

Bill No. CS/HB 385, 1st Eng.

Amendment No. Barcode 464966

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Pruitt moved the following amendment:

Senate Amendment (with title amendment)

On page 3, lines 15 & 16, delete those line

and insert:

Section 3. Effective January 1, 2003, section 175.1015, Florida Statutes, is created to read:

175.1015 Determination of local premium tax situs.--

(1)(a) Any insurance company that is obligated to report and remit the excise tax on property insurance premiums imposed under s. 175.101 shall be held harmless from any liability for taxes, interest, or penalties that would otherwise be due solely as a result of an assignment of an insured property to an incorrect local taxing jurisdiction if the insurance company exercises due diligence in applying an electronic database provided by the Department of Revenue under subsection (2). Insurance companies that do not use the electronic database provided by the Department of Revenue or that do not exercise due diligence in applying the electronic database are subject to a 0.5-percent penalty on the portion

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1 of the premium pertaining to any insured risk that is
2 improperly assigned, whether assigned to an improper local
3 taxing jurisdiction, not assigned to a local taxing
4 jurisdiction when it should be assigned to a local taxing
5 jurisdiction, or assigned to a local taxing jurisdiction when
6 it should not be assigned to a local taxing jurisdiction.

7 (b) Any insurance company that is obligated to report
8 and remit the excise tax on commercial property insurance
9 premiums imposed under s. 175.101 and is unable, after due
10 diligence, to assign an insured property to a specific local
11 taxing jurisdiction for purposes of complying with paragraph
12 (a) shall remit the excise tax on commercial property
13 insurance premiums using a methodology of apportionment in a
14 manner consistent with the remittance for the 2001 calendar
15 year.

16 (2)(a) The Department of Revenue shall, subject to
17 legislative appropriation, create as soon as practical and
18 feasible, and thereafter shall maintain, an electronic
19 database that gives due and proper regard to any format that
20 is approved by the American National Standards Institute's
21 Accredited Standards Committee X12 and that designates for
22 each street address and address range in the state, including
23 any multiple postal street addresses applicable to one street
24 location, the local taxing jurisdiction in which the street
25 address and address range is located and the appropriate code
26 for each such participating local taxing jurisdiction,
27 identified by one nationwide standard numeric code. The
28 nationwide standard numeric code must contain the same number
29 of numeric digits, and each digit or combination of digits
30 must refer to the same level of taxing jurisdiction throughout
31 the United States and must be in a format similar to FIPS 55-3

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1 or other appropriate standard approved by the Federation of
2 Tax Administrators and the Multistate Tax Commission. Each
3 address or address range must be provided in standard postal
4 format, including the street number, street number range,
5 street name, and zip code. Each year after the creation of the
6 initial database, the Department of Revenue shall annually
7 create and maintain a database for the current tax year. Each
8 annual database must be calendar-year specific.

9 (b)1. Each participating local taxing jurisdiction
10 shall furnish to the Department of Revenue all information
11 needed to create the electronic database as soon as practical
12 and feasible. The information furnished to the Department of
13 Revenue must specify an effective date.

14 2. Each participating local taxing jurisdiction shall
15 furnish to the Department of Revenue all information needed to
16 create and update the current year's database, including
17 changes in annexations, incorporations, and reorganizations
18 and any other changes in jurisdictional boundaries, as well as
19 changes in eligibility to participate in the excise tax
20 imposed under this chapter. The information must specify an
21 effective date and must be furnished to the Department of
22 Revenue by July 1 of the current year.

23 3. The Department of Revenue shall create and update
24 the current year's database in accordance with the information
25 furnished by participating local taxing jurisdictions under
26 subparagraph 1. or subparagraph 2., as appropriate. To the
27 extent practicable, the Department of Revenue shall post each
28 new annual database on a web site by September 1 of each year.
29 Each participating local taxing jurisdiction shall have access
30 to this web site and, within 30 days thereafter, shall provide
31 any corrections to the Department of Revenue. The Department

