

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; amending s. 175.061, F.S.;

2 authorizing the plan administrator to withhold

3 certain funds; amending s. 185.05, F.S.;

4 authorizing the plan administrator to withhold

5 certain funds; providing an appropriation to

6 the Department of Revenue; providing an

7 effective date.

8

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

10

11 Section 1. Section 175.1015, Florida Statutes, is

12 created to read:

13 175.1015 Determination of local premium tax situs.--

14 (1)(a) Any insurance company that is obligated to

15 report and remit the excise tax on property insurance premiums

16 imposed under s. 175.101 shall be held harmless from any

17 liability for taxes, interest, or penalties that would

18 otherwise be due solely as a result of an assignment of an

19 insured property to an incorrect local taxing jurisdiction if

20 the insurance company exercises due diligence in applying an

21 electronic database provided by the Department of Revenue

22 under subsection (2). Insurance companies that do not use the

23 electronic database provided by the Department of Revenue or

24 that do not exercise due diligence in applying the electronic

25 database are subject to a 0.5-percent penalty on the portion

26 of the premium pertaining to any insured risk that is

27 improperly assigned, whether assigned to an improper local

28 taxing jurisdiction, not assigned to a local taxing

29 jurisdiction when it should be assigned to a local taxing

30 jurisdiction, or assigned to a local taxing jurisdiction when

31 it should not be assigned to a local taxing jurisdiction.

1           (b) Any insurance company that is obligated to report  
2 and remit the excise tax on commercial property insurance  
3 premiums imposed under s. 175.101 and is unable, after due  
4 diligence, to assign an insured property to a specific local  
5 taxing jurisdiction for purposes of complying with paragraph  
6 (a) shall remit the excise tax on commercial property  
7 insurance premiums using a methodology of apportionment in a  
8 manner consistent with the remittance for the 2002 calendar  
9 year.

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

1 database for the current tax year. Each annual database must  
2 be calendar-year specific.

3 (b)1. Each participating local taxing jurisdiction  
4 shall furnish to the Department of Revenue all information  
5 needed to create the electronic database as soon as practical  
6 and feasible. The information furnished to the Department of  
7 Revenue must specify an effective date.

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

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

1 will remain the same as in the previous year's database. The  
2 finalized database must be used in assigning policies and  
3 premiums to the proper local taxing jurisdiction for the  
4 insurance premium tax return due on the following March 1. The  
5 Department of Revenue shall furnish the annual database on  
6 magnetic or electronic media to any insurance company or  
7 vendor that requests the database for the sole purpose of  
8 assigning insurance premiums to the proper local taxing  
9 jurisdiction for the excise tax imposed under this chapter.  
10 Information contained in the electronic database is conclusive  
11 for purposes of this chapter. The electronic database is not  
12 an order, a rule, or a policy of general applicability.

13 4. Each annual database must identify the additions,  
14 deletions, and other changes to the preceding version of the  
15 database.

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

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

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

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

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

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

11           (5) The Department of Revenue shall adopt rules  
12 necessary to administer this section, including rules  
13 establishing procedures and forms.

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

29           Section 2. Section 185.085, Florida Statutes, is  
30 created to read:

31           185.085 Determination of local premium tax situs.--

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

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

28           (2)(a) The Department of Revenue shall, subject to  
29 legislative appropriation, create as soon as practical and  
30 feasible, and thereafter shall maintain, an electronic  
31 database that conforms to any format approved by the American

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

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

26 2. Each participating local taxing jurisdiction shall  
27 furnish to the Department of Revenue all information needed to  
28 create and update the current year's database, including  
29 changes in annexations, incorporations, and reorganizations  
30 and any other changes in jurisdictional boundaries, as well as  
31 changes in eligibility to participate in the excise tax



1 imposed under this chapter. The information must specify an  
2 effective date and must be furnished to the Department of  
3 Revenue by July 1 of the current year.

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

31

1           4. Each annual database must identify the additions,  
2 deletions, and other changes to the preceding version of the  
3 database.

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

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

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

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

20           3. Corrects errors in the assignment of addresses to  
21 local taxing jurisdictions within 120 days after the insurance  
22 company discovers the errors.

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

30  
31

1           (5) The Department of Revenue shall adopt rules  
2 necessary to administer this section, including rules  
3 establishing procedures and forms.

4           (6)(a) Notwithstanding any other law, no methodology,  
5 formula, or database that is adopted in any year after January  
6 1, 2004, may result in a distribution to a participating  
7 municipality that has a retirement plan created pursuant to  
8 this chapter of an amount of excise tax which is less than the  
9 amount distributed to such participating municipality for  
10 calendar year 2003. However, if the total proceeds to be  
11 distributed for the current year from the excise tax imposed  
12 under s. 185.08 are less than the total amount distributed for  
13 calendar year 2003, each participating municipality shall  
14 receive a current year distribution that is proportionate to  
15 its share of the total 2003 calendar year distribution. If the  
16 total proceeds to be distributed for the current year from the  
17 excise tax imposed under s. 185.08 are greater than or equal  
18 to the total amount distributed for calendar year 2003, each  
19 participating municipality shall initially be distributed a  
20 minimum amount equal to the amount received for calendar year  
21 2003. The remaining amount to be distributed for the current  
22 year, which equals the total to be distributed for the current  
23 year, less minimum distribution amount, shall be distributed  
24 to those municipalities with a current-year reported amount  
25 that is greater than the amount distributed to such  
26 municipality for calendar year 2003. Each municipality  
27 eligible for distribution of this remaining amount shall  
28 receive its proportionate share of the remaining amount based  
29 upon the amount reported for that municipality, above the  
30 calendar year 2003 distribution for the current year, to the  
31 total amount over the calendar year 2003 distribution for all

1 municipalities with a current year reported amount that is  
2 greater than the calendar year 2003 distribution.

