

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

Amendment No. Barcode 751190

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senators Pruitt and Burt moved the following **amendment to amendment** (822970):

Senate Amendment (with title amendment)

On page 10, between lines 21 & 22,

and insert:

Section 11. 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

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1 database are subject to a 0.5-percent penalty on the portion
2 of the premium pertaining to any insured risk that is
3 improperly assigned, whether assigned to an improper local
4 taxing jurisdiction, not assigned to a local taxing
5 jurisdiction when it should be assigned to a local taxing
6 jurisdiction, or assigned to a local taxing jurisdiction when
7 it should not be assigned to a local taxing jurisdiction.

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

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

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1 the United States and must be in a format similar to FIPS 55-3
2 or other appropriate standard approved by the Federation of
3 Tax Administrators and the Multistate Tax Commission. Each
4 address or address range must be provided in standard postal
5 format, including the street number, street number range,
6 street name, and zip code. Each year after the creation of the
7 initial database, the Department of Revenue shall annually
8 create and maintain a database for the current tax year. Each
9 annual database must be calendar-year specific.

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

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

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

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

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

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

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

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1 Revenue's annual database and:

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

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

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

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

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

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

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1 property insurance imposed under this section shall not be
2 subject to an examination under s. 624.316 or s. 624.3161
3 which would occur solely as a result of an assignment of an
4 insured property to an incorrect local taxing jurisdiction,
5 based on the collection and remission of such tax accruing
6 before the effective date of this section.

7 Section 12. Effective January 1, 2003, section
8 185.085, Florida Statutes, is created to read:

9 185.085 Determination of local premium tax situs.--

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

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

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

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

30 (b)1. Each participating local taxing jurisdiction
31 shall furnish to the Department of Revenue all information

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1 needed to create the electronic database as soon as practical
2 and feasible. The information furnished to the Department of
3 Revenue must specify an effective date.

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

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

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

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

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

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

- 22 1. Expend reasonable resources to accurately and
23 reliably implement such method;
- 24 2. Maintains adequate internal controls to correctly
25 include in its database of policyholders the location of the
26 property insured, in the proper address format, so that
27 matching with the department's database is accurate; and
- 28 3. Corrects errors in the assignment of addresses to
29 local taxing jurisdictions within 120 days after the insurance
30 company discovers the errors.

31 (4) There is annually appropriated from the moneys

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

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

10 (6)(a) Notwithstanding any other provision of law, no
11 methodology, formula, or database that is adopted in any year
12 after the effective date of this section may result in a
13 distribution to a participating municipality that has a
14 retirement plan created pursuant to this chapter of an amount
15 of excise tax which is less than the amount distributed to
16 such participating municipality for calendar year 2002.

17 However, if the total proceeds to be distributed for the
18 current year from the excise tax imposed under s. 185.08 are
19 less than the total amount distributed for calendar year 2002,
20 each participating municipality shall receive a current year
21 distribution that is proportionate to its share of the total
22 2002 calendar year distribution. If the total proceeds to be
23 distributed for the current year from the excise tax imposed
24 under s. 185.08 are greater than or equal to the total amount
25 distributed for calendar year 2002, each participating
26 municipality shall initially be distributed a minimum amount
27 equal to the amount received for calendar year 2002. The
28 remaining amount to be distributed for the current year, which
29 equals the total to be distributed for the current year less
30 minimum distribution amount shall be distributed to those
31 municipalities with a current-year reported amount that is

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

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

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

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

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

6 Section 13. Subsection (18) of section 175.032,
7 Florida Statutes, is amended to read:

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

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

16 Section 14. Subsection (1) and paragraph (b) of
17 subsection (3) of section 175.351, Florida Statutes, are
18 amended to read:

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

30 (1) PREMIUM TAX INCOME.--If a municipality has a
31 pension plan for firefighters, or a pension plan for

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

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

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

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

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

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

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

14 Section 15. Subsection (16) of section 185.02, Florida
15 Statutes, is amended to read:

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

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

24 Section 16. Subsection (1) and paragraph (b) of
25 subsection (3) of section 185.35, Florida Statutes, are
26 amended to read:

27 185.35 Municipalities having their own pension plans
28 for police officers.--For any municipality, chapter plan,
29 local law municipality, or local law plan under this chapter,
30 in order for municipalities with their own pension plans for
31 police officers, or for police officers and firefighters where

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1 included, to participate in the distribution of the tax fund
2 established pursuant to s. 185.08, local law plans must meet
3 the minimum benefits and minimum standards set forth in this
4 chapter:

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

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

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

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

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1 a plan is in compliance with such minimum benefit provisions,
2 as subsequent additional tax revenues become available, they
3 shall be used to provide extra benefits. For the purpose of
4 this chapter, "additional premium tax revenues" means revenues
5 received by a municipality pursuant to s. 185.10 that exceed
6 the amount received for calendar year 1997 and the term "extra
7 benefits" means benefits in addition to or greater than those
8 provided to general employees of the municipality, and in
9 addition to those in existence for police officers on March
10 12, 1999. Local law plans created by special act before May
11 23, 1939, shall be deemed to comply with this chapter.

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

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

20 Section 17. The sum of \$300,000 is appropriated from
21 the General Revenue Fund to the Department of Revenue for the
22 one-time expense of creating the original database called for
23 by sections 11 and 12 of this act, and to begin the
24 implementation process for use of the database. It is the
25 intent of the Legislature in providing this appropriation that
26 the database for sections 11 and 12 of this act be available
27 for use in determining the allocation of premiums to the
28 various municipalities and special fire control districts for
29 the 2003 insurance premium tax return that is due by March 1,
30 2004.

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1 (Redesignate subsequent sections.)

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

5 And the title is amended as follows:

6 On page 12, line 3, after the semicolon

7

8 and insert:

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

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1 amending s. 175.351, F.S.; defining the term
2 "extra benefits" with respect to pension plans
3 for firefighters; providing an extended time
4 period for the recognition of supplemental
5 firefighter pension plans; amending s. 185.02,
6 F.S.; providing an extended time period for the
7 recognition of supplemental municipal police
8 officer pension plans; amending s. 185.35,
9 F.S.; providing for the meaning of the term
10 "extra benefits" with respect to pension plans
11 for municipal police officers; providing an
12 extended time period for the recognition of
13 supplemental municipal police officer pension
14 plans; providing an appropriation to the
15 Department of Revenue;

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