

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; providing a method
36 | for local governments that do not operate a website to
37 | post certain required information; amending s. 218.32,
38 | F.S.; conforming a cross-reference; providing this act
39 | fulfills an important state interest; providing an
40 | effective date.

41 |
42 | Be It Enacted by the Legislature of the State of Florida:

43 |
44 | Section 1. Subsection (2) of section 11.40, Florida
45 | Statutes, is amended to read:

46 | 11.40 Legislative Auditing Committee.—

47 | (2) Following notification by the Auditor General, the
48 | Department of Financial Services, or the Division of Bond
49 | Finance of the State Board of Administration of the failure of a
50 | local governmental entity, district school board, charter

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

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

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

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

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

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

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

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

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

105 11.45 Definitions; duties; authorities; reports; rules.—

106 (7) AUDITOR GENERAL REPORTING REQUIREMENTS.—

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

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

121 125.045 County economic development powers.—

122 (5) (a) By January 15 of each year ~~By January 15, 2011, and~~
 123 ~~annually thereafter~~, each county shall report to the Office of
 124 Economic and Demographic Research ~~the~~ economic development
 125 incentives in excess of \$25,000 given to businesses ~~any business~~

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

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

143 a. Grants.

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

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

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

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

148 f. Job training or recruitment.

149 g. Subsidized or discounted government services.

150 h. Infrastructure improvements.

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

- 154 a. Technical assistance and training.
- 155 b. Business incubators and accelerators.
- 156 c. Infrastructure improvements ~~Indirect incentives in the~~
 157 ~~form of grants and loans provided to businesses and community~~
 158 ~~organizations that provide support to businesses or promote~~
 159 ~~business investment or development.~~

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

- 163 a. Marketing and market research.
- 164 b. Trade missions and trade shows.
- 165 c. Site selection.
- 166 d. Targeted assistance with the permitting and licensing
 167 process.
- 168 e. Business plan or project development ~~Fee-based or tax-~~
 169 ~~based incentives, including, but not limited to, credits,~~
 170 ~~refunds, exemptions, and property tax abatement or assessment~~
 171 ~~reductions.~~

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

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

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

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

186 166.021 Powers.—

187 (8)

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

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

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

210 (I) Grants.

211 (II) Tax-based credits, refunds, or exemptions.

212 (III) Fee-based credits, refunds, or exemptions.

213 (IV) Loans, loan insurance, or loan guarantees.

214 (V) Below-market rate leases or deeds for real property.

215 (VI) Job training or recruitment.

216 (VII) Subsidized or discounted government services.

217 (VIII) Infrastructure improvements.

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

221 (I) Technical assistance and training.

222 (II) Business incubators and accelerators.

223 (III) Infrastructure improvements ~~Indirect incentives in~~
 224 ~~the form of grants and loans provided to businesses and~~
 225 ~~community organizations that provide support to businesses or~~

226 ~~promote business investment or development.~~

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

230 (I) Marketing and market research.

231 (II) Trade missions and trade shows.

232 (III) Site selection.

233 (IV) Targeted assistance with the permitting and licensing
234 process.

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

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

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

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

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

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

256 PART VIII

257 LOCAL GOVERNMENT FISCAL TRANSPARENCY ACT

258 218.801 Short title.—This part may be cited as the "Local
259 Government Fiscal Transparency Act."

260 218.803 Purpose.—The purpose of this part is to promote
261 the fiscal transparency of local governments when using public
262 funds by requiring additional public noticing of proposed local
263 government actions that would increase taxes, enact new taxes,
264 extend expiring taxes, or issue tax-supported debt and requiring
265 voting records of local governing bodies related to such actions
266 to be easily and readily accessible by the public.

267 218.805 Definitions.—As used in this part, the term:

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

274 (2) "Local government" means any county, municipality,
275 school district, special district dependent to a county or

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

281 (3) "Tax increase" means:

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

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

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

296 218.81 Voting Record Access.—

297 (1) Each local government shall post on its website, in a
298 manner that is easily accessible to the public, a history of the
299 voting record of each action taken by the local governing board
300 that addressed a tax increase or new tax-supported debt

301 issuance, except debt that was refinanced or refunded and that
302 did not extend the term or increase the outstanding principal
303 amount of the original debt, as follows:

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

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

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

310 (d) By October 1, 2020, and thereafter, the voting record
311 history required pursuant to this subsection from the preceding
312 4 years.

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

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

320 218.82 Property tax information and history.—

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

324 (a) The notice of proposed property taxes and non-ad
325 valorem assessments required under s. 200.069 for each parcel of

326 property in that county; and

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

329 1. By October 1, 2017, the history from the 2 preceding
330 years;

331 2. By October 1, 2018, the history from the 3 preceding
332 years; and

333 3. By October 1, 2019, and thereafter, the history from
334 the 4 preceding years.

335

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

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

343 (a) By October 1, 2017, the history from the 2 preceding
344 years;

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

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

349 218.83 Expanded public noticing of tax increases and new
350 tax-supported debt issuance.-

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

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

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

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

374 1. A statement prominently posted that the local
375 government intends to vote on a proposed new tax enactment, tax

376 | extension or tax rate increase.

377 | 2. The time and place of the meeting.

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

382 | 4. A detailed explanation of the intended uses of the
 383 | levy.

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

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

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

391 | 2. The time and place of the meeting.

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

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

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

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

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

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

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

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

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

449 (5) This section does not apply to the refinancing or
450 refunding of debt that does not extend the term or increase the

451 outstanding principal amount of the original debt.

452 218.84 Local government debt fiscal responsibility.-

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

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

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

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

475 (b) The numerator of which is the total annual debt

476 service for outstanding tax-supported debt of the local
477 government.

478 218.88 Audits.— Audits of financial statements of local
479 governments which are performed by a certified public accountant
480 pursuant to s. 218.39 and submitted to the Auditor General must
481 include an affidavit signed by the chair of the governing board
482 of the local government stating that the local government has
483 complied with this part. In the event the local government has
484 not complied with this part, the affidavit shall instead include
485 a description of the noncompliance and corrective action taken
486 by the local government to correct the noncompliance and to
487 prevent such noncompliance in the future.

488 218.89 Local government websites.—If a local government is
489 required under this part to post information on its website, but
490 does not operate an official website, the local government must
491 provide the county or counties within which the local government
492 is located the information required to be posted, and each such
493 county shall post the required information on its website.

494 Section 7. Paragraph (e) of subsection (1) of section
495 218.32, Florida Statutes, is amended to read:

496 218.32 Annual financial reports; local governmental
497 entities.—

498 (1)

499 (e) Each local governmental entity that is not required to
500 provide for an audit under s. 218.39 must submit the annual

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

511 Section 8. The Legislature finds that this act fulfills an
512 important state interest.

513 Section 9. This act shall take effect July 1, 2017.