other than a special act or local ordinance,
89 notify the Department of Economic Opportunity that the special
90 district has failed to comply with the law. Upon receipt of
91 notification, the department shall proceed pursuant to s.
92 189.062 or s. 189.067(3).

93 (c) In the case of a charter school or charter technical
94 career center, notify the appropriate sponsoring entity, which
95 may terminate the charter pursuant to ss. 1002.33 and 1002.34.

96 Section 2. Paragraphs (d)-(j) of subsection (7) of section
97 11.45, Florida Statutes, are redesignated as paragraphs (e)-(k),
98 respectively, and a new paragraph (d) is added to that
99 subsection, to read:

100 11.45 Definitions; duties; authorities; reports; rules.—

(7) AUDITOR GENERAL REPORTING REQUIREMENTS.—

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

Section 3. Section 218.80, Florida Statutes, is renumbered as section 218.795, Florida Statutes.

Section 4. Part VIII of chapter 218, Florida Statutes, consisting of ss. 218.80, 218.801, 218.805, 218.81, 218.82, 218.83, 218.84, 218.88, and 218.89, is created to read:

PART VIII

LOCAL GOVERNMENT FISCAL TRANSPARANCY ACT

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

218.801 Purpose.—The purpose of this part is to promote the fiscal transparency of local governments when using public funds by requiring additional public noticing of proposed local

126 government actions that would increase taxes, enact new taxes,
127 extend expiring taxes, or issue tax-supported debt and requiring
128 voting records of local governing bodies related to such actions
129 to be easily and readily accessible by the public.

130 218.805 Definitions.—As used in this part, the term:

131 (1) "Debt" means bonds, loans, promissory notes, lease-
132 purchase agreements, certificates of participation, installment
133 sales, leases, or any other financing mechanisms or financial
134 arrangements, whether or not a debt for legal purposes, for
135 financing or refinancing the acquisition, construction,
136 improvement, or purchase of capital outlay projects.

137 (2) "Local government" means any county, municipality,
138 school district, special district dependent to a county or
139 municipality, municipal service taxing unit, or independent
140 special district.

141 (3) "Tax increase" means:

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

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

147 (4) "Tax-supported debt" means debt with a duration of
148 more than 5 years secured in whole or in part by state or local
149 tax levies, whether such security is direct or indirect,
150 explicit or implicit, and includes, but is not limited to, debt

151 for which annual appropriations pledged for payment are from
152 government fund types receiving tax revenues or shared revenues
153 from state tax sources. The term does not include debt secured
154 solely by revenues generated by the project that is financed
155 with the debt.

156 218.81 Voting Record Access.—

157 (1) Each local government shall post on its website, in a
158 manner that is easily accessible to the public, a history of the
159 voting record of each action taken by the local governing board
160 that addressed a tax increase or new tax-supported debt
161 issuance, except debt that was refinanced or refunded and that
162 did not extend the term or increase the outstanding principal
163 amount of the original debt, as follows:

164 (a) By October 1, 2017, the voting record history from the
165 preceding year;

166 (b) By October 1, 2018, the voting record history from the
167 preceding 2 years;

168 (c) By October 1, 2019, the voting record history from the
169 preceding 3 years; and

170 (d) By October 1, 2020, and thereafter, the voting record
171 history required pursuant to this subsection from the preceding
172 4 years.

173 (2) The website must provide links to allow users to
174 navigate to related sites if supporting details or documentation
175 are available.

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

180 218.82 Property tax information and history.—

181 (1) Each county property appraiser, as defined in s.
182 192.001, shall maintain a website that includes, in a manner
183 easily accessible to the public:

184 (a) The notice of proposed property taxes and non-ad
185 valorem assessments required under s. 200.069 for each parcel of
186 property in that county; and

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

189 1. By October 1, 2017, the history from the 2 preceding
190 years;

191 2. By October 1, 2018, the history from the 3 preceding
192 years; and

193 3. By October 1, 2019, and thereafter, the history from
194 the 4 preceding years.

195
196 This subsection does not apply to information that is otherwise
197 exempt from public disclosure.

198 (2) Each local government shall post on its website, in a
199 manner that is easily accessible to the public, a history of
200 each of its millage rates and the total annual amount of revenue

201 generated by each of these levies, as follows:

202 (a) By October 1, 2017, the history from the 2 preceding
203 years;

204 (b) By October 1, 2018, the history from the 3 preceding
205 years; and

206 (c) By October 1, 2019, and thereafter, the history from
207 the 4 preceding years.

208 218.83 Expanded public noticing of tax increases and new
209 tax-supported debt issuance.—

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

212 (2) A local government that intends to vote on a proposed
213 tax increase or the issuance of new tax-supported debt shall
214 advertise a public hearing to solicit public input concerning
215 the proposed tax increase or new tax-supported debt issuance.
216 This public hearing must occur at least 15 days prior to the
217 date that the local governing body meets to take a final vote on
218 the tax increase or issuance of new tax-supported debt. Any
219 hearing required under this subsection shall be held after 5
220 p.m. if scheduled on a day other than Saturday. No hearing shall
221 be held on a Sunday. The general public shall be allowed to
222 speak and to ask questions relevant to the tax increase or the
223 tax-supported debt issuance. The local government shall provide
224 public notice as set forth in subsection (4).

225 (3) (a) If, following the public hearing required under

226 subsection (2), the local government intends to proceed with a
227 vote to approve a tax increase or the new issuance of tax-
228 supported debt, the local government shall provide public notice
229 in the manner set forth in subsection (4) at least 10 days prior
230 to the date of the scheduled public meeting.

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

233 1. A statement prominently posted that the local
234 government intends to vote on a proposed new tax enactment, tax
235 extension or tax rate increase.