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1 of Revenue shall finalize the current year's database and post
2 it on a web site by November 1 of the tax year. If a dispute
3 in jurisdictional boundaries cannot be resolved so that
4 changes in boundaries may be included, as appropriate, in the
5 database by November 1, the changes may not be retroactively
6 included in the current year's database and the boundaries
7 will remain the same as in the previous year's database. The
8 finalized database must be used in assigning policies and
9 premiums to the proper local taxing jurisdiction for the
10 insurance premium tax return due on the following March 1. The
11 Department of Revenue shall furnish the annual database on
12 magnetic or electronic media to any insurance company or
13 vendor that requests the database for the sole purpose of
14 assigning insurance premiums to the proper local taxing
15 jurisdiction for the excise tax imposed under this chapter.
16 Information contained in the electronic database is conclusive
17 for purposes of this chapter. The electronic database is not
18 an order, a rule, or a policy of general applicability.

19 4. Each annual database must identify the additions,
20 deletions, and other changes to the preceding version of the
21 database.

22 (3)(a) As used in this section, the term "due
23 diligence" means the care and attention that is expected from
24 and is ordinarily exercised by a reasonable and prudent person
25 under the circumstances.

26 (b) Notwithstanding any law to the contrary, an
27 insurance company is exercising due diligence if the insurance
28 company complies with the provisions of paragraph (1)(b) or if
29 the insurance company assigns an insured's premium to local
30 taxing jurisdictions in accordance with the Department of
31 Revenue's annual database and:

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1 1. Expends reasonable resources to accurately and
2 reliably implement such method;

3 2. Maintains adequate internal controls to correctly
4 include in its database of policyholders the location of the
5 property insured, in the proper address format, so that
6 matching with the department's database is accurate; and

7 3. Corrects errors in the assignment of addresses to
8 local taxing jurisdictions within 120 days after the insurance
9 company discovers the errors.

10 (4) There is annually appropriated from the moneys
11 collected under this chapter and deposited in the Police and
12 Firefighter's Premium Tax Trust Fund an amount sufficient to
13 pay the expenses of the Department of Revenue in administering
14 this section, but not to exceed \$50,000 annually, adjusted
15 annually by the lesser of a 5-percent increase or the
16 percentage of growth in the total collections.

17 (5) The Department of Revenue shall adopt rules
18 necessary to administer this section, including rules
19 establishing procedures and forms.

20 (6) Any insurer that is obligated to collect and remit
21 the tax on property insurance imposed under s. 175.101 shall
22 be held harmless from liability, including, but not limited
23 to, any tax, interest, or penalties, which would otherwise be
24 due solely as a result of an assignment of an insured property
25 to an incorrect local taxing jurisdiction, based on the
26 collection and remission of the tax accruing before the
27 effective date of this section, provided the insurer collects
28 and reports this tax consistent with filings for periods
29 before the effective date of this section. Further, any
30 insurer that is obligated to collect and remit the tax on
31 property insurance imposed under this section shall not be

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1 subject to an examination under s. 624.316 or s. 624.3161
2 which would occur solely as a result of an assignment of an
3 insured property to an incorrect local taxing jurisdiction,
4 based on the collection and remission of such tax accruing
5 before the effective date of this section.

6 Section 4. Effective January 1, 2003, section 185.085,
7 Florida Statutes, is created to read:

8 185.085 Determination of local premium tax situs.--

9 (1)(a) Any insurance company that is obligated to
10 report and remit the excise tax on casualty insurance premiums
11 imposed under s. 185.08 shall be held harmless from any
12 liability for taxes, interest, or penalties that would
13 otherwise be due solely as a result of an assignment of an
14 insured property to an incorrect local taxing jurisdiction if
15 the insurance company exercises due diligence in applying an
16 electronic database provided by the Department of Revenue
17 under subsection (2). Insurance companies that do not use the
18 electronic database provided by the Department of Revenue or
19 that do not exercise due diligence in applying the electronic
20 database are subject to a 0.5-percent penalty on the portion
21 of the premium pertaining to any insured risk that is
22 improperly assigned, whether assigned to an improper local
23 taxing jurisdiction, not assigned to a local taxing
24 jurisdiction when it should be assigned to a local taxing
25 jurisdiction, or assigned to a local taxing jurisdiction when
26 it should not be assigned to a local taxing jurisdiction.

