

By Senator Pruitt

28-333-03

1 A bill to be entitled
2 An act relating to firefighter and municipal
3 police pensions; creating s. 175.1015, F.S.;
4 authorizing the Department of Revenue to create
5 and maintain a database for use by insurers
6 that report and remit an excise tax on property
7 insurance premiums; providing insurers with
8 incentives for using the database; providing
9 penalties for failure to use the database;
10 requiring local governments to provide
11 information to the department; appropriating
12 funds to the department for the administration
13 of the database; authorizing the department to
14 adopt rules; creating s. 185.085, F.S.;
15 authorizing the Department of Revenue to create
16 and maintain a database for use by insurers
17 that report and remit an excise tax on casualty
18 insurers premiums; providing incentives to
19 insurers for using the database and penalties
20 for failure to use the database; requiring
21 local governments to provide information to the
22 department; appropriating funds to the
23 department for the administration of the
24 database; authorizing the department to adopt
25 rules; providing for distribution of tax
26 revenues through 2007; amending s. 175.351,
27 F.S.; defining the term "extra benefits" with
28 respect to pension plans for firefighters;
29 amending s. 185.35, F.S.; providing for the
30 meaning of the term "extra benefits" with
31 respect to pension plans for municipal police

1 officers; providing an appropriation to the
2 Department of Revenue; providing an effective
3 date.
4

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

6
7 Section 1. Section 175.1015, Florida Statutes, is
8 created to read:

9 175.1015 Determination of local premium tax situs.--

10 (1)(a) Any insurance company that is obligated to
11 report and remit the excise tax on property insurance premiums
12 imposed under s. 175.101 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 property insurance
30 premiums imposed under s. 175.101 and is unable, after due
31 diligence, to assign an insured property to a specific local

1 taxing jurisdiction for purposes of complying with paragraph
2 (a) shall remit the excise tax on commercial property
3 insurance premiums using a methodology of apportionment in a
4 manner consistent with the remittance for the 2002 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 conforms to any format approved by the American
10 National Standards Institute's Accredited Standards Committee
11 X12 and that designates for each street address and address
12 range in the state, including any multiple postal street
13 addresses applicable to one street location, the local taxing
14 jurisdiction in which the street address and address range is
15 located, and the appropriate code for each such participating
16 local taxing jurisdiction, identified by one nationwide
17 standard numeric code. The nationwide standard numeric code
18 must contain the same number of numeric digits, and each digit
19 or combination of digits must refer to the same level of
20 taxing jurisdiction throughout the United States and must be
21 in a format similar to FIPS 55-3 or other appropriate standard
22 approved by the Federation of Tax Administrators and the
23 Multistate Tax Commission. Each address or address range must
24 be provided in standard postal format, including the street
25 number, street number range, street name, and zip code. Each
26 year after the creation of the initial database, the
27 Department of Revenue shall annually create and maintain a
28 database for the current tax year. Each annual database must
29 be calendar-year specific.

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

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

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. Expends 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

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

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

11 (6) Any insurer that is obligated to collect and remit
12 the tax on property insurance imposed under s. 175.101 shall
13 be held harmless from any liability for taxes, interest, or
14 penalties that would otherwise be due solely as a result of an
15 assignment of an insured property to an incorrect local taxing
16 jurisdiction, based on the collection and remission of the tax
17 accruing before January 1, 2004, if the insurer collects and
18 reports this tax consistent with filings for periods before
19 January 1, 2004. Further, any insurer that is obligated to
20 collect and remit the tax on property insurance imposed under
21 this section is not subject to an examination under s. 624.316
22 or s. 624.3161 which would occur solely as a result of an
23 assignment of an insured property to an incorrect local taxing
24 jurisdiction, based on the collection and remission of such
25 tax accruing before January 1, 2004.

