Amendment No. 1

Committee/Subcommittee hearing bill: Commerce Committee
Representative Grant, M. offered the following:

Amendment (with title amendment)
Remove everything after the enacting clause and insert:
Section 1. Paragraphs (y) and (z) are added to subsection (3) of section 11.45, Florida Statutes, to read:
11.45 Definitions; duties; authorities; reports; rules.—
(3) AUTHORITY FOR AUDITS AND OTHER ENGAGEMENTS.—The Auditor General may, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee, conduct audits or other engagements as determined appropriate by the Auditor General of:
(y) The accounts and records pertaining to the use of funds from a tax imposed pursuant to s. 125.0104, s. 125.0108, or s. 212.0305 for tourism development or promotion by a local...
governmental entity, nonprofit organization, or for-profit organization, including a tourism promotion agency as defined in s. 288.12261 or a program or entity created by a tourism promotion agency.

(z) The accounts and records pertaining to:

1. An economic development agency of a county or municipality, including an economic development agency as defined in s. 288.0751 or a program or entity created by an economic development agency;

2. If the county or municipality does not have an economic development agency, the county or municipal officers or employees assigned to promote the general business interests, industrial interests, or related responsibilities of the county or municipality; or

3. If authorized by the state, a municipality, or a county to promote the general business interests, industrial interests, or related responsibilities of the state, municipality, or county, a private agency, person, partnership, corporation, or business entity.

Section 2. Section 288.0751, Florida Statutes, is created to read:

288.0751 Local economic development agencies.—

(1) DEFINITION.—For purposes of this section, the term "economic development agency" means an entity, including, but not limited to, an agency as defined in s. 119.011, that

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Published On: 11/13/2017 6:34:09 PM

Page 2 of 23
receives public funds and is engaged in economic development activities on behalf of one or more local governmental entities.

(a) An economic development agency may include any local governmental entity or any entity under contract with one or more local governmental entities to promote economic development activities on behalf of such local governmental entity or entities through the expenditure of public funds.

(b) Enterprise Florida, Inc., and the Department of Economic Opportunity are not considered economic development agencies.

(2) OPERATION.—An economic development agency must operate in accordance with the following:

(a) Each officer and member of the board of directors of an economic development agency who is not otherwise required to file a financial disclosure pursuant to ch. 112 must file an annual disclosure describing the nature of his or her interests or the nature of the interests of his or her principals, including corporate parents and subsidiaries of his or her principals, when such interests benefit from the expenditure of economic development agency funds. The disclosure must be placed on the website of the economic development agency and included in the minutes of each meeting of the board of directors of the economic development agency when such expenditures are discussed or voted upon.
(b) Board members shall serve without compensation, but are entitled to receive reimbursement for per diem and travel expenses pursuant to s. 112.061. Such expenses must be paid out of funds of the economic development agency.

(c) Officers, employees, or agents, including the president or chief executive officer, may not receive compensation for employment from public funds, pursuant to such contract, that exceeds the salary and benefits authorized to be paid to the Governor. Any payments of performance bonuses or severance pay to officers, employees, or agents from public funds are prohibited unless specifically authorized by law.

(d) An economic development agency must comply with the per diem and travel expense provisions of s. 112.061.

(e) Officers and employees are subject to the Code of Ethics for Public Officers and Employees standards under s. 112.313.

(f) An economic development agency must avoid, neutralize, or mitigate significant potential organizational conflicts of interest before it enters into a contract. If the economic development agency elects to mitigate a significant potential organizational conflict of interest, an adequate mitigation plan, including organizational, physical, and electronic barriers, shall be developed and the head of the economic development agency must certify that the award is in the best interests of the county and submit such certification to the
governing board of the county within 3 business days after entering into the contract.

(g) Lodging expenses for an employee or board member may not exceed $150 per day, excluding taxes, unless the economic development agency is participating in a negotiated group rate discount or the economic development agency provides documentation of at least three comparable alternatives demonstrating that such lodging at the required rate is not available. However, an employee or board member may expend his or her own funds for any lodging expenses in excess of $150 per day.

(h) Economic development agency funds may not be expended for food, beverages, lodging, entertainment, or gifts for employees or board members, unless authorized pursuant to s. 112.061 or this section. Employees or board members may not accept or receive food, beverages, lodging, entertainment, or gifts from persons, vendors, or other entities doing business with the economic development agency unless such food, beverage, lodging, entertainment, or gift is available to similarly situated members of the general public.

