

Transparency Legislative Concepts

ORIGINAL

YEAR

1 A bill to be entitled
 2 An act relating to local government fiscal
 3 transparency; amending s. 11.40(2), F.S.; expanding
 4 the scope of Legislative Auditing Committee review to
 5 include compliance with Part VIII of chapter 218;
 6 amending s. 11.45(7), F.S.; providing procedures for
 7 the Auditor General and local governments to comply
 8 with Part VIII of chapter 218; amending s. 218.80,
 9 F.S.; renumbering current provisions to s. 218.795;
 10 providing a new short title; creating s. 218.801,
 11 F.S.; specifying purpose of newly created Part VIII of
 12 chapter 218; creating s. 218.805, F.S.; providing
 13 definitions; creating s. 218.81, F.S.; providing
 14 statement of public interest; requiring local
 15 governments to post certain voting record information
 16 on official websites; specifying certain information
 17 local governments must include on public notices;
 18 creating s. 218.82, F.S.; providing statement of
 19 public interest; requiring property appraisers to post
 20 certain property tax information and history on
 21 official websites; requiring local governments to post
 22 certain property tax information and history on
 23 official websites; creating s. 218.83, F.S.; requiring
 24 public hearings and public notices prior to certain
 25 tax increases of local government tax levies;

Transparency Legislative Concepts

ORIGINAL

YEAR

26 specifying procedures for such public hearings and
 27 notices; creating s. 218.84, F.S.; providing statement
 28 of public policy; providing requirements local
 29 governments must meet in order to issue additional
 30 tax-supported debt; requiring local governments to
 31 conduct certain debt affordability analyses; requiring
 32 local governments to prepare a debt affordability
 33 report; creating s. 218.88, F.S.; requiring the Local
 34 Government Annual Financial Audit Report to include an
 35 evaluation of compliance with Part VIII of chapter
 36 218; creating s. 218.89, F.S.; providing a method for
 37 local governments that do not operate an official
 38 website to post certain required information;
 39 providing this act creates Part VIII of Chapter 218;
 40 providing this act fulfills an important state
 41 interest; providing an effective date.

42
 43 Be It Enacted by the Legislature of the State of Florida:

44
 45 Section 1. Subsection (2) of section 11.40, Florida
 46 Statutes, is amended to read:
 47 11.40 Legislative Auditing Committee.—
 48 (2) Following notification by the Auditor General, the
 49 Department of Financial Services, or the Division of Bond
 50 Finance of the State Board of Administration of the failure of a

Transparency Legislative Concepts

ORIGINAL

YEAR

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 ch. 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

Transparency Legislative Concepts

ORIGINAL

YEAR

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

101 may terminate the charter pursuant to ss. 1002.33 and 1002.34.
 102 Section 2. Paragraphs (d), (e), (f), (g), (h), (i), and
 103 (j) of subsection (7) of section 11.45, Florida Statutes, are
 104 redesignated as paragraphs (e), (f), (g), (h), (i), (j), and
 105 (k), respectively, and paragraph (d) is added to that
 106 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 those local governments, as defined in
 111 s. 218.805(2), that are not in compliance with Part VIII of
 112 chapter 218 and request evidence of corrective action. The unit
 113 of local government shall provide the Auditor General with
 114 evidence of corrective action within 45 days after the date it
 115 is requested by the Auditor General. If the unit of local
 116 government fails to comply with the Auditor General's request,
 117 or is unable to take corrective action, the Auditor General
 118 shall notify the Legislative Auditing Committee.

119 Section 3. Section 218.80, Florida Statutes, is renumbered
 120 as section 218.795, Florida Statutes, and present section 218.80
 121 is amended to read:

122 218.80 Short title.-- This part may be cited as the "Local
 123 Government Fiscal Transparency Act." ~~Public Bid Disclosure Act.—~~

124 ~~(1) This section may be cited as the "Public Bid~~
 125 ~~Disclosure Act."~~

126 ~~(2) It is the intent of the Legislature that a local~~
 127 ~~governmental entity shall disclose all of the local governmental~~
 128 ~~entity's permits or fees, including, but not limited to, all~~
 129 ~~license fees, permit fees, impact fees, or inspection fees,~~
 130 ~~payable by the contractor to the unit of government that issued~~
 131 ~~the bidding documents or other request for proposal, unless such~~
 132 ~~permits or fees are disclosed in the bidding documents or other~~
 133 ~~request for proposal for the project at the time the project was~~
 134 ~~let for bid. It is further the intent of the Legislature to~~
 135 ~~prohibit local governments from halting construction to collect~~
 136 ~~any undisclosed permits or fees which were not disclosed or~~
 137 ~~included in the bidding documents or other request for proposal~~
 138 ~~for the project at the time the project was let for bid.~~