27 (b) Any insurance company that is obligated to report
28 and remit the excise tax on commercial casualty insurance
29 premiums imposed under s. 185.08 and is unable, after due
30 diligence, to assign an insured property to a specific local
31 taxing jurisdiction for purposes of complying with paragraph

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1 (a) shall remit the excise tax on commercial casualty
2 insurance premiums using a methodology of apportionment in a
3 manner consistent with the remittance for the 2001 calendar
4 year.

5 (2)(a) The Department of Revenue shall, subject to
6 legislative appropriation, create as soon as practical and
7 feasible, and thereafter shall maintain, an electronic
8 database that gives due and proper regard to any format that
9 is approved by the American National Standards Institute's
10 Accredited Standards Committee X12 and that designates for
11 each street address and address range in the state, including
12 any multiple postal street addresses applicable to one street
13 location, the local taxing jurisdiction in which the street
14 address and address range is located and the appropriate code
15 for each such participating local taxing jurisdiction,
16 identified by one nationwide standard numeric code. The
17 nationwide standard numeric code must contain the same number
18 of numeric digits, and each digit or combination of digits
19 must refer to the same level of taxing jurisdiction throughout
20 the United States and must be in a format similar to FIPS 55-3
21 or other appropriate standard approved by the Federation of
22 Tax Administrators and the Multistate Tax Commission. Each
23 address or address range must be provided in standard postal
24 format, including the street number, street number range,
25 street name, and zip code. Each year after the creation of the
26 initial database, the Department of Revenue shall annually
27 create and maintain a database for the current tax year. Each
28 annual database must be calendar-year specific.

29 (b)1. Each participating local taxing jurisdiction
30 shall furnish to the Department of Revenue all information
31 needed to create the electronic database as soon as practical

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1 and feasible. The information furnished to the Department of
2 Revenue must specify an effective date.

3 2. Each participating local taxing jurisdiction shall
4 furnish to the Department of Revenue all information needed to
5 create and update the current year's database, including
6 changes in annexations, incorporations, and reorganizations
7 and any other changes in jurisdictional boundaries, as well as
8 changes in eligibility to participate in the excise tax
9 imposed under this chapter. The information must specify an
10 effective date and must be furnished to the Department of
11 Revenue by July 1 of the current year.

12 3. The Department of Revenue shall create and update
13 the current year's database in accordance with the information
14 furnished by participating local taxing jurisdictions under
15 subparagraph 1. or subparagraph 2., as appropriate. To the
16 extent practicable, the Department of Revenue shall post each
17 new annual database on a web site by September 1 of each year.
18 Each participating local taxing jurisdiction shall have access
19 to this web site and, within 30 days thereafter, shall provide
20 any corrections to the Department of Revenue. The Department
21 of Revenue shall finalize the current year's database and post
22 it on a web site by November 1 of the tax year. If a dispute
23 in jurisdictional boundaries cannot be resolved so that
24 changes in boundaries may be included, as appropriate, in the
25 database by November 1, the changes may not be retroactively
26 included in the current year's database and the boundaries
27 will remain the same as in the previous year's database. The
28 finalized database must be used in assigning policies and
29 premiums to the proper local taxing jurisdiction for the
30 insurance premium tax return due on the following March 1. The
31 Department of Revenue shall furnish the annual database on

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1 magnetic or electronic media to any insurance company or
2 vendor that requests the database for the sole purpose of
3 assigning insurance premiums to the proper local taxing
4 jurisdiction for the excise tax imposed under this chapter.
5 Information contained in the electronic database is conclusive
6 for purposes of this chapter. The electronic database is not
7 an order, a rule, or a policy of general applicability.

8 4. Each annual database must identify the additions,
9 deletions, and other changes to the preceding version of the
10 database.

11 (3)(a) As used in this section, the term "due
12 diligence" means the care and attention that is expected from
13 and is ordinarily exercised by a reasonable and prudent person
14 under the circumstances.

15 (b) Notwithstanding any law to the contrary, an
16 insurance company is exercising due diligence if the insurance
17 company complies with the provisions of paragraph (1)(b) or if
18 the insurance company assigns an insured's premium to local
19 taxing jurisdictions in accordance with the Department of
20 Revenue's annual database and:

21 1. Expend reasonable resources to accurately and
22 reliably implement such method;

23 2. Maintains adequate internal controls to correctly
24 include in its database of policyholders the location of the
25 property insured, in the proper address format, so that
26 matching with the department's database is accurate; and

27 3. Corrects errors in the assignment of addresses to
28 local taxing jurisdictions within 120 days after the insurance
29 company discovers the errors.

