

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., relating to the Public Bid Disclosure Act;
14 creating part VIII of ch. 218, F.S., consisting of ss.
15 218.801, 218.803, 218.805, 218.81, 218.82, 218.83,
16 218.84, 218.88, and 218.89, F.S.; providing a short
17 title; providing purpose; providing definitions;
18 requiring local governments to post certain voting
19 record information on their websites; requiring the
20 posting of specified links to related sites if certain
21 documentation or details are available; requiring such
22 sites and the information on such sites to comply with
23 certain federal laws; requiring property appraisers to
24 post certain property tax information and history on
25 their websites; requiring local governments to post

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

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

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

48 | 11.40 Legislative Auditing Committee.—

49 | (2) Following notification by the Auditor General, the
 50 | Department of Financial Services, or the Division of Bond

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

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

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

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

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

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

95 3. Any manner other than a special act or local ordinance,
96 notify the Department of Economic Opportunity that the special
97 district has failed to comply with the law. Upon receipt of
98 notification, the department shall proceed pursuant to s.
99 189.062 or s. 189.067(3).

100 (c) In the case of a charter school or charter technical

101 career center, notify the appropriate sponsoring entity, which
 102 may terminate the charter pursuant to ss. 1002.33 and 1002.34.

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

107 11.45 Definitions; duties; authorities; reports; rules.—

108 (7) AUDITOR GENERAL REPORTING REQUIREMENTS.—

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

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

123 125.045 County economic development powers.—

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

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

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

- 145 a. Grants.
- 146 b. Tax-based credits, refunds, or exemptions.
- 147 c. Fee-based credits, refunds, or exemptions.
- 148 d. Loans, loan insurance, or loan guarantees.
- 149 e. Below-market rate leases or deeds for real property.
- 150 f. Job training or recruitment.

- 151 g. Subsidized or discounted government services.
- 152 h. Infrastructure improvements.
- 153 2. Class two: General assistance, services, and support
154 provided collectively to businesses with a common interest or
155 purpose. Such incentives include:
- 156 a. Technical assistance and training.
- 157 b. Business incubators and accelerators.
- 158 c. Infrastructure improvements ~~Indirect incentives in the~~
159 ~~form of grants and loans provided to businesses and community~~
160 ~~organizations that provide support to businesses or promote~~
161 ~~business investment or development.~~
- 162 3. Class three: Business recruitment, retention, or
163 expansion efforts provided to benefit an individual business or
164 class of businesses. Such incentives include:
- 165 a. Marketing and market research.
- 166 b. Trade missions and trade shows.
- 167 c. Site selection.
- 168 d. Targeted assistance with the permitting and licensing
169 process.
- 170 e. Business plan or project development ~~Fee-based or tax-~~
171 ~~based incentives, including, but not limited to, credits,~~
172 ~~refunds, exemptions, and property tax abatement or assessment~~
173 ~~reductions.~~
- 174 4. ~~Below-market rate leases or deeds for real property.~~
- 175 (b) A county shall report its economic development

176 incentives in the format specified by the Office of Economic and
177 Demographic Research.

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

186 Section 4. Paragraph (e) of subsection (8) of section
187 166.021, Florida Statutes, is amended to read:

188 166.021 Powers.—

189 (8)

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

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

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

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

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

- 223 (I) Technical assistance and training.
- 224 (II) Business incubators and accelerators.
- 225 (III) Infrastructure improvements ~~Indirect incentives in~~

226 ~~the form of grants and loans provided to businesses and~~
227 ~~community organizations that provide support to businesses or~~
228 ~~promote business investment or development.~~

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

232 (I) Marketing and market research.

233 (II) Trade missions and trade shows.

234 (III) Site selection.

235 (IV) Targeted assistance with the permitting and licensing
236 process.

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

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

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

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

251 provided by all municipalities to the results of state
 252 incentives provided in similar classes.