(3) TRANSPARENCY.—

(a) All contracts entered into by an economic development agency shall include:

1. The purpose of the contract.
2. Specific performance standards and responsibilities for each entity.

3. A detailed project or contract budget, if applicable.

4. The value of any services provided.

5. The projected travel and entertainment expenses for employees and board members, if applicable.

(b) A proposed contract with an estimated total contract value of $250,000 or more must be submitted to the governing body of the local governmental entity on whose behalf the contracted activity will occur and published on that local governmental entity’s website at least 14 days before the contract is executed. If the governing body of the local governmental entity rejects such proposed contract by a majority vote held during the 14-day period, the economic development agency may not execute such proposed contract or any substantially similar contract without obtaining a majority vote of the governing body of the local governmental entity in favor of such contract. An economic development agency may not enter into multiple related contracts to avoid the requirements of this paragraph.

(c) 1. An economic development agency shall submit to the governing board of the county, within 30 days after the end of its fiscal year, a complete and detailed report setting forth all public and private financial data of the economic
development agency, and shall publish such report on its website.

2. The financial data shall include:
   a. The total amount of revenue received from public and private sources.
   b. The operating budget.
   c. The total amount of salary, benefits, and other compensation provided by the economic development agency to its officers, employees, or agents, regardless of the funding source.
   d. An itemized account of all expenditures, including all travel and entertainment expenditures.

(d) The following information must be posted on the website of each economic development agency:
   1. All contracts with a total contract value of $5,000 or more. Such contracts must be posted within 5 business days after execution.
   2. All contracts, information, and financial data submitted to the governing board of the county. Such contracts, information, and data must be posted within 5 business days after submission.
   3. Video recordings of each board meeting. Such recordings must be posted within 3 business days after the meeting.
   4. A detailed report of expenditures following each marketing event paid for with economic development agency funds.
Such report must be posted within 10 business days after the event.

5. An annual itemized account of the total amount of funds spent by a third party on behalf of the economic development agency, its board members, or its employees.

6. An annual itemized account of the total amount of travel and entertainment expenditures.

(e) Notwithstanding any provision of law to the contrary, a record required under this section, including, but not limited to, a contract or agreement, is a public record and is not confidential or exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Such record shall be produced in full in accordance with this section or upon request.

(f) An economic development agency shall maintain and provide online access to all of the information required under this subsection. Each economic development agency shall provide the Department of Economic Opportunity with the specific website address where the required information is published and maintained online, and the Department of Economic Opportunity shall publish and maintain a single online directory which lists each economic development agency and the specific website address where such required information may be located.

(g) An economic development agency that fails to comply with the transparency and accountability requirements of this
subsection may not receive or expend public funds until it becomes fully compliant.

(4) AUDITS.—The Auditor General shall annually select at least two economic development agencies that received public funds in the previous year and conduct audits, as defined in s. 11.45, to verify that funds were expended as required by this section and to verify that transparency and accountability requirements were met. If the Auditor General determines that funds were not expended as required by this section, he or she shall immediately report such findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(5) PENALTIES.—It is unlawful for a person to knowingly and willfully make a materially false or misleading statement, provide false or misleading information, fail to report certain information, or structure an organization or agreement to avoid the requirements of this section. A person who violates this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(6) APPLICABILITY.—A private entity that meets the definition of an economic development agency under subsection (1) due solely to the existence of a contract between the private entity and an economic development agency to engage in economic development activities is required to comply with this section only in connection with the performance of its
Section 3. Section 288.12261, Florida Statutes, is created to read:

288.12261 Tourism promotion agencies.—

(1) DEFINITION.—For purposes of this section, the term "tourism promotion agency" means an entity, including, but not limited to, an agency as defined in s. 119.011, that receives public funds to promote tourism development on behalf of one or more local governmental entities.

(a) A tourism promotion agency may include any local governmental entity or any entity under contract with one or more local governmental entities to promote tourism development on behalf of such local governmental entity or entities through the expenditure of public funds.

(b) For purposes of this section, the Florida Tourism Industry Marketing Corporation and the Department of Economic Opportunity are not considered tourism promotion agencies.