139 ~~(3) Bidding documents or other request for proposal issued~~
 140 ~~for bids by a local governmental entity, or any public contract~~
 141 ~~entered into between a local governmental entity and a~~
 142 ~~contractor shall disclose each permit or fee which the~~
 143 ~~contractor will have to pay before or during construction and~~
 144 ~~shall include the dollar amount or the percentage method or the~~
 145 ~~unit method of all permits or fees which may be required by the~~
 146 ~~local government as a part of the contract. If the request for~~
 147 ~~proposal does not require the response to include a final fixed~~
 148 ~~price, the local governmental entity is not required to disclose~~
 149 ~~any fees or assessments in the request for proposal. However, at~~
 150 ~~least 10 days prior to requiring the contractor to submit a~~

151 ~~final fixed price for the project, the local governmental entity~~
 152 ~~shall make the disclosures required in this section. Any of the~~
 153 ~~local governmental entity's permits or fees which are not~~
 154 ~~disclosed in the bidding documents, other request for proposal,~~
 155 ~~or a contract between a local government and a contractor shall~~
 156 ~~not be assessed or collected after the contract is let. No local~~
 157 ~~government shall halt construction under any public contract or~~
 158 ~~delay completion of the contract in order to collect any permits~~
 159 ~~or fees which were not provided for or specified in the bidding~~
 160 ~~documents, other request for proposal, or the contract.~~

161 ~~(4) This section does not require disclosure in the~~
 162 ~~bidding documents of any permits or fees imposed as a result of~~
 163 ~~a change order or a modification to the contract. The local~~
 164 ~~government shall disclose all permits or fees imposed as a~~
 165 ~~result of a change order or a modification to the contract prior~~
 166 ~~to the date the contractor is required to submit a price for the~~
 167 ~~change order or modification.~~

168 Section 4. Section 218.801, Florida Statutes, is created
 169 to read:

170 218.801 Purpose.—The purpose of this part is to promote
 171 the fiscal transparency of local governments in their use of
 172 public funds by creating additional requirements for public
 173 noticing of local government actions to increase taxes, enact
 174 new taxes, extend expiring taxes, or issue tax-supported debt
 175 and requiring that voting records of local government governing

176 bodies related to such actions be easily and readily accessible
 177 by the public.

178 Section 5. Section 218.805, Florida Statutes, is created
 179 to read:

180 218.805 Definitions.-- As used in this part, the following
 181 words or terms shall have the following meanings:

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

188 (2) "Local government" means any county, municipality,
 189 school district, special district dependent to a county or
 190 municipality, municipal service taxing unit, or independent
 191 special district.

192 (3) "Tax increase" means:

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

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

198 (4) "Tax-supported debt" means debt secured in whole or in
 199 part by state or local tax levies, whether such security is
 200 direct or indirect, explicit or implicit, including but not

Transparency Legislative Concepts

ORIGINAL

YEAR

201 limited to debt for which annual appropriations pledged for
 202 payment are from government fund types receiving tax revenues or
 203 shared revenues from state tax sources. The term does not
 204 include debt that is secured solely by the revenues generated by
 205 the project that is financed with the debt.

206 Section 6. Section 218.81, Florida Statutes, is created to
 207 read:

208 218.81 Voting Record Access.—

209 (1) Each local government shall prominently post on its
 210 website, in a manner that is easily accessible to the public,
 211 the voting records on any action taken by the governing board of
 212 the local government during the most recent four years related
 213 to tax increases and new tax-supported debt issuance. The
 214 website must help explain the action voted on and should provide
 215 links to allow users to navigate to related sites to view
 216 supporting details.

217 (2) In any public notice required by law of a tax increase
 218 or new tax-supported debt issuance, each local government shall
 219 include on or with the notice the address of the internet link
 220 or website where the voting records can be found and accessed on
 221 its website.

222 Section 7. Section 218.82, Florida Statutes, is created to
 223 read:

224 218.82 Property tax information and history.—

225 (1) Each county property appraiser, as defined in s.

226 192.001, F.S., shall maintain a website that includes, in a
 227 manner easily accessible by the public, the notice of proposed
 228 property taxes and non-ad valorem assessments required under s.
 229 200.069 for each parcel of property in that county, and a
 230 minimum of four years of history of the millage rate and the
 231 amount of tax levied by each taxing authority on each parcel.
 232 This subsection does not apply to information that is otherwise
 233 exempt from public disclosure.

234 (2) Each local government shall prominently post on its
 235 website, in a manner that is easily accessible to the public, a
 236 minimum of 4 years of history of its annual millage rate(s), and
 237 the total annual amount of revenue generated by each of these
 238 levies.