236 2. The time and place of the meeting.

237 3. The amount of the tax increase, including both the rate
238 and total amount of annual revenue expected to be generated and
239 the expected annual revenue expressed as a percentage of the
240 government's general fund revenue.

241 4. A detailed explanation of the intended uses of the
242 levy.

243 5. A statement indicating whether the local government
244 expects to use the proceeds to secure debt.

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

247 1. A statement prominently posted that the local
248 government intends to vote on a proposed new issuance of tax-
249 supported debt.

250 2. The time and place of the meeting.

251 3. A truth in bonding statement in substantially the
252 following form:

253 The ...(insert local government name)... is proposing to
254 issue \$...(insert principal)... of debt or obligation for the
255 purpose of ...(insert purpose).... This debt or obligation is
256 expected to be repaid over a period of ...(insert term of
257 issue)... years. At a forecasted interest rate of ...(insert
258 rate of interest)...., total interest paid over the life of the
259 debt or obligation will be \$...(insert sum of interest
260 payments).... The source of repayment or security for this
261 proposal is the ...(insert the local government name)...
262 existing ...(insert fund).... Authorizing this debt or
263 obligation will result in \$...(insert the annual amount)... of
264 ...(insert local government name)... ...(insert fund)... moneys
265 not being available to finance the other services of the
266 ...(insert local government name)... each year for ...(insert
267 the length of the debt or obligation)....

268 4. Presentation of the debt affordability ratios
269 calculated pursuant to s. 218.84, described in substantially the
270 following form:

271 The following ratios measure the affordability of
272 outstanding and proposed new long-term, tax-supported debt
273 issued by...(insert local government name)... The ratios show
274 debt service as a percentage of the revenues available to
275 support that debt, including the new debt being proposed

276 ...(insert 5 year history and 2 year projection of debt
277 affordability ratio).

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

282 (a) The local government must advertise notice in a
283 newspaper of general circulation in the county or counties where
284 the local government exists. A local government may advertise in
285 a geographically limited insert of a general circulation
286 newspaper if the region encompassed by the insert contains the
287 jurisdictional boundaries of the local government. The newspaper
288 must be of general interest with readership in the community and
289 not one of limited subject matter, pursuant to chapter 50. The
290 advertisement must be at least one-quarter page in size of a
291 standard size newspaper or a half-page in size of a tabloid size
292 newspaper and the headline in the advertisement shall be in a
293 type no smaller than 18 point. The advertisement may not be
294 placed in that portion of the newspaper where legal notices and
295 classified advertisements appear. The advertisement must appear
296 in a newspaper that is published at least 5 days a week unless
297 the only newspaper in the county is published less than 5 days a
298 week. If the advertisement appears in a geographically limited
299 insert of a general circulation newspaper, the insert must be
300 one that is published at least twice a week throughout the local

301 government's jurisdiction. In lieu of publishing the notice set
302 out in this paragraph, the local government may mail a copy of
303 the notice to each elector residing within the jurisdiction of
304 the local government; and

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

308 (5) This section does not apply to the refinancing or
309 refunding of debt that does not extend the term or increase the
310 outstanding principal amount of the original debt.

311 218.84 Local government debt fiscal responsibility.-

312 (1) It is the public policy of this state to encourage
313 local governments to exercise prudence in authorizing and
314 issuing debt. Before a local government authorizes debt, it must
315 consider its ability to meet its total debt service requirements
316 in light of other demands on the local government's fiscal
317 resources. Each local government shall perform a debt
318 affordability analysis as set forth in subsection (2) and the
319 governing board shall consider the analysis before approving the
320 issuance of new tax-supported debt.

321 (2) The debt affordability analysis shall, at a minimum,
322 consist of the calculation of the local government's actual debt
323 affordability ratio for the 5 fiscal years prior to the year the
324 debt is expected to be issued and a projection of the ratio for
325 at least the first 2 fiscal years in which the new debt is

326 expected to be issued. The analysis shall include a comparison
327 of the debt affordability ratio with and without the new debt
328 issuance.

329 (3) The debt affordability ratio for a given fiscal year
330 shall be a ratio:

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

334 (b) The numerator of which is the total annual debt
335 service for outstanding tax-supported debt of the local
336 government.

337 218.88 Audits.—A certified public accountant who conducts
338 an audit of local government pursuant to s. 218.39, and the
339 Auditor General who conducts an audit of local government
340 pursuant to s. 11.45, must report, as part of the audit, whether
341 the local government has complied with this part.

342 218.89 Local government websites.—If a local government is
343 required under this part to post information on its website, but
344 does not operate an official website, the local government must
345 provide the county or counties within which the local government
346 is located the information required to be posted, and each such
347 county shall post the required information on its website.

348 Section 5. Paragraph (e) of subsection (1) of section
349 218.32, Florida Statutes, is amended to read:

350 218.32 Annual financial reports; local governmental

351 entities.—

352 (1)

353 (e) Each local governmental entity that is not required to
354 provide for an audit under s. 218.39 must submit the annual
355 financial report to the department no later than 9 months after
356 the end of the fiscal year. The department shall consult with
357 the Auditor General in the development of the format of annual
358 financial reports submitted pursuant to this paragraph. The
359 format must include balance sheet information used by the
360 Auditor General pursuant to s. 11.45(7)(g) ~~s. 11.45(7)(f)~~. The
361 department must forward the financial information contained
362 within the annual financial reports to the Auditor General in
363 electronic form. This paragraph does not apply to housing
364 authorities created under chapter 421.

365 Section 6. The Legislature finds that this act fulfills an
366 important state interest.

367 Section 7. This act shall take effect July 1, 2017.