3 (b) If a new municipality elects to participate under  
4 this chapter during any year after January 1, 2004, such  
5 municipality shall receive the total amount reported for the  
6 current year for such municipality. All other participating  
7 municipalities shall receive a current year distribution,  
8 calculated as provided in this section, which is proportionate  
9 to their share of the total 2003 calendar year distribution  
10 after subtracting the amount paid to the new participating  
11 plans.

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

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

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

30 175.351 Municipalities and special fire control  
31 districts having their own pension plans for

1 firefighters.--For any municipality, special fire control  
2 district, local law municipality, local law special fire  
3 control district, or local law plan under this chapter, in  
4 order for municipalities and special fire control districts  
5 with their own pension plans for firefighters, or for  
6 firefighters and police officers, where included, to  
7 participate in the distribution of the tax fund established  
8 pursuant to s. 175.101, local law plans must meet the minimum  
9 benefits and minimum standards set forth in this chapter.

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

17 (a) Place the income from the premium tax in s.  
18 175.101 in such pension plan for the sole and exclusive use of  
19 its firefighters, or for firefighters and police officers,  
20 where included, where it shall become an integral part of that  
21 pension plan and shall be used to pay extra benefits to the  
22 firefighters included in that pension plan; or

23 (b) Place the income from the premium tax in s.  
24 175.101 in a separate supplemental plan to pay extra benefits  
25 to firefighters, or to firefighters and police officers where  
26 included, participating in such separate supplemental plan.

27  
28 The premium tax provided by this chapter shall in all cases be  
29 used in its entirety to provide extra benefits to  
30 firefighters, or to firefighters and police officers, where  
31 included. However, local law plans in effect on October 1,

1 1998, shall be required to comply with the minimum benefit  
2 provisions of this chapter only to the extent that additional  
3 premium tax revenues become available to incrementally fund  
4 the cost of such compliance as provided in s. 175.162(2)(a).  
5 When a plan is in compliance with such minimum benefit  
6 provisions, as subsequent additional premium tax revenues  
7 become available, they shall be used to provide extra  
8 benefits. For the purpose of this chapter, "additional premium  
9 tax revenues" means revenues received by a municipality or  
10 special fire control district pursuant to s. 175.121 which  
11 ~~that~~ exceed that amount received for calendar year 1997, and  
12 the term "extra benefits" means benefits in addition to or  
13 greater than those provided to general employees of the  
14 municipality and in addition to those in existence for  
15 firefighters on March 12, 1999. Local law plans created by  
16 special act before May 23, 1939, shall be deemed to comply  
17 with this chapter.

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

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

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

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

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

11 (b) May place the income from the premium tax in s.  
12 185.08 in a separate supplemental plan to pay extra benefits  
13 to the police officers, or police officers and firefighters  
14 where included, participating in such separate supplemental  
15 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 police  
19 officers, or to police officers and firefighters, 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. 185.16(2). When  
25 a plan is in compliance with such minimum benefit provisions,  
26 as subsequent additional tax revenues become available, they  
27 shall be used to provide extra benefits. For the purpose of  
28 this chapter, "additional premium tax revenues" means revenues  
29 received by a municipality pursuant to s. 185.10 which ~~that~~  
30 exceed the amount received for calendar year 1997, and the  
31 term "extra benefits" means benefits in addition to or greater

1 than those provided to general employees of the municipality  
2 and in addition to those in existence for police officers 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 Section 5. Subsection (7) is added to section 175.061,  
6 Florida Statutes, to read:

7 175.061 Board of trustees; members; terms of office;  
8 meetings; legal entity; costs; attorney's fees.--For any  
9 municipality, special fire control district, chapter plan,  
10 local law municipality, local law special fire control  
11 district, or local law plan under this chapter:

12 (7) The board of trustees may, upon written request by  
13 the retiree of the plan, or by a dependent, when authorized by  
14 the retiree or the retiree's beneficiary, authorize the plan  
15 administrator to withhold from the monthly retirement payment  
16 those funds that are necessary to pay for the benefits being  
17 received through the governmental entity from which the  
18 employee retired, to pay the certified bargaining agent of the  
19 governmental entity, and to make any payments required by law.

20 Section 6. Present subsection (6) of section 185.05,  
21 Florida Statutes, is redesignated as subsection (7), and a new  
22 subsection (6) is added to that section, to read:

23 185.05 Board of trustees; members; terms of office;  
24 meetings; legal entity; costs; attorney's fees.--For any  
25 municipality, chapter plan, local law municipality, or local  
26 law plan under this chapter:

27 (6) The board of trustees may, upon written request by  
28 the retiree of the plan, or by a dependent, when authorized by  
29 the retiree or the retiree's beneficiary, authorize the plan  
30 administrator to withhold from the monthly retirement payment  
31 those funds that are necessary to pay for the benefits being



1 received through the governmental entity from which the  
 2 employee retired, to pay the certified bargaining agent of the  
 3 governmental entity, and to make any payments required by law.

4       Section 7. The sum of \$300,000 is appropriated from  
 5 the General Revenue Fund to the Department of Revenue for the  
 6 one-time expense of creating the original database called for  
 7 by sections 1 and 2 of this act, and to support the  
 8 implementation process for use of the database. It is the  
 9 intent of the Legislature in providing this appropriation that  
 10 the database for sections 1 and 2 of this act be available for  
 11 use in determining the allocation of premiums to the various  
 12 municipalities and special fire control districts for the 2004  
 13 insurance premium tax return that is due by March 1, 2005.

14       Section 8. This act shall take effect January 1, 2004.  
 15  
 16  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25  
 26  
 27  
 28  
 29  
 30  
 31