

## **LOCAL GOVERNMENT FISCAL TRANSPARENCY CONCEPT LANGUAGE OVERVIEW**

### **Purpose**

The draft language contains several elements with an overarching purpose to increase the fiscal transparency of local governments. This is accomplished by:

- Requiring easy access to local government governing boards' voting records related to tax increases and issuance of tax-supported debt.
- Requiring easy online access to property tax TRIM notices and a four-year history of property tax rates and amounts at the parcel level. Also requiring a four-year history by taxing jurisdiction of property tax millage rates and total revenue generated by each levy.
- Expanding public notice requirements for local option tax increases, other than property taxes, and new tax-supported debt issuance (broadly defined).
- Requiring local governments to utilize debt affordability metrics and budget statements similar to those used by state government.

### **General Provisions**

The concept language creates Part VIII of Chapter 218, F.S., titled the "Local Government Fiscal Transparency Act." The substantive provisions of the concept language are explained more fully below. The concept language contains several definitions as follows:

- "Debt" is defined as meaning bonds, loans, promissory notes, lease-purchase agreements, certificates of participation, installment sales, leases, or any other financing mechanism or financial arrangement, whether or not a debt for legal purposes, for financing or refinancing the acquisition, construction, improvement, or purchase of capital outlay projects.
- "Local government" is defined as meaning any county, municipality, school district, special district dependent to a county or municipality, municipal service taxing unit, or independent special district.
- "Tax increase" is defined as meaning:
  - 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), F.S.
  - For all other taxes, a tax enactment, extension or an increase in the tax rate.
- "Tax-supported debt" is defined as meaning debt secured in whole or in part by state or local tax levies, whether such security is direct or indirect, explicit or implicit, including but 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 that is secured solely by the revenues generated by the project that is financed with the debt.

## **Voting Record Access: *Property Tax, Local Option Taxes, New Debt Issuance***

### Current Law

While the voting records of local governments governing boards are public records<sup>1</sup> and therefore subject to public disclosure, there is no current requirement under Florida law for local governments to make available, on their website, the voting records of their governing board on votes taken related to tax increases or the new issuance of tax-supported debt.

Under current law, there are a number of different types of public notice requirements for actions taken by local governments related to tax increases and new tax-supported debt issuance. For example, many of these actions by municipalities and counties require the adoption of an ordinance. Generally, the adoption of an ordinance requires publication of notice in a newspaper at least 10 days prior to the meeting where such adoption is scheduled to occur.<sup>2</sup>

### Concept Language

The concept language requires each local government prominently post on its website, in a manner that is easily accessible to the public, the voting records on any action taken by the governing board of the local government during the most recent four years related to tax increases and new tax-supported debt issuance.

The concept language also requires for any public notice required by law of a tax increase or new tax-supported debt issuance, each local government must include on or with the notice, the address of the internet link or website where the voting records can be found and accessed on its website.

## **Tax History: *Property Taxes***

### Current Law

Chapter 200, F.S., is titled “Determination of Millage” and generally governs the process, procedures and limitations on the establishment of millage rates by units of local government with ad valorem taxing authority. Section 200.069, F.S., requires the preparation and delivery by the county property appraiser of a “notice of proposed property taxes and non-ad valorem assessments.” This is commonly referred to as the truth-in-millage notice or TRIM notice, and is sent on behalf of all taxing authorities and local governing boards levying both ad valorem taxes and non-ad valorem assessments on a parcel to the owner of each parcel on the current year’s assessment roll. The TRIM notice contains the following parcel-specific information in the following format for each taxing authority:

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<sup>1</sup> See Chapter 119, F.S., generally, and s. 119.01, F.S.

<sup>2</sup> See Sections 125.66 and 166.041, F.S.