(2) OPERATION.—A tourism promotion agency must operate in accordance with the following:
(a) Each officer and member of the board of directors of a tourism promotion agency who is not otherwise required to file a financial disclosure pursuant to ch. 112 must file an annual disclosure describing the nature of his or her interests or the interests of his or her principals, including corporate parents and subsidiaries of his or her principal, when such interests benefit from the expenditure of tourism promotion agency funds. The disclosure must be placed on the website of the tourism promotion agency and included in the minutes of each meeting of the board of directors of the tourism promotion agency when such expenditures are discussed or voted upon.

(b) Board members shall serve without compensation, but are entitled to receive reimbursement for per diem and travel expenses pursuant to s. 112.061. Such expenses must be paid out of funds of the tourism promotion agency.

(c) Officers, employees, or agents, including the president or chief executive officer, may not receive compensation for employment from public funds, pursuant to such contract, that exceeds the salary and benefits authorized to be paid to the Governor. Any payments of performance bonuses or severance pay to officers, employees, or agents from public funds are prohibited unless specifically authorized by law.

(d) A tourism promotion agency must comply with the per diem and travel expense provisions of s. 112.061.
(e) Officers and employees are subject to the Code of Ethics for Public Officers and Employees standards under s. 112.313.

(f) A tourism promotion agency must avoid, neutralize, or mitigate significant potential organizational conflicts of interest before it enters into a contract. If the tourism promotion agency elects to mitigate a significant potential organizational conflict of interest, an adequate mitigation plan, including organizational, physical, and electronic barriers, shall be developed and the head of the tourism promotion agency must certify that the award is in the best interests of the county and submit such certification to the governing board of the county within 3 business days after entering into the contract.

(g) Lodging expenses for an employee or board member may not exceed $150 per day, excluding taxes, unless the tourism promotion agency is participating in a negotiated group rate discount or the tourism promotion agency provides documentation of at least three comparable alternatives demonstrating that such lodging at the required rate is not available. However, an employee or board member may expend his or her own funds for any lodging expenses in excess of $150 per day.

(h) Tourism promotion agency funds may not be expended for food, beverages, lodging, entertainment, or gifts for employees or board members, unless authorized pursuant to s. 112.061 or
this section. Employees or board members may not accept or receive food, beverages, lodging, entertainment, or gifts from persons, vendors, or other entities doing business with the tourism promotion agency unless such food, beverage, lodging, entertainment, or gift is available to similarly situated members of the general public.

(i) A tourism promotion agency shall not expend public or private funds that directly benefit only one business entity.

(3) TRANSPARENCY.—

(a) All contracts entered into by a tourism promotion agency shall include:

1. The purpose of the contract.
2. Specific performance standards and responsibilities for each entity.
3. A detailed project or contract budget, if applicable.
4. The value of any services provided.
5. The projected travel and entertainment expenses for employees and board members, if applicable.

(b) A proposed contract with an estimated total contract value of $250,000 or more must be submitted to the governing board of the county and published on the county's website at least 14 days before the contract is executed. If the governing board of the county rejects such proposed contract by a majority vote held during the 14-day period, the tourism promotion agency may not execute such proposed contract or any substantially
similar contract without obtaining a majority vote of the
governing body of the county in favor of such contract. A
tourism promotion agency may not enter into multiple related
contracts to avoid the requirements of this paragraph.

(c)1. A tourism promotion agency shall submit to the
governing board of the county, within 30 days after the end of
its fiscal year, a complete and detailed report setting forth
all public and private financial data of the tourism promotion
agency, and shall publish such report on its website.

2. The financial data shall include:
   a. The total amount of revenue received from public and
private sources.
   b. The operating budget.
   c. The total amount of salary, benefits, and other
compensation provided by the tourism promotion agency to its
officers, employees, or agents, regardless of the funding
source.
   d. An itemized account of all expenditures, including all
travel and entertainment expenditures.

(d) The following information must be posted on the
website of each tourism promotion agency:

1. All contracts with a total contract value of $5,000 or
more. Such contracts must be posted within 5 business days after
execution.
2. All contracts, information, and financial data submitted to the governing board of the county. Such contracts, information, and data must be posted within 5 business days after submission.