239 Section 8. Section 218.83, Florida Statutes, is created to
 240 read:

241 218.83 Expanded public noticing of tax enactments,
 242 extensions and increases and new tax-supported debt issuance.--

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

245 (2) Any local government that intends to approve a tax
 246 increase or intends to approve the new issuance of tax-supported
 247 debt, shall hold an advertised public hearing for the purpose of
 248 considering the tax increase or new tax-supported debt issuance.
 249 This meeting must occur at least 15 days prior to the governing
 250 body of the local government meeting to take a final vote to

251 approve such tax increase or new issuance of tax-supported debt.
 252 Any hearing required under this subsection shall be held after 5
 253 p.m. if scheduled on a day other than Saturday. No hearing shall
 254 be held on a Sunday. The general public shall be allowed to
 255 speak and to ask questions relevant to the tax increase or debt
 256 issuance which is the subject of the public advertisement and
 257 hearing prior to adoption of any measures by the governing body.
 258 The advertisement of the hearing must be at least 2 columns wide
 259 by 10 inches long in a standard size or bigger newspaper. The
 260 advertisement shall appear in a newspaper as defined in chapter
 261 50, that is published in or circulated throughout the geographic
 262 boundaries of the taxing authority and that is published at
 263 least 5 days a week unless the only newspaper in the community
 264 is published less than 5 days a week.

265 (3) (a) If, following the public hearing required under
 266 subsection (1), the local government intends to proceed with a
 267 vote to approve a tax increase or the new issuance of tax-
 268 supported debt, the local government shall provide notice to the
 269 public as provided in paragraph (b).

270 (b) At least 10 days prior to a public hearing where a
 271 final vote is scheduled to be taken by the governing board of a
 272 local government on a tax increase or any new issuance of tax-
 273 supported debt, the local government shall provide public notice
 274 by:

275 1. Advertising in a newspaper of general circulation in the

276 county or counties where the local government is located as
 277 provided in paragraph (d) its intent to vote to approve a tax
 278 increase or the issuance of new tax-supported debt; and

279 2. Prominently posting on its website in a manner that is
 280 easily accessible to the public its intent to vote to approve a
 281 tax increase or the issuance of new tax-supported debt.

282 (b) For tax increases, such notice shall include at a
 283 minimum:

284 1. The time and place of the meeting;

285 2. The amount of the tax increase, including both the rate
 286 and total amount of annual revenue expected to be generated;

287 3. A detailed explanation of the intended uses of the levy;

288 4. A statement indicating whether or not the local
 289 government expects to use the proceeds to secure debt.

290 (c) For the new issuance of tax-supported debt, such notice
 291 shall include at a minimum:

292 1. The time and place of the meeting;

293 2. A truth in bonding statement in substantially the
 294 following form:

295 The ...(insert unit of local government)... is proposing to
 296 issue \$...(insert principal)... of debt or obligation for the
 297 purpose of ...(insert purpose).... This debt or obligation is
 298 expected to be repaid over a period of ...(insert term of
 299 issue)... years. At a forecasted interest rate of ...(insert
 300 rate of interest)..., total interest paid over the life of the

Transparency Legislative Concepts

ORIGINAL

YEAR

301 debt or obligation will be \$...(insert sum of interest
 302 payments).... The source of repayment or security for this
 303 proposal is the ...(insert the unit of local government)...
 304 existing ...(insert fund).... Authorizing this debt or
 305 obligation will result in \$...(insert the annual amount)... of
 306 ...(insert unit of local government)... ...(insert fund)...
 307 moneys not being available to finance the other services of the
 308 ...(insert unit of local government)... each year for ...(insert
 309 the length of the debt or obligation)....

310 3. A statement of determination that such authorization and
 311 issuance is in the best interest of the local government and
 312 should be implemented or a statement of determination that such
 313 additional debt is necessary to address a critical local
 314 emergency, if either statement is required pursuant to s.
 315 218.84.

316 (d)1. The advertisement shall be no less than one-quarter
 317 page in size of a standard size or a tabloid size newspaper, and
 318 the headline in the advertisement shall be in a type no smaller
 319 than 18 point. The advertisement shall not be placed in that
 320 portion of the newspaper where legal notices and classified
 321 advertisements appear. The advertisement shall be published in a
 322 newspaper of general paid circulation in the county or in a
 323 geographically limited insert of such newspaper. The geographic
 324 boundaries in which such insert is circulated shall include the
 325 geographic boundaries of the taxing authority. It is the

326 legislative intent that, whenever possible, the advertisement
 327 appear in a newspaper that is published at least 5 days a week
 328 unless the only newspaper in the county is published less than 5
 329 days a week, or that the advertisement appear in a
 330 geographically limited insert of such newspaper which insert is
 331 published throughout the taxing authority's jurisdiction at
 332 least twice each week. It is further the legislative intent that
 333 the newspaper selected be one of general interest and readership
 334 in the community and not one of limited subject matter, pursuant
 335 to chapter 50.