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

255 Section 6. Part VIII of chapter 218, Florida Statutes,
 256 consisting of sections 218.801, 218.803, 218.805, 218.81,
 257 218.82, 218.83, 218.84, 218.88, and 218.89, is created to read:

258 PART VIII

259 LOCAL GOVERNMENT FISCAL TRANSPARENCY ACT

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

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

269 218.805 Definitions.—As used in this part, the term:

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

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

283 (3) "Tax increase" means:

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

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

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

298 218.81 Voting Record Access.—

299 (1) Each local government shall post on its website, in a
300 manner that is easily accessible to the public, a history of the

301 voting record of each action taken by the local governing board
 302 that addressed a tax increase or new tax-supported debt
 303 issuance, except debt that was refinanced or refunded and that
 304 did not extend the term or increase the outstanding principal
 305 amount of the original debt, as follows:

306 (a) By October 1, 2019, the voting record history from the
 307 preceding year;

308 (b) By October 1, 2020, the voting record history from the
 309 preceding 2 years;

310 (c) By October 1, 2021, the voting record history from the
 311 preceding 3 years; and

312 (d) By October 1, 2022, and thereafter, the voting record
 313 history required pursuant to this subsection from the preceding
 314 4 years.

315 (2) The website must provide links to allow users to
 316 navigate to related sites if supporting details or documentation
 317 are available, and the sites and the information on those sites
 318 are compliant with the Americans with Disabilities Act.

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

323 218.82 Property tax information and history.—

324 (1) Each county property appraiser, as defined in s.
 325 192.001, shall maintain a website that includes, in a manner

326 easily accessible to the public, links that provide access to:
327 (a) The notice of proposed property taxes and non-ad
328 valorem assessments required under s. 200.069 for each parcel of
329 property in that county; and

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

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

334 2. By October 1, 2020, the history from the 3 preceding
335 years; and

336 3. By October 1, 2021, and thereafter, the history from
337 the 4 preceding years.

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

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

346 (a) By October 1, 2019, the history from the 2 preceding
347 years;

348 (b) By October 1, 2020, the history from the 3 preceding
349 years; and

350 (c) By October 1, 2021, and thereafter, the history from

351 the 4 preceding years.

352 218.83 Expanded public noticing of tax increases and new
353 tax-supported debt issuance.-

354 (1) For the purpose of this section, the term "tax
355 increase" does not include an ad valorem tax increase, and the
356 term "tax-supported debt" does not include debt approved by
357 referendum and secured by ad valorem taxes.

358 (2) A local government that intends to vote on a proposed
359 tax increase or the issuance of new tax-supported debt shall
360 advertise a public hearing to solicit public input concerning
361 the proposed tax increase or new tax-supported debt issuance.
362 This public hearing must occur at least 14 days before the
363 scheduled date of the local governing board meeting to take a
364 final vote on the tax increase or issuance of new tax-supported
365 debt. Any hearing required under this subsection shall be held
366 after 5 p.m. if scheduled on a day other than Saturday. A
367 hearing may not be held on a Sunday. The general public shall be
368 allowed to speak and to ask questions relevant to the tax
369 increase or the tax-supported debt issuance. The local
370 government shall provide public notice as set forth in
371 subsection (4).

372 (3) (a) If, following the public hearing, the local
373 government intends to proceed with a vote to approve a tax
374 increase or the new issuance of tax-supported debt, the local
375 government shall provide public notice in the manner set forth

376 in subsection (4) at least 10 days before the scheduled public
377 meeting date.

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

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

383 2. The time and place of the meeting.

384 3. The amount of the tax increase, including both the rate
385 and total amount of annual revenue expected to be generated and
386 the expected annual revenue expressed as a percentage of the
387 government's general fund revenue.

388 4. A detailed explanation of the intended uses of the
389 levy.

390 5. A statement indicating whether the local government
391 expects to use the proceeds to secure debt.

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

394 1. A statement prominently posted that the local
395 government intends to vote on a proposed new issuance of tax-
396 supported debt.

397 2. The time and place of the meeting.