30 (4) There is annually appropriated from the moneys
31 collected under this chapter and deposited in the Police and

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1 Firefighter's Premium Tax Trust Fund an amount sufficient to
2 pay the expenses of the Department of Revenue in administering
3 this section, but not to exceed \$50,000 annually, adjusted
4 annually by the lesser of a 5-percent increase or the
5 percentage of growth in the total collections.

6 (5) The Department of Revenue shall adopt rules
7 necessary to administer this section, including rules
8 establishing procedures and forms.

9 (6)(a) Notwithstanding any other provision of law, no
10 methodology, formula, or database that is adopted in any year
11 after the effective date of this section may result in a
12 distribution to a participating municipality that has a
13 retirement plan created pursuant to this chapter of an amount
14 of excise tax which is less than the amount distributed to
15 such participating municipality for calendar year 2002.
16 However, if the total proceeds to be distributed for the
17 current year from the excise tax imposed under s. 185.08 are
18 less than the total amount distributed for calendar year 2002,
19 each participating municipality shall receive a current year
20 distribution that is proportionate to its share of the total
21 2002 calendar year distribution. If the total proceeds to be
22 distributed for the current year from the excise tax imposed
23 under s. 185.08 are greater than or equal to the total amount
24 distributed for calendar year 2002, each participating
25 municipality shall initially be distributed a minimum amount
26 equal to the amount received for calendar year 2002. The
27 remaining amount to be distributed for the current year, which
28 equals the total to be distributed for the current year less
29 minimum distribution amount shall be distributed to those
30 municipalities with a current-year reported amount that is
31 greater than the amount distributed to such municipality for

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1 calendar year 2002. Each municipality eligible for
2 distribution of this remaining amount shall receive its
3 proportionate share of the remaining amount based upon the
4 amount reported for that municipality, above the calendar year
5 2002 distribution for the current year, to the total amount
6 over the calendar year 2002 distribution for all
7 municipalities with a current year reported amount that is
8 greater than the calendar year 2002 distribution.

9 (b) If a new municipality elects to participate under
10 this chapter during any year after the effective date of this
11 section, such municipality shall receive the total amount
12 reported for the current year for such municipality. All other
13 participating municipalities shall receive a current year
14 distribution, calculated as provided in this section, which is
15 proportionate to their share of the total 2002 calendar year
16 distribution after subtracting the amount paid to the new
17 participating plans.

18 (c) This subsection expires January 1, 2006.

19 (7) Any insurer that is obligated to collect and remit
20 the tax on casualty insurance imposed under s. 185.08 shall be
21 held harmless from liability, including, but not limited to,
22 any tax, interest, or penalties, which would otherwise be due
23 solely as a result of an assignment of an insured risk to an
24 incorrect local taxing jurisdiction, based on the collection
25 and remission of the tax accruing before the effective date of
26 this section, provided the insurer collects and reports this
27 tax consistent with filings for periods before the effective
28 date of this section. Further, any insurer that is obligated
29 to collect and remit the tax on casualty insurance imposed
30 under this section shall not be subject to an examination
31 under s. 624.316 or s. 624.3161 which would occur solely as a

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1 result of an assignment of an insured risk to an incorrect
 2 local taxing jurisdiction, based on the collection and
 3 remission of such tax accruing before the effective date of
 4 this section.

5 Section 5. Subsection (18) of section 175.032, Florida
 6 Statutes, is amended to read:

7 175.032 Definitions.--For any municipality, special
 8 fire control district, chapter plan, local law municipality,
 9 local law special fire control district, or local law plan
 10 under this chapter, the following words and phrases have the
 11 following meanings:

12 (18) "Supplemental plan municipality" means any local
 13 law municipality in which there existed a supplemental plan,
 14 of any type or nature, as of December 1, 2000 ~~January 1, 1997~~.

