

HB 15

2019

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
22 property appraisers to post certain property tax
23 information and history on their websites; requiring
24 local governments to post certain property tax
25 information and history on their websites; requiring

public notices for public hearings and meetings prior to certain increases of local government tax levies or issuance of new tax-supported debt; specifying noticing and advertising requirements for such public hearings and meetings; requiring local governments to conduct certain debt affordability analyses under specified conditions; requiring audits of local governments to include affidavits signed by the chair of the local government governing board; providing specified information to accompany audits of local governments and filed with the Auditor General; providing a method for local governments that do not operate a website to post certain required information; amending s. 218.32, F.S.; conforming a cross-reference; declaring that the act fulfills an important state interest; providing an effective date.

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

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

11.40 Legislative Auditing Committee.—

(2) Following notification by the Auditor General, the Department of Financial Services, or the Division of Bond Finance of the State Board of Administration of the failure of a

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

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

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

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

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

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

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

99 (c) In the case of a charter school or charter technical
100 career center, notify the appropriate sponsoring entity, which

may terminate the charter pursuant to ss. 1002.33 and 1002.34.

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

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

(7) AUDITOR GENERAL REPORTING REQUIREMENTS.—

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

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

125.045 County economic development powers.—

(5)(a) By January 15 of each year ~~By January 15, 2011, and annually thereafter,~~ each county shall report to the Office of Economic and Demographic Research ~~the~~ economic development

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

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

a. Grants.

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

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

d. Loans, loan insurance, or loan guarantees.

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

f. Job training or recruitment.

g. Subsidized or discounted government services.

h. Infrastructure improvements.

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

a. Technical assistance and training.

b. Business incubators and accelerators.

c. Infrastructure improvements ~~Indirect incentives in the form of grants and loans provided to businesses and community organizations that provide support to businesses or promote business investment or development.~~

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

a. Marketing and market research.

b. Trade missions and trade shows.

c. Site selection.

d. Targeted assistance with the permitting and licensing process.

e. Business plan or project development ~~Fee-based or tax-based incentives, including, but not limited to, credits, refunds, exemptions, and property tax abatement or assessment reductions.~~

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

(b) A county shall report its economic development incentives in the format specified by the Office of Economic and

Demographic Research.

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

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

166.021 Powers.—

(8)

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

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

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

(I) Grants.

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

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

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

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

(VI) Job training or recruitment.

(VII) Subsidized or discounted government services.

(VIII) Infrastructure improvements.

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

(I) Technical assistance and training.

(II) Business incubators and accelerators.

(III) Infrastructure improvements ~~Indirect incentives in~~
~~the form of grants and loans provided to businesses and~~

~~community organizations that provide support to businesses or
promote business investment or development.~~

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

(I) Marketing and market research.

(II) Trade missions and trade shows.

(III) Site selection.

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

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

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

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

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

incentives provided in similar classes.

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

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

PART VIII

LOCAL GOVERNMENT FISCAL TRANSPARENCY ACT

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

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

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

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

(2) "Local government" means any county, municipality,

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

(3) "Tax increase" means:

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

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

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

218.81 Voting Record Access.—

(1) Each local government shall post on its website, in a
manner that is easily accessible to the public, a history of the
voting record of each action taken by the local governing board

that addressed a tax increase or new tax-supported debt
issuance, except debt that was refinanced or refunded and that
did not extend the term or increase the outstanding principal
amount of the original debt, as follows:

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

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

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

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

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

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

218.82 Property tax information and history.—

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

(a) The notice of proposed property taxes and non-ad

valorem assessments required under s. 200.069 for each parcel of property in that county; and

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

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

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

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

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

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

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

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

(c) By October 1, 2021, and thereafter, the history from the 4 preceding years.

218.83 Expanded public noticing of tax increases and new

tax-supported debt issuance.—

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

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

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

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

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

2. The time and place of the meeting.

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

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

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

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

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

2. The time and place of the meeting.

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

"The ...(insert local government name)... is proposing to issue \$...(insert principal)... of debt or obligation for the purpose of ...(insert purpose).... This debt or obligation is expected to be repaid over a period of ...(insert term of issue)... years. At a forecasted interest rate of ...(insert

rate of interest)...., total interest paid over the life of the debt or obligation will be \$...(insert sum of interest payments).... The source of repayment or security for this proposal is the ...(insert the local government name)... existing ...(insert fund).... Authorizing this debt or obligation will result in \$...(insert the annual amount)... of ...(insert local government name)... ...(insert fund)... moneys not being available to finance the other services of the ...(insert local government name)... each year for ...(insert the length of the debt or obligation)...."

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

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

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

(a) The local government must advertise notice in a

newspaper of general circulation in the county or counties where
the local government exists. A local government may advertise in
a geographically limited insert of a general circulation
newspaper if the region encompassed by the insert contains the
jurisdictional boundaries of the local government. The newspaper
must be of general interest with readership in the community and
not one of limited subject matter, pursuant to chapter 50. The
advertisement:

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

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

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

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

(b) The local government must post on its website in a

451 manner that is easily accessible to the public the information
452 required under subsections (2) and (3), as applicable.

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

456 218.84 Local government debt fiscal responsibility.—

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

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

474 (3) The debt affordability ratio for a given fiscal year
475 shall be a ratio:

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

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

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

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

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

HB 15

2019

218.32 Annual financial reports; local governmental entities.—

(1)

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

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

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