26 Section 2. Section 185.085, Florida Statutes, is
27 created to read:

28 185.085 Determination of local premium tax situs.--

29 (1)(a) Any insurance company that is obligated to
30 report and remit the excise tax on casualty insurance premiums
31 imposed under s. 185.08 shall be held harmless from any

1 liability for taxes, interest, or penalties that would
2 otherwise be due solely as a result of an assignment of an
3 insured property to an incorrect local taxing jurisdiction if
4 the insurance company exercises due diligence in applying an
5 electronic database provided by the Department of Revenue
6 under subsection (2). Insurance companies that do not use the
7 electronic database provided by the Department of Revenue or
8 that do not exercise due diligence in applying the electronic
9 database are subject to a 0.5-percent penalty on the portion
10 of the premium pertaining to any insured risk that is
11 improperly assigned, whether assigned to an improper local
12 taxing jurisdiction, not assigned to a local taxing
13 jurisdiction when it should be assigned to a local taxing
14 jurisdiction, or assigned to a local taxing jurisdiction when
15 it should not be assigned to a local taxing jurisdiction.

16 (b) Any insurance company that is obligated to report
17 and remit the excise tax on commercial casualty insurance
18 premiums imposed under s. 185.08 and is unable, after due
19 diligence, to assign an insured property to a specific local
20 taxing jurisdiction for purposes of complying with paragraph
21 (a) shall remit the excise tax on commercial casualty
22 insurance premiums using a methodology of apportionment in a
23 manner consistent with the remittance for the 2002 calendar
24 year.

25 (2)(a) The Department of Revenue shall, subject to
26 legislative appropriation, create as soon as practical and
27 feasible, and thereafter shall maintain, an electronic
28 database that conforms to any format approved by the American
29 National Standards Institute's Accredited Standards Committee
30 X12 and that designates for each street address and address
31 range in the state, including any multiple postal street

1 addresses applicable to one street location, the local taxing
2 jurisdiction in which the street address and address range is
3 located, and the appropriate code for each such participating
4 local taxing jurisdiction, identified by one nationwide
5 standard numeric code. The nationwide standard numeric code
6 must contain the same number of numeric digits, and each digit
7 or combination of digits must refer to the same level of
8 taxing jurisdiction throughout the United States and must be
9 in a format similar to FIPS 55-3 or other appropriate standard
10 approved by the Federation of Tax Administrators and the
11 Multistate Tax Commission. Each address or address range must
12 be provided in standard postal format, including the street
13 number, street number range, street name, and zip code. Each
14 year after the creation of the initial database, the
15 Department of Revenue shall annually create and maintain a
16 database for the current tax year. Each annual database must
17 be calendar-year specific.

18 (b)1. Each participating local taxing jurisdiction
19 shall furnish to the Department of Revenue all information
20 needed to create the electronic database as soon as practical
21 and feasible. The information furnished to the Department of
22 Revenue must specify an effective date.

23 2. Each participating local taxing jurisdiction shall
24 furnish to the Department of Revenue all information needed to
25 create and update the current year's database, including
26 changes in annexations, incorporations, and reorganizations
27 and any other changes in jurisdictional boundaries, as well as
28 changes in eligibility to participate in the excise tax
29 imposed under this chapter. The information must specify an
30 effective date and must be furnished to the Department of
31 Revenue by July 1 of the current year.

1 3. The Department of Revenue shall create and update
2 the current year's database in accordance with the information
3 furnished by participating local taxing jurisdictions under
4 subparagraph 1. or subparagraph 2., as appropriate. To the
5 extent practicable, the Department of Revenue shall post each
6 new annual database on a web site by September 1 of each year.
7 Each participating local taxing jurisdiction shall have access
8 to this web site and, within 30 days thereafter, shall provide
9 any corrections to the Department of Revenue. The Department
10 of Revenue shall finalize the current year's database and post
11 it on a web site by November 1 of the tax year. If a dispute
12 in jurisdictional boundaries cannot be resolved so that
13 changes in boundaries may be included, as appropriate, in the
14 database by November 1, the changes may not be retroactively
15 included in the current year's database and the boundaries
16 will remain the same as in the previous year's database. The
17 finalized database must be used in assigning policies and
18 premiums to the proper local taxing jurisdiction for the
19 insurance premium tax return due on the following March 1. The
20 Department of Revenue shall furnish the annual database on
21 magnetic or electronic media to any insurance company or
22 vendor that requests the database for the sole purpose of
23 assigning insurance premiums to the proper local taxing
24 jurisdiction for the excise tax imposed under this chapter.
25 Information contained in the electronic database is conclusive
26 for purposes of this chapter. The electronic database is not
27 an order, a rule, or a policy of general applicability.