3. Video recordings of each board meeting. Such recordings must be posted within 3 business days after the meeting.

4. A detailed report of expenditures following each marketing event paid for with the funds of the tourism promotion agency. Such report must be posted within 10 business days after the event.

5. An annual itemized account of the total amount of funds spent by a third party on behalf of the tourism promotion agency, its board members, or its employees.

6. An annual itemized account of the total amount of travel and entertainment expenditures.

(e) Notwithstanding any provision of law to the contrary, a record required under this section, including, but not limited to, a contract or agreement, is a public record and is not confidential or exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Such record shall be produced in full in accordance with this section or upon request.

(f) A tourism promotion agency shall maintain and provide online access to all of the information required under this subsection and s. 125.0104(4)(f). Each tourism promotion agency shall provide the Department of Economic Opportunity with the
specific website address where the required information is published and maintained online, and the Department of Economic Opportunity shall publish and maintain a single online directory which lists each tourism promotion agency and the specific website address where such required information may be located.

(g) A tourism promotion agency that fails to comply with the transparency and accountability requirements of this subsection may not receive or expend public funds until it becomes fully compliant.

(4) AUDITS.—

(a) For any county that annually receives $30,000,000 or more from taxes imposed pursuant to s. 125.0104, s. 125.0108, or s. 212.0305, the Auditor General shall, biennially, conduct an audit, as defined in s. 11.45, of all tourism promotion agencies in such county to verify that funds were expended as required by this section and to verify that transparency and accountability requirements were met. If the Auditor General determines that funds were not expended as required by this section, he or she shall immediately notify the Department of Revenue, which may pursue recovery of the funds under the laws and rules governing the assessment of taxes.

(b) The Auditor General shall annually select at least two counties that in the previous year received less than $30,000,000 from taxes imposed pursuant to s. 125.0104, s. 125.0108, or s. 212.0305 and conduct audits, as defined in s.
11.45, of all tourism promotion agencies in the county to verify that funds were expended as required by this section and to verify that transparency and accountability requirements were met. If the Auditor General determines that funds were not expended as required by this section, he or she shall immediately notify the Department of Revenue, which may pursue recovery of the funds under the laws and rules governing the assessment of taxes.

(5) ENFORCEMENT.—The Governor or Chief Financial Officer may at any time order the Department of Revenue or the local official to whom the tax is remitted to cease and desist distributing any taxes levied under s. 125.0104, s. 125.0108, or s. 212.0305 based on a tourism promotion agency's failure to comply with this section.

(6) PENALTIES.—It is unlawful for a person to knowingly and willfully make a materially false or misleading statement, provide false or misleading information, fail to report certain information, or structure an organization or agreement to avoid the requirements of this section. A person who violates this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(7) APPLICABILITY.—A private entity that meets the definition of a tourism promotion agency under subsection (1) due solely to the existence of a contract between the private entity and a tourism promotion agency to promote tourism
development is required to comply with this section only in
connection with the performance of its obligations and the
expenditure of funds pursuant to such contract. This section
shall not be construed to require the private entity to report
or conform its other business practices or activities to the
provisions of this section, provided such practices or
activities are not directly related to or funded by such
contract.

Section 4. Paragraph (e) of subsection (4) of section
125.0104, Florida Statutes, is amended, and paragraph (f) is
added to that subsection, to read:

125.0104 Tourist development tax; procedure for levying;
authorized uses; referendum; enforcement.—

(4) ORDINANCE LEVY TAX; PROCEDURE.—

(e) The governing board of each county which levies and
imposes a tourist development tax under this section shall
appoint an advisory council to be known as the "...(name of
county)... Tourist Development Council." The council shall be
established by ordinance and composed of nine members who shall
be appointed by the governing board. The chair of the governing
board of the county or any other member of the governing board
as designated by the chair shall serve on the council. Two
members of the council shall be elected municipal officials, at
least one of whom shall be from the most populous municipality
in the county or subcounty special taxing district in which the
tax is levied. Six members of the council shall be persons who 
are involved in the tourist industry and who have demonstrated 
an interest in tourist development, of which members, not less 
than three nor more than four shall be owners or operators of 
motels, hotels, recreational vehicle parks, or other tourist 
accommodations in the county and subject to the tax. All members 
of the council shall be electors of the county. The governing 
board of the county shall have the option of designating the 
chair of the council or allowing the council to elect a chair. 
The chair shall be appointed or elected annually and may be 
reelected or reappointed. The members of the council shall serve 
for staggered terms of 4 years. The terms of office of the 
original members shall be prescribed in the resolution required 
under paragraph (b). The council shall meet at least once each 
quarter and, from time to time, shall make recommendations to 
the county governing board for the effective operation of the 
special projects or for uses of the tourist development tax 
revenue and perform such other duties as may be prescribed by 
county ordinance or resolution. The council shall continuously 
review expenditures of revenues from the tourist development 
trust fund and shall receive, at least quarterly, expenditure 
reports from the county governing board or its designee. 
Expenditures which the council believes to be unauthorized shall 
be reported to the county governing board and the Department of 
Revenue. The governing board and the department shall review the
findings of the council and take appropriate administrative or judicial action to ensure compliance with this section. The county governing board shall review a proposed contract with an estimated total contract value of $250,000 or more. The county governing board may reject such proposed contract by a majority vote before the execution of such contract. The county governing board must review all certifications by the head of a tourism promotion agency related to potential conflicts of interest and mitigation plans. The changes in the composition of the membership of the tourist development council mandated by chapter 86-4, Laws of Florida, and this act shall not cause the interruption of the current term of any person who is a member of a council on October 1, 1996.

(f) The governing board of a county that levies and imposes a tourist development tax under this section shall publish and make the following information available online:

1. The approved tourist development plan, including the approximate cost or expense allocation for each specific project or special use.

2. Any substantial amendments to the tourist development plan.

3. The tax district in which the tourist development tax is levied.

4. A prioritized list of the proposed uses of the tax revenue by specific project or special use.
5. The quarterly expenditure reports from the county governing board or its designee.

Section 5. Paragraph (c) of subsection (13) of section 288.1226, Florida Statutes, is amended to read:

288.1226 Florida Tourism Industry Marketing Corporation; use of property; board of directors; duties; audit.—

(13) TRANSPARENCY.—

(c)1. Any entity that in the previous fiscal year received more than 50 percent of its revenue from the corporation or taxes imposed pursuant to s. 125.0104, s. 125.0108, or s. 212.0305, and that partners with the corporation or participates in a program, cooperative advertisement, promotional opportunity, or other activity offered by or in conjunction with the corporation, shall annually on July 1 report all public and private financial data to the Governor, the President of the Senate, and the Speaker of the House of Representatives and include such report on its website.

2. The financial data shall include:

a. The total amount of revenue received from public and private sources.

b. The operating budget of the partner entity.

c. The total amount of salary, benefits, and other compensation provided by the entity to its officers, employees, board members, or agents, regardless of the funding source.
Employee and board member salary and benefit details from public and private funds.

d. An itemized account of all expenditures, including all travel and entertainment expenditures, by the partner entity on the behalf of, or coordinated for the benefit of, the corporation, its board members, or its employees.

e. Itemized travel and entertainment expenditures of the partner entity.

Section 6. Paragraph (c) of subsection (6) of section 288.904, Florida Statutes, is amended to read:

288.904  Funding for Enterprise Florida, Inc.; performance and return on the public's investment.—

(6)

(c)1. Any entity that in the previous fiscal year received more than 50 percent of its revenue from Enterprise Florida, Inc., or a tax imposed pursuant to s. 125.0104, s. 125.0108, or s. 212.0305, and that partners with Enterprise Florida, Inc., in a program or other activity offered by or in conjunction with Enterprise, Florida, Inc., shall annually on July 1 report all public and private financial data to the Governor, the President of the Senate, and the Speaker of the House of Representatives, and include such report on its website.

2. The financial data shall include:

a. The total amount of revenue received from public and private sources.
Amendment No. 1

b. The operating budget of the partner entity.

c. The total amount of salary, benefits, and other compensation provided by the entity to its officers, employees, board members, or agents, regardless of the funding source and private funds.

d. An itemized account of all expenditures, including all travel and entertainment expenditures, by the partner entity on the behalf of, or coordinated for the benefit of, Enterprise Florida, Inc., its board members, or its employees.

e. Itemized travel and entertainment expenditures of the partner entity.

Section 7. This act shall take effect July 1, 2018

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Page 23 of 23