A bill to be entitled
An act relating to economic development and tourism promotion accountability; amending s. 11.45, F.S.; authorizing the Auditor General to audit certain accounts and records; creating ss. 288.0751 and 288.12261, F.S.; providing definitions; providing requirements for the operation of economic development agencies and tourism promotion agencies, respectively; requiring specified persons to file an annual disclosure of certain interests; providing requirements for such disclosure; requiring board members to serve without compensation; authorizing per diem and travel expenses for certain persons paid from specified funds; prohibiting specified persons from receiving public compensation in excess of a certain amount; prohibiting certain performance bonuses and severance pay; subjecting certain persons to a specified code of ethics; requiring such agencies to take certain actions regarding a significant potential conflict of interest; limiting lodging expenses for certain persons; providing an exception; prohibiting the expenditure of agency funds on certain items; prohibiting specified persons from accepting certain items from specified entities; prohibiting a tourism promotion agency from expending funds that directly
benefit only one business entity; requiring certain contracts to include specified information; requiring a governing board of a county to publish certain proposed contracts on the county's website and approve certain contracts; requiring such agencies to submit a report of financial data to a governing board of a county; specifying that certain records are public records; requiring such agencies to provide online access to certain information; prohibiting such agencies from receiving or expending public funds; requiring the Auditor General to conduct certain audits; authorizing the Governor or Chief Financial Officer to cease distributing certain tax revenues to certain noncompliant tourism promotion agencies; providing that it is unlawful to knowingly and willfully make false or misleading statements, provide false or misleading information, fail to report certain information, or purposefully avoid specified requirements; providing penalties; providing applicability; amending s. 125.0104, F.S.; requiring the governing board of a county to review certain proposed contracts and certifications relating to potential conflicts of interest and mitigation plans; requiring the governing board of a county that imposes a tourist development tax to provide online access to
certain information; amending ss. 288.1226 and 288.904, F.S.; revising financial data required to be included in an annual report; conforming provisions to changes made by the act; providing an effective date.

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

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;
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 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 be operated by a local governmental entity or by an 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 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. This paragraph satisfies the disclosure requirement of s. 112.3143(4). 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 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 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 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 county 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 10 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 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
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 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.
(a) A tourism promotion agency may be operated by a local
governmental entity or by an 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 is not considered a tourism promotion agency.

(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 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. This paragraph satisfies the disclosure requirement of s. 112.3143(4). 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 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 10 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 tourism promotion agencies in counties that annually 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, 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.

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, 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.