Taxing Authority	Your Property Taxes Last Year	Millage Rate Last Year	Your Taxes This Year IF PROPOSED Budget Change is Made	Millage Rate This Year IF PROPOSED Budget Change is Made	A Public Hearing on the Proposed Taxes and Budget Will be Held:	Your Taxes This Year IF NO Budget Change is Made	Millage Rate IF NO Budget Change is Made
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Concept Language

The concept language requires each county property appraiser to maintain a website that includes, in a manner easily accessible by the public, for each parcel of property, the TRIM notice and a minimum of four years of history of the millage rate and the amount of tax levied by each taxing authority on each parcel.

The concept language further requires each local government to prominently post on its website, in a manner that is easily accessible to the public, a minimum of four years of history of its annual millage rate(s), and the total annual amount of property tax revenue generated by each of these levies.

**Public Notice: *Local Option Tax Increases and New Debt Issuance***

Current Law

As mentioned above, under current law, there are a number of different types of public notice requirements for actions taken by local governments related to tax increases and new tax-supported debt issuance. For example, many of these actions by municipalities and counties require the adoption of an ordinance. Generally, the adoption of an ordinance requires publication of notice in a newspaper at least 10 days prior to the meeting where such adoption is scheduled to occur. School districts are required to hold elections prior to the issuance of certain bonds<sup>3</sup>. These elections require publication of notice at least once a week for two consecutive weeks in a newspaper published in the district<sup>4</sup>. These are only some of many examples.

Also as mentioned above, Chapter 200, F.S., generally governs the process, procedures and limitations on the establishment of millage rates by units of local government with ad valorem taxing authority. The chapter specifies all of the steps required by various persons in establishing a millage rate for a given taxing authority. Included in these required steps are various noticing requirements. For example, in addition to the preparation and distribution of the TRIM notice as described above, each local government must hold at least two public hearings to first adopt a tentative budget and then to adopt a final budget. The public meeting held to

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<sup>3</sup> Section 1010.41, F.S.

<sup>4</sup> Section 1010.43, F.S.

adopt the final budget requires publication of notice in a newspaper of general circulation in the county of the governing board's intent to adopt a final millage rate and budget<sup>5</sup>. The form of the notice is prescribed in statute<sup>6</sup>.

### Concept Language

The concept language requires an additional public meeting of the local governing board prior to the board's taking final action on a tax increase, except for ad valorem taxes, or final action on new tax-supported debt issuance. In particular, at least 15 days prior to the governing body meeting to take a final vote to approve a tax increase or to approve the issuance of any new tax-supported debt, the governing body shall hold an advertised public hearing, for the purpose of considering the tax increase or new tax-supported debt issuance. The public is specifically allowed to speak and ask questions relevant to the proposed tax increase or debt issuance.

The concept language also requires each local government, at least 10 days prior to any final action scheduled to be taken by the governing board of the local government, to give public notice related to a tax increase, except for ad valorem taxes, or final action on any new issuance of tax-supported debt. The notice is to be in the form of an advertisement in a newspaper of general circulation in the county or counties where the local government is located. The notice must also be prominently posted on the local government's website in a manner that is easily accessible to the public.

Current noticing and meeting requirements regarding ad valorem taxes are unchanged.

For tax increases, the notice must include at a minimum:

- The time and place of the meeting;
- The amount of the tax increase, including both the rate and total amount of annual revenue expected to be generated;
- A detailed explanation of the intended uses of the levy;
- A statement indicating whether or not the governing board expects to use the tax proceeds to secure debt.

For the new issuance of tax-supported debt, such notice shall include at a minimum:

- The time and place of the meeting;
- A truth in bonding statement that includes the amount of the debt, the period of time over which the debt is expected to be repaid, a forecasted interest rate for the debt, the total amount of interest expected to be paid over the term of the debt issuance, the source of repayment or security for the debt and a statement that the authorization of the debt will result in a specific amount of money being unavailable to finance the other services of the local government for each year of the term of the debt;
- A legislative statement of determination if additional borrowing would exceed certain specified target benchmark ratios (see Debt Affordability Measures below).