336 2. In lieu of publishing the notice set out in this
 337 subsection, the local government may mail a copy of the notice
 338 to each elector residing within the jurisdiction of the local
 339 government.

340 Section 9. Section 218.84, Florida Statutes, is created to
 341 read:

342 218.84 Local government debt fiscal responsibility.-

343 (1) It is the public policy of this state to encourage
 344 fiscal responsibility on matters pertaining to local government
 345 debt. In an effort to finance essential capital projects for the
 346 benefit of residents at favorable interest rates, local
 347 governments must maintain an excellent credit standing with
 348 investors. Authorizations of local government debt must take
 349 into account the ability of the local government to meet its
 350 total debt service requirements in light of other demands on the

Transparency Legislative Concepts

ORIGINAL

YEAR

351 local government's fiscal resources. The Legislature declares
 352 that it is the policy of this state that local governments
 353 exercise prudence in undertaking the authorization and issuance
 354 of debt. In order to implement this policy, the Legislature
 355 desires to authorize the issuance of additional local government
 356 tax-supported debt only when such authorization would not cause
 357 the ratio of debt service to revenue available to pay debt
 358 service on tax-supported debt to exceed 6 percent. If the 6-
 359 percent benchmark debt ratio will be exceeded, the authorization
 360 of such additional debt must be accompanied by a statement of
 361 determination that such authorization and issuance is in the
 362 best interest of the local government and should be implemented.
 363 A local government shall not authorize the issuance of
 364 additional tax-supported debt if such authorization would cause
 365 the designated benchmark debt ratio of debt service to revenues
 366 available to pay debt service to exceed 7 percent unless the
 367 local government authorization of such additional debt is
 368 accompanied by a statement of determination that such
 369 authorization and issuance is necessary to address a critical
 370 local emergency.

371 (2) Each local government shall conduct a debt
 372 affordability analysis each year. Proposed capital projects that
 373 require funding by the issuance of additional local debt shall
 374 be evaluated on the basis of the analysis to assist the
 375 governing body of the local government in setting priorities

376 | among capital projects and related appropriations.

377 | (a) Each local government shall annually prepare a debt
 378 | affordability report, to be presented to the governing board of
 379 | the local government, by February 15 of each year, for purposes
 380 | of providing a framework for the local government to evaluate
 381 | and establish priorities for proposals for the authorization of
 382 | additional local debt during the next budget year.

383 | (b) The report shall include, at a minimum:

384 | 1. A listing of local debt outstanding, other debt secured
 385 | by local revenues, and other contingent debt.

386 | 2. An estimate of revenues available for the next 10 fiscal
 387 | years to pay debt service, including general revenues plus any
 388 | revenues specifically pledged to pay debt service.

389 | 3. An estimate of additional debt issuance for the next 10
 390 | fiscal years for the local government's existing borrowing
 391 | programs.

392 | 4. A schedule of the annual debt service requirements,
 393 | including principal and interest allocation, on the outstanding
 394 | local debt and an estimate of the annual debt service
 395 | requirements on the debt included in subparagraph 3. for each of
 396 | the next 10 fiscal years.

397 | 5. An overview of the local government's general obligation
 398 | credit rating.

399 | 6. Identification and calculation of pertinent debt ratios,
 400 | including, but not limited to, debt service to revenues

Transparency Legislative Concepts

ORIGINAL

YEAR

401 available to pay debt service for the local government's net
 402 tax-supported debt.

403 (c) Any entity issuing debt secured by local revenues shall
 404 provide the information necessary to prepare the debt
 405 affordability report.

406 (3) Failure to comply with this section shall not affect
 407 the validity of any debt or the authorization of such debt.

408 Section 10. Section 218.88, Florida Statutes, is created
 409 to read:

410 218.88 AUDITS.—Certified public accountants conducting an
 411 audit of local government pursuant to s. 218.39, and the Auditor
 412 General conducting an audit of local government pursuant to s.
 413 11.45, shall report, as part of the audit, whether or not the
 414 local government has complied with this Part.

415 Section 11. Section 218.89, Florida Statutes, is created
 416 to read:

417 218.89 Local Government Websites.—If a local government is
 418 required under this part to post information to its website, but
 419 does not operate an official website, the local government must
 420 inform the county or counties within which the local government
 421 is located, of any information required to be posted to a
 422 website under this part, and such county shall post the required
 423 information from such local government on the county's website.

424 Section 12. This act creates Part VIII of Chapter 218,
 425 consisting of sections 218.80, 218.801, 218.805, 218.81, 218.82,

Transparency Legislative Concepts

ORIGINAL

YEAR

426 | 218.83, 281.84, 218.88, and 218.89, as amended or created by
427 | this act.

428 | Section 13. The Legislature finds that this act fulfills
429 | an important state interest.

430 | Section 14. This act shall take effect July 1, 2017.