28 4. Each annual database must identify the additions,
29 deletions, and other changes to the preceding version of the
30 database.

31

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

5 (b) Notwithstanding any law to the contrary, an
6 insurance company is exercising due diligence if the insurance
7 company complies with the provisions of paragraph (1)(b) or if
8 the insurance company assigns an insured's premium to local
9 taxing jurisdictions in accordance with the Department of
10 Revenue's annual database and:

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

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

17 3. Corrects errors in the assignment of addresses to
18 local taxing jurisdictions within 120 days after the insurance
19 company discovers the errors.

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

27 (5) The Department of Revenue shall adopt rules
28 necessary to administer this section, including rules
29 establishing procedures and forms.

30 (6)(a) Notwithstanding any other law, no methodology,
31 formula, or database that is adopted in any year after January

1 1, 2004, may result in a distribution to a participating
2 municipality that has a retirement plan created pursuant to
3 this chapter of an amount of excise tax which is less than the
4 amount distributed to such participating municipality for
5 calendar year 2003. However, if the total proceeds to be
6 distributed for the current year from the excise tax imposed
7 under s. 185.08 are less than the total amount distributed for
8 calendar year 2003, each participating municipality shall
9 receive a current year distribution that is proportionate to
10 its share of the total 2003 calendar year distribution. If the
11 total proceeds to be distributed for the current year from the
12 excise tax imposed under s. 185.08 are greater than or equal
13 to the total amount distributed for calendar year 2003, each
14 participating municipality shall initially be distributed a
15 minimum amount equal to the amount received for calendar year
16 2003. The remaining amount to be distributed for the current
17 year, which equals the total to be distributed for the current
18 year, less minimum distribution amount, shall be distributed
19 to those municipalities with a current-year reported amount
20 that is greater than the amount distributed to such
21 municipality for calendar year 2003. Each municipality
22 eligible for distribution of this remaining amount shall
23 receive its proportionate share of the remaining amount based
24 upon the amount reported for that municipality, above the
25 calendar year 2003 distribution for the current year, to the
26 total amount over the calendar year 2003 distribution for all
27 municipalities with a current year reported amount that is
28 greater than the calendar year 2003 distribution.

29 (b) If a new municipality elects to participate under
30 this chapter during any year after January 1, 2004, such
31 municipality shall receive the total amount reported for the

1 current year for such municipality. All other participating
2 municipalities shall receive a current year distribution,
3 calculated as provided in this section, which is proportionate
4 to their share of the total 2003 calendar year distribution
5 after subtracting the amount paid to the new participating
6 plans.

7 (c) This subsection expires January 1, 2007.

8 (7) Any insurer that is obligated to collect and remit
9 the tax on casualty insurance imposed under s. 185.08 shall be
10 held harmless from any liability for taxes, interest, or
11 penalties that would otherwise be due solely as a result of an
12 assignment of an insured risk to an incorrect local taxing
13 jurisdiction, based on the collection and remission of the tax
14 accruing before January 1, 2004, if the insurer collects and
15 reports this tax consistent with filings for periods before
16 January 1, 2004. Further, any insurer that is obligated to
17 collect and remit the tax on casualty insurance imposed under
18 this section is not subject to an examination under s. 624.316
19 or s. 624.3161 which would occur solely as a result of an
20 assignment of an insured risk to an incorrect local taxing
21 jurisdiction, based on the collection and remission of such
22 tax accruing before the effective date of this section.