398 3. A truth in bonding statement in substantially the
399 following form:

400 "The ...(insert local government name)... is proposing to

401 issue \$...(insert principal)... of debt or obligation for the
 402 purpose of ...(insert purpose).... This debt or obligation is
 403 expected to be repaid over a period of ...(insert term of
 404 issue)... years. At a forecasted interest rate of ...(insert
 405 rate of interest)...., total interest paid over the life of the
 406 debt or obligation will be \$...(insert sum of interest
 407 payments).... The source of repayment or security for this
 408 proposal is the ...(insert the local government name)...
 409 existing ...(insert fund).... Authorizing this debt or
 410 obligation will result in \$...(insert the annual amount)... of
 411 ...(insert local government name)... ...(insert fund)... moneys
 412 not being available to finance the other services of the
 413 ...(insert local government name)... each year for ...(insert
 414 the length of the debt or obligation)...."

415 4. A description of the debt affordability ratios
 416 calculated pursuant to s. 218.84, in substantially the following
 417 form:

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

425 (4) The notice provided by a local government announcing a

426 public hearing to take public input as set forth in subsection
427 (2) or the public meeting to take a final vote as set forth in
428 subsection (3) must meet the following requirements:

429 (a) The local government must advertise notice in a
430 newspaper of general circulation in the county or counties where
431 the local government exists. A local government may advertise in
432 a geographically limited insert of a general circulation
433 newspaper if the region encompassed by the insert contains the
434 jurisdictional boundaries of the local government. The newspaper
435 must be of general interest with readership in the community and
436 not one of limited subject matter, pursuant to chapter 50. The
437 advertisement:

438 1. Must be at least one-quarter page in size of a standard
439 size newspaper or a half-page in size of a tabloid size
440 newspaper and the headline in the advertisement shall be in a
441 type no smaller than 18 point.

442 2. May not be placed in that portion of the newspaper
443 where legal notices and classified advertisements appear.

444 3. Must appear in a newspaper that is published at least 5
445 days a week unless the only newspaper in the county is published
446 less than 5 days a week. If the advertisement appears in a
447 geographically limited insert of a general circulation
448 newspaper, the insert must be one that is published at least
449 twice a week throughout the local government's jurisdiction.

450

451 In lieu of publishing the notice set out in this paragraph, the
452 local government may mail a copy of the notice to each elector
453 residing within the jurisdiction of the local government; and

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

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

460 218.84 Local government debt fiscal responsibility.-

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

470 (2) The debt affordability analysis shall, at a minimum,
471 consist of the calculation of the local government's actual debt
472 affordability ratio for the 5 fiscal years before the year the
473 debt is expected to be issued and a projection of the ratio for
474 at least the first 2 fiscal years in which the new debt is
475 expected to be issued. The analysis shall include a comparison

476 of the debt affordability ratio with and without the new debt
477 issuance.

478 (3) The debt affordability ratio for a given fiscal year
479 shall be a ratio:

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

483 (b) The numerator of which is the total annual debt
484 service for outstanding tax-supported debt of the local
485 government.

486 218.88 Audits.— Audits of financial statements of local
487 governments which are performed by a certified public accountant
488 pursuant to s. 218.39 and submitted to the Auditor General must
489 be accompanied by an affidavit executed by the chair of the
490 governing board of the local government, as a separate document,
491 stating that the local government has complied with this part
492 and must be filed with the Auditor General, or in the event the
493 local government has not complied with this part, the affidavit
494 shall instead include a description of the noncompliance and
495 corrective action taken by the local government to correct the
496 noncompliance and to prevent such noncompliance in the future.

497 218.89 Local government websites.—If a local government is
498 required under this part to post information on its website, but
499 does not operate an official website, the local government must
500 provide the county or counties within which the local government

501 is located the information required to be posted, and each such
502 county shall post the required information on its website.

503 Section 7. Paragraph (e) of subsection (1) of section
504 218.32, Florida Statutes, is amended to read:

505 218.32 Annual financial reports; local governmental
506 entities.—

507 (1)

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

520 Section 8. The Legislature finds that this act fulfills an
521 important state interest.

522 Section 9. This act shall take effect July 1, 2019.