15 Section 6. Subsection (1) and paragraph (b) of
 16 subsection (3) of section 175.351, Florida Statutes, are
 17 amended to read:

18 175.351 Municipalities and special fire control
 19 districts having their own pension plans for
 20 firefighters.--For any municipality, special fire control
 21 district, local law municipality, local law special fire
 22 control district, or local law plan under this chapter, in
 23 order for municipalities and special fire control districts
 24 with their own pension plans for firefighters, or for
 25 firefighters and police officers, where included, to
 26 participate in the distribution of the tax fund established
 27 pursuant to s. 175.101, local law plans must meet the minimum
 28 benefits and minimum standards set forth in this chapter.

29 (1) PREMIUM TAX INCOME.--If a municipality has a
 30 pension plan for firefighters, or a pension plan for
 31 firefighters and police officers, where included, which in the

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1 opinion of the division meets the minimum benefits and minimum
2 standards set forth in this chapter, the board of trustees of
3 the pension plan, as approved by a majority of firefighters of
4 the municipality, may:

5 (a) Place the income from the premium tax in s.
6 175.101 in such pension plan for the sole and exclusive use of
7 its firefighters, or for firefighters and police officers,
8 where included, where it shall become an integral part of that
9 pension plan and shall be used to pay extra benefits to the
10 firefighters included in that pension plan; or

11 (b) Place the income from the premium tax in s.
12 175.101 in a separate supplemental plan to pay extra benefits
13 to firefighters, or to firefighters and police officers where
14 included, participating in such separate supplemental plan.

15
16 The premium tax provided by this chapter shall in all cases be
17 used in its entirety to provide extra benefits to
18 firefighters, or to firefighters and police officers, where
19 included. However, local law plans in effect on October 1,
20 1998, shall be required to comply with the minimum benefit
21 provisions of this chapter only to the extent that additional
22 premium tax revenues become available to incrementally fund
23 the cost of such compliance as provided in s. 175.162(2)(a).
24 When a plan is in compliance with such minimum benefit
25 provisions, as subsequent additional premium tax revenues
26 become available, they shall be used to provide extra
27 benefits. For the purpose of this chapter, "additional premium
28 tax revenues" means revenues received by a municipality or
29 special fire control district pursuant to s. 175.121 that
30 exceed that amount received for calendar year 1997 and the
31 term "extra benefits" means benefits in addition to or greater

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1 than those provided to general employees of the municipality,
2 and in addition to those in existence for firefighters on
3 March 12, 1999. Local law plans created by special act before
4 May 23, 1939, shall be deemed to comply with this chapter.

5 (3) Notwithstanding any other provision, with respect
6 to any supplemental plan municipality:

7 (b) Section 175.061(1)(b) shall not apply, and a local
8 law plan and a supplemental plan shall continue to be
9 administered by a board or boards of trustees numbered,
10 constituted, and selected as the board or boards were
11 numbered, constituted, and selected on December 1, 2000
12 ~~January 1, 1997~~.

13 Section 7. Subsection (16) of section 185.02, Florida
14 Statutes, is amended to read:

15 185.02 Definitions.--For any municipality, chapter
16 plan, local law municipality, or local law plan under this
17 chapter, the following words and phrases as used in this
18 chapter shall have the following meanings, unless a different
19 meaning is plainly required by the context:

20 (16) "Supplemental plan municipality" means any local
21 law municipality in which there existed a supplemental plan as
22 of December 1, 2000 ~~January 1, 1997~~.

23 Section 8. Subsection (1) and paragraph (b) of
24 subsection (3) of section 185.35, Florida Statutes, are
25 amended to read:

26 185.35 Municipalities having their own pension plans
27 for police officers.--For any municipality, chapter plan,
28 local law municipality, or local law plan under this chapter,
29 in order for municipalities with their own pension plans for
30 police officers, or for police officers and firefighters where
31 included, to participate in the distribution of the tax fund

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1 established pursuant to s. 185.08, local law plans must meet
2 the minimum benefits and minimum standards set forth in this
3 chapter:

4 (1) PREMIUM TAX INCOME.--If a municipality has a
5 pension plan for police officers, or for police officers and
6 firefighters where included, which, in the opinion of the
7 division, meets the minimum benefits and minimum standards set
8 forth in this chapter, the board of trustees of the pension
9 plan, as approved by a majority of police officers of the
10 municipality, may:

11 (a) Place the income from the premium tax in s. 185.08
12 in such pension plan for the sole and exclusive use of its
13 police officers, or its police officers and firefighters where
14 included, where it shall become an integral part of that
15 pension plan and shall be used to pay extra benefits to the
16 police officers included in that pension plan; or

17 (b) May place the income from the premium tax in s.
18 185.08 in a separate supplemental plan to pay extra benefits
19 to the police officers, or police officers and firefighters
20 where included, participating in such separate supplemental
21 plan.

