

By Senator Lee

20-00941-18

20181426__

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 part VIII of ch. 218, F.S., consisting
14 of ss. 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 the 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 before certain increases of local
28 government tax levies or the issuance of new tax-
29 supported debt; specifying noticing and advertising

20-00941-18

20181426__

30 requirements for such public hearings and meetings;
31 requiring local governments to conduct certain debt
32 affordability analyses under specified conditions;
33 requiring audits of financial statements of local
34 governments to be accompanied by an affidavit signed
35 by the chair of the local government governing board;
36 requiring certain information to be included in
37 affidavits filed with the Auditor General; providing a
38 method for local governments that do not operate a
39 website to post certain required information; amending
40 s. 218.32, F.S.; conforming a cross-reference;
41 providing that this act fulfills an important state
42 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

20-00941-18

20181426__

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 the
87 local general-purpose government pursuant to s. 189.0652 and the

20-00941-18

20181426__

88 Department of Economic Opportunity that the special district has
89 failed to comply with the law. Upon receipt of notification, the
90 department shall proceed pursuant to s. 189.062 or s. 189.067.
91 If the special district remains in noncompliance after the
92 process set forth in s. 189.0652, or if a public hearing is not
93 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. Present paragraphs (d) through (j) of subsection
104 (7) of section 11.45, Florida Statutes, are redesignated as
105 paragraphs (e) through (k), respectively, and a new paragraph
106 (d) is added 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

20-00941-18

20181426__

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, ~~2011, and annually~~
125 ~~thereafter~~, each county shall report to the Office of Economic
126 and Demographic Research ~~the~~ economic development incentives in
127 excess of \$25,000 given to businesses ~~any business~~ during the
128 county's previous fiscal year. The Office of Economic and
129 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. The county shall
133 identify whether the economic development incentive is provided
134 directly by the county or by another entity on behalf of the
135 county, as well as the source of local dollars, and any state or
136 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.

20-00941-18

20181426__

- 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.~~

20-00941-18

20181426__

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, ~~2011, and annually~~
191 ~~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. The
200 municipality shall identify whether the economic development
201 incentive was 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

20-00941-18

20181426__

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.

20-00941-18

20181426__

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

289 (4) "Tax-supported debt" means debt with a duration of more
290 than 5 years secured in whole or in part by state or local tax

20-00941-18

20181426__

291 levies, whether such security is direct or indirect, explicit or
292 implicit, and includes, but is not limited to, debt for which
293 annual appropriations pledged for payment are from government
294 fund types receiving tax revenues or shared revenues from state
295 tax sources. The term does not include debt secured solely by
296 revenues generated by the project that is financed with the
297 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 which 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, 2018, the voting record history from the
307 preceding year;

308 (b) By October 1, 2019, the voting record history from the
309 preceding 2 years;

310 (c) By October 1, 2020, the voting record history from the
311 preceding 3 years; and

312 (d) By October 1, 2021, 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.

318 (3) In any public notice of a tax increase or the issuance
319 of new tax-supported debt, each local government shall include

20-00941-18

20181426__

320 with the public notice the website address where the voting
321 records can be accessed.

322 218.82 Property tax information and history.-

323 (1) Each county property appraiser, as defined in s.
324 192.001, shall maintain a website that includes, in a manner
325 easily accessible to the public, links that provide access to:

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

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

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

333 2. By October 1, 2019, the history from the 3 preceding
334 years; and

335 3. By October 1, 2020, and thereafter, the history from the
336 4 preceding years.

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

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

345 (a) By October 1, 2018, the history from the 2 preceding
346 years;

347 (b) By October 1, 2019, the history from the 3 preceding
348 years; and

20-00941-18

20181426__

349 (c) By October 1, 2020, and thereafter, the history from
350 the 4 preceding years.

351 218.83 Expanded public noticing of tax increases and new
352 tax-supported debt issuance.-

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

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

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

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

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

20-00941-18

20181426__

378 or tax rate increase.

379 2. The time and place of the meeting.

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

384 4. A detailed explanation of the intended uses of the levy.

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

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

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

392 2. The time and place of the meeting.

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

395 The ...(insert local government name)... is proposing to
396 issue \$...(insert principal)... of debt or obligation for the
397 purpose of ...(insert purpose).... This debt or obligation is
398 expected to be repaid over a period of ...(insert term of
399 issue)... years. At a forecasted interest rate of ...(insert
400 rate of interest)..., total interest paid over the life of the
401 debt or obligation will be \$...(insert sum of interest
402 payments).... The source of repayment or security for this
403 proposal is the ...(insert the local government name)...
404 existing ...(insert fund).... Authorizing this debt or
405 obligation will result in \$...(insert the annual amount)... of
406 ...(insert local government name)... ...(insert fund)... moneys

20-00941-18

20181426__

407 not being available to finance the other services of the
408 ...(insert local government name)... each year for ...(insert
409 the length of the debt or obligation)....

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

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

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

424 (a) The local government must advertise the notice in a
425 newspaper of general circulation in the county or counties where
426 the local government exists. A local government may advertise in
427 a geographically limited insert of a general circulation
428 newspaper if the region encompassed by the insert contains the
429 jurisdictional boundaries of the local government. The newspaper
430 must be of general interest with readership in the community and
431 not one of limited subject matter, pursuant to chapter 50. The
432 advertisement must be at least one-quarter page in size of a
433 standard size newspaper or a half-page in size of a tabloid size
434 newspaper, and the headline in the advertisement must be in a
435 type no smaller than 18 point. The advertisement may not be

20-00941-18

20181426__

436 placed in that portion of the newspaper where legal notices and
437 classified advertisements appear. The advertisement must appear
438 in a newspaper that is published at least 5 days a week unless
439 the only newspaper in the county is published less than 5 days a
440 week. If the advertisement appears in a geographically limited
441 insert of a general circulation newspaper, the insert must be
442 one that is published at least twice a week throughout the local
443 government's jurisdiction. In lieu of publishing the notice set
444 out in this paragraph, the local government may mail a copy of
445 the notice to each elector residing within the jurisdiction of
446 the local government; and

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

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

453 218.84 Local government debt fiscal responsibility.—

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

463 (2) The debt affordability analysis shall, at a minimum,
464 consist of the calculation of the local government's actual debt

20-00941-18

20181426__

465 affordability ratio for the 5 fiscal years prior to the year the
466 debt is expected to be issued and a projection of the ratio for
467 at least the first 2 fiscal years in which the new debt is
468 expected to be issued. The analysis shall include a comparison
469 of the debt affordability ratio with and without the new debt
470 issuance.

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

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

476 (b) The numerator of which is the total annual debt service
477 for outstanding tax-supported debt of the local 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 be accompanied by an affidavit executed by the chair of the
482 governing board of the local government stating that the local
483 government has complied with this part. The affidavit must be
484 filed with the Auditor General, or in the event the local
485 government has not complied with this part, the affidavit shall
486 instead include a description of the noncompliance and
487 corrective action taken by the local government to correct the
488 noncompliance and to prevent such noncompliance in the future.

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

20-00941-18

20181426__

494 county shall post the required information on its website.

495 Section 7. Paragraph (e) of subsection (1) of section
496 218.32, Florida Statutes, is amended to read:

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

499 (1)

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

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

514 Section 9. This act shall take effect July 1, 2018.