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<sup>5</sup> Section 200.065(2)d), F.S.

<sup>6</sup> Section 200.065(3), F.S.

## **New Debt Issuance: *Debt Affordability Measures***

### Current Law

Section 215.98, F.S., requires the state to annually prepare a debt affordability report. The report is required to include, at a minimum:

- A listing of state debt outstanding, other debt secured by state revenues, and other contingent debt;
- An estimate of revenues available for the next 10 fiscal years to pay debt service, including general revenues plus any revenues specifically pledged to pay debt service;
- An estimate of additional debt issuance for the next 10 fiscal years for the state's existing borrowing programs;
- A schedule of the annual debt service requirements, including principal and interest allocation, on the outstanding state debt and an estimate of the annual debt service requirements on the debt for each of the next 10 fiscal years;
- An overview of the state's general obligation credit rating;
- Identification and calculation of pertinent debt ratios, including, but not limited to, debt service to revenues available to pay debt service, debt to personal income, and debt per capita for the state's net tax-supported debt;
- The estimated debt capacity available over the next 10 fiscal years without the benchmark debt ratio of debt service to revenue exceeding 6 percent;
- A comparison of the debt ratios prepared for the report with the comparable debt ratios for the 10 most populous states.

Section 215.98, F.S., also requires legislative statements of determination (commonly referred to as "budget statements") in the legislative authorization of new tax-supported debt if the additional borrowing would exceed certain benchmark debt ratios. If the ratio of debt service to revenue available to pay debt service on tax-supported debt would exceed six percent as a result of the borrowing, the statement of determination is that such authorization and issuance is in the best interest of the state and should be implemented. If the same ratio would exceed seven percent as a result of the borrowing, the required statement is that such additional debt is necessary to address a critical state emergency.

### Concept Language

The concept language creates a requirement for a similar debt affordability report to be prepared by each local government<sup>7</sup> with minor adjustments. For example, the local debt affordability report under the concept language does not require inclusion of a comparison of certain debt ratios with those of the ten most populous states.

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<sup>7</sup> As noted above, local government is defined in the concept language to include "any county, municipality, school district, special district dependent to a county or municipality, municipal service taxing unit, or independent special district."

The concept language would also require the use of similar budget statements by local governments for the issuance of any new tax-supported debt when similar benchmark debt ratios would be exceeded.

## **Consequences for Non-Compliance**

### Current Law

Section 218.39, F.S., governs annual audit reports of local entities. If, by the first day in any fiscal year, a local governmental entity, district school board, charter school, or charter technical career center has not been notified that a financial audit for that fiscal year will be performed by the Auditor General, certain entities must have an annual financial audit of its accounts and records completed within nine months after the end of its fiscal year by an independent certified public accountant retained by it and paid from its public funds. The types of local governments covered by this provision are:

- Each county;
- Any municipality with revenues or the total of expenditures and expenses in excess of \$250,000, as reported on the fund financial statements;
- Any special district with revenues or the total of expenditures and expenses in excess of \$100,000, as reported on the fund financial statements;
- Each district school board;
- Each charter school established under s. 1002.33, F.S; and
- Each charter technical center established under s. 1002.34, F.S.

At the conclusion of the audit, the auditor must discuss with the statutorily designated person for each entity, all of the auditor's comments that will be included in the audit report. If the officer is not available to discuss the auditor's comments, their discussion is presumed when the comments are delivered in writing to his or her office<sup>8</sup>. The auditor is required to prepare an audit report in accordance with the rules of the Auditor General. The audit report must be filed with the Auditor General within 45 days after delivery of the audit report to the governing body of the audited entity, but no later than nine months after the end of the audited entity's fiscal year. The audit report must include a written statement describing corrective actions to be taken in response to each of the auditor's recommendations included in the audit report.<sup>9</sup>

The Auditor General is required to notify the Legislative Auditing Committee of any audit report prepared pursuant to this section which indicates that an audited entity has failed to take full corrective action in response to a recommendation that was included in the two preceding financial audit reports.<sup>10</sup> The Legislative Auditing Committee may direct the governing body of the audited entity to provide a written statement to the committee explaining why full corrective action has not been taken or, if the governing body intends to take full corrective action,

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<sup>8</sup> Section 218.39(5), F.S.

<sup>9</sup> Section 218.39(7), F.S.

<sup>10</sup> Section 218.39(8), F.S.

describing the corrective action to be taken and when it will occur<sup>11</sup>. If the Legislative Auditing Committee determines that the written statement is not sufficient, it may require the chair of the governing body of the local governmental entity or the chair's designee, the elected official of each county agency or the elected official's designee, the chair of the district school board or the chair's designee, the chair of the board of the charter school or the chair's designee, or the chair of the board of the charter technical career center or the chair's designee, as appropriate, to appear before the committee<sup>12</sup>. If the Legislative Auditing Committee determines that an audited entity has failed to take full corrective action for which there is no justifiable reason for not taking such action, or has failed to comply with committee requests made pursuant to this section, the committee may proceed in accordance with s. 11.40(2), F.S.<sup>13</sup>

Section 11.40, F.S., governs the Legislative Auditing Committee, including the scope of its authority and actions it may take in specified circumstances. In the case of a local governmental entity or district school board, these actions include, but are not limited to, directing the Department of Revenue and the Department of Financial Services to withhold any funds not pledged for bond debt service satisfaction which are payable to such entity until the entity complies with the law.<sup>14</sup>

### Concept Language

The concept language requires the annual audit reports described above to report whether or not the local government has complied with the requirements of the newly created Part VIII of Chapter 218, F.S., as contemplated by the concept language.

Failure to comply with Part VIII, Chapter 218, F.S., could therefore ultimately result in the Legislative Auditing Committee directing the Department of Revenue and the Department of Financial Services to withhold any funds not pledged for bond debt service satisfaction which are payable to such entity until the entity complies with the law. This would include revenue sharing monies that the state shares with local governments. Generally, state-shared revenue programs allocate all or some portion of a state-collected fee or tax to specified local governments based on eligibility requirements. In some cases, a formula has been developed for the allocation of funds between units of local government. While general law restricts the use of several shared revenues, proceeds derived from other shared revenues may be used for the general revenue needs of local governments.

### **Administrative and Conforming Changes**

#### Current Law

Part VIII of Chapter 218, F.S., does not currently exist.

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<sup>11</sup> Section 218.39(8)(a), F.S.

<sup>12</sup> Section 218.39(8)(b), F.S.

<sup>13</sup> Section 218.39(8)(c), F.S.

<sup>14</sup> Section 11.40(2)(a), F.S.

## Concept Language

As noted above, the concept language creates Part VIII of Chapter 218, F.S., titled the “Local Government Fiscal Transparency Act.” The concept language creates s. 218.801, providing that the purpose of the Act is to:

Promote the fiscal transparency of local governments in their use of public funds by creating additional requirements for public noticing of local government actions to increase taxes, enact new taxes, extend expiring taxes, or issue tax-supported debt and requiring that voting records of local government governing bodies related to such actions be easily and readily accessible by the public.

The concept language creates requirements as described above for various types of information to be prominently placed on local government’s websites. The concept language provides that if a local government is required to post information to its website, but does not operate a website, that it must inform the county or counties within which the local government is located, of any information required to be posted to a website under this part, and such county shall post the required information from such local government on the county’s website.

The concept language contains a legislative finding that the act fulfills an important state interest.

### **Fiscal Impacts**

The provisions of the concept language are expected to require expenditures by local governments, the amount of which is unknown.

### **Effective Date**

The effective date of the concept language is July 1, 2017.