22
23 The premium tax provided by this chapter shall in all cases be
24 used in its entirety to provide extra benefits to police
25 officers, or to police officers and firefighters, where
26 included. However, local law plans in effect on October 1,
27 1998, shall be required to comply with the minimum benefit
28 provisions of this chapter only to the extent that additional
29 premium tax revenues become available to incrementally fund
30 the cost of such compliance as provided in s. 185.16(2). When
31 a plan is in compliance with such minimum benefit provisions,

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1 as subsequent additional tax revenues become available, they
2 shall be used to provide extra benefits. For the purpose of
3 this chapter, "additional premium tax revenues" means revenues
4 received by a municipality pursuant to s. 185.10 that exceed
5 the amount received for calendar year 1997 and the term "extra
6 benefits" means benefits in addition to or greater than those
7 provided to general employees of the municipality, and in
8 addition to those in existence for police officers on March
9 12, 1999. Local law plans created by special act before May
10 23, 1939, shall be deemed to comply with this chapter.

11 (3) Notwithstanding any other provision, with respect
12 to any supplemental plan municipality:

13 (b) Section 185.05(1)(b) shall not apply, and a local
14 law plan and a supplemental plan shall continue to be
15 administered by a board or boards of trustees numbered,
16 constituted, and selected as the board or boards were
17 numbered, constituted, and selected on December 1, 2000
18 ~~January 1, 1997~~.

19 Section 9. The sum of \$300,000 is appropriated from
20 the General Revenue Fund to the Department of Revenue for the
21 one-time expense of creating the original database called for
22 by sections 3 and 4 of this act, and to begin the
23 implementation process for use of the database. It is the
24 intent of the Legislature in providing this appropriation that
25 the database for sections 3 and 4 of this act be available for
26 use in determining the allocation of premiums to the various
27 municipalities and special fire control districts for the 2003
28 insurance premium tax return that is due by March 1, 2004.

29 Section 10. Except as otherwise provided in this act,
30 this act shall take effect upon becoming law.

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1 ===== T I T L E A M E N D M E N T =====

2 And the title is amended as follows:

3 On page 1, line 8, delete that line

4

5 and insert:

6 creating s. 175.1015, F.S.; authorizing the
7 Department of Revenue to create and maintain a
8 database for use by insurers; providing
9 insurers with incentives for using the
10 database; providing penalties for failure to
11 use the database; requiring local governments
12 to provide information to the department;
13 appropriating funds to the department for the
14 administration of the database; authorizing the
15 department to adopt rules; creating s. 185.085,
16 F.S.; authorizing the Department of Revenue to
17 create and maintain a database for use by
18 insurers; providing incentives to insurers for
19 using the database and penalties for failure to
20 use the database; requiring local governments
21 to provide information to the department;
22 appropriating funds to the department for the
23 administration of the database; authorizing the
24 department to adopt rules; providing for
25 distribution of tax revenues through 2006;
26 amending s. 175.032, F.S.; providing an
27 extended time period for the recognition of
28 supplemental firefighter pension plans;
29 amending s. 175.351, F.S.; defining the term
30 "extra benefits" with respect to pension plans
31 for firefighters; providing an extended time

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1 period for the recognition of supplemental
2 firefighter pension plans; amending s. 185.02,
3 F.S.; providing an extended time period for the
4 recognition of supplemental municipal police
5 officer pension plans; amending s. 185.35,
6 F.S.; providing for the meaning of the term
7 "extra benefits" with respect to pension plans
8 for municipal police officers; providing an
9 extended time period for the recognition of
10 supplemental municipal police officer pension
11 plans; providing an appropriation to the
12 Department of Revenue; providing effective
13 dates.

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