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1 A bill to be entitled

2 An act relating to firefighter and municipal police
3 pensions; creating s. 175.1015, F.S.; authorizing the
4 Department of Revenue to create and maintain a database
5 for use by insurers that report and remit an excise tax
6 on property insurance premiums; providing incentives to
7 insurers for using the database and penalties for failure
8 to use the database; requiring local governments to
9 provide information to the department; appropriating
10 funds to the department for the administration of the
11 database; authorizing the department to adopt rules;
12 creating s. 185.085, F.S.; authorizing the Department of
13 Revenue to create and maintain a database for use by
14 insurers that report and remit an excise tax on casualty
15 insurers premiums; providing incentives to insurers for
16 using the database and penalties for failure to use the
17 database; requiring local governments to provide
18 information to the department; appropriating funds to the
19 department for the administration of the database;
20 authorizing the department to adopt rules; providing for
21 distribution of tax revenues through 2007; amending s.
22 175.351, F.S.; providing for the meaning of the term
23 "extra benefits" with respect to pension plans for
24 firefighters; amending s. 185.35, F.S.; providing for the
25 meaning of the term "extra benefits" with respect to
26 pension plans for municipal police officers; amending s.
27 175.061, F.S.; authorizing the plan administrator to
28 withhold certain funds; amending s. 185.05, F.S.;
29 authorizing the plan administrator to withhold certain
30 funds; providing an appropriation to the Department of



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31 Revenue; providing for construction of the act in pari
 32 materia with laws enacted during the 2003 Regular Session
 33 or any 2003 Special Session of the Legislature; providing
 34 an effective date.

35
 36 Be It Enacted by the Legislature of the State of Florida:

37
 38 Section 1. Section 175.1015, Florida Statutes, is created
 39 to read:

40 175.1015 Determination of local premium tax situs.--

41 (1)(a) Any insurance company that is obligated to report
 42 and remit the excise tax on property insurance premiums imposed
 43 under s. 175.101 shall be held harmless from any liability for
 44 taxes, interest, or penalties that would otherwise be due solely
 45 as a result of an assignment of an insured property to an
 46 incorrect local taxing jurisdiction if the insurance company
 47 exercises due diligence in applying an electronic database
 48 provided by the Department of Revenue under subsection (2).
 49 Insurance companies that do not use the electronic database
 50 provided by the Department of Revenue or that do not exercise
 51 due diligence in applying the electronic database are subject to
 52 a 0.5-percent penalty on the portion of the premium pertaining
 53 to any insured risk that is improperly assigned, whether
 54 assigned to an improper local taxing jurisdiction, not assigned
 55 to a local taxing jurisdiction when it should be assigned to a
 56 local taxing jurisdiction, or assigned to a local taxing
 57 jurisdiction when it should not be assigned to a local taxing
 58 jurisdiction.

59 (b) Any insurance company that is obligated to report and
 60 remit the excise tax on commercial property insurance premiums



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61 imposed under s. 175.101 and is unable, after due diligence, to
62 assign an insured property to a specific local taxing
63 jurisdiction for purposes of complying with paragraph (a) shall
64 remit the excise tax on commercial property insurance premiums
65 using a methodology of apportionment in a manner consistent with
66 the remittance for the 2002 calendar year.

67 (2)(a) The Department of Revenue shall, subject to
68 legislative appropriation, create as soon as practicable and
69 feasible, and thereafter shall maintain, an electronic database
70 that conforms to any format approved by the American National
71 Standards Institute's Accredited Standards Committee X12 and
72 that designates for each street address and address range in the
73 state, including any multiple postal street addresses applicable
74 to one street location, the local taxing jurisdiction in which
75 the street address and address range is located, and the
76 appropriate code for each such participating local taxing
77 jurisdiction, identified by one nationwide standard numeric
78 code