23 Section 3. Subsection (1) of section 175.351, Florida
24 Statutes, is amended to read:

25 175.351 Municipalities and special fire control
26 districts having their own pension plans for
27 firefighters.--For any municipality, special fire control
28 district, local law municipality, local law special fire
29 control district, or local law plan under this chapter, in
30 order for municipalities and special fire control districts
31 with their own pension plans for firefighters, or for

1 firefighters and police officers, where included, to
2 participate in the distribution of the tax fund established
3 pursuant to s. 175.101, local law plans must meet the minimum
4 benefits and minimum standards set forth in this chapter.

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

12 (a) Place the income from the premium tax in s.
13 175.101 in such pension plan for the sole and exclusive use of
14 its firefighters, or for firefighters and police officers,
15 where included, where it shall become an integral part of that
16 pension plan and shall be used to pay extra benefits to the
17 firefighters included in that pension plan; or

18 (b) Place the income from the premium tax in s.
19 175.101 in a separate supplemental plan to pay extra benefits
20 to firefighters, or to firefighters and police officers where
21 included, participating in such separate supplemental 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
25 firefighters, or to firefighters and police officers, 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. 175.162(2)(a).
31 When a plan is in compliance with such minimum benefit

1 provisions, as subsequent additional premium tax revenues
2 become available, they shall be used to provide extra
3 benefits. For the purpose of this chapter, "additional premium
4 tax revenues" means revenues received by a municipality or
5 special fire control district pursuant to s. 175.121 which
6 ~~that~~ exceed that amount received for calendar year 1997, and
7 the term "extra benefits" means benefits in addition to or
8 greater than those provided to general employees of the
9 municipality and in addition to those in existence for
10 firefighters on March 12, 1999. Local law plans created by
11 special act before May 23, 1939, shall be deemed to comply
12 with this chapter.

13 Section 4. Subsection (1) of section 185.35, Florida
14 Statutes, is amended to read:

15 185.35 Municipalities having their own pension plans
16 for police officers.--For any municipality, chapter plan,
17 local law municipality, or local law plan under this chapter,
18 in order for municipalities with their own pension plans for
19 police officers, or for police officers and firefighters where
20 included, to participate in the distribution of the tax fund
21 established pursuant to s. 185.08, local law plans must meet
22 the minimum benefits and minimum standards set forth in this
23 chapter:

24 (1) PREMIUM TAX INCOME.--If a municipality has a
25 pension plan for police officers, or for police officers and
26 firefighters where included, which, in the opinion of the
27 division, meets the minimum benefits and minimum standards set
28 forth in this chapter, the board of trustees of the pension
29 plan, as approved by a majority of police officers of the
30 municipality, may:

31

1 (a) Place the income from the premium tax in s. 185.08
2 in such pension plan for the sole and exclusive use of its
3 police officers, or its police officers and firefighters where
4 included, where it shall become an integral part of that
5 pension plan and shall be used to pay extra benefits to the
6 police officers included in that pension plan; or

7 (b) May place the income from the premium tax in s.
8 185.08 in a separate supplemental plan to pay extra benefits
9 to the police officers, or police officers and firefighters
10 where included, participating in such separate supplemental
11 plan.

12
13 The premium tax provided by this chapter shall in all cases be
14 used in its entirety to provide extra benefits to police
15 officers, or to police officers and firefighters, where
16 included. However, local law plans in effect on October 1,
17 1998, shall be required to comply with the minimum benefit
18 provisions of this chapter only to the extent that additional
19 premium tax revenues become available to incrementally fund
20 the cost of such compliance as provided in s. 185.16(2). When
21 a plan is in compliance with such minimum benefit provisions,
22 as subsequent additional tax revenues become available, they
23 shall be used to provide extra benefits. For the purpose of
24 this chapter, "additional premium tax revenues" means revenues
25 received by a municipality pursuant to s. 185.10 which ~~that~~
26 exceed the amount received for calendar year 1997, and the
27 term "extra benefits" means benefits in addition to or greater
28 than those provided to general employees of the municipality
29 and in addition to those in existence for police officers on
30 March 12, 1999. Local law plans created by special act before
31 May 23, 1939, shall be deemed to comply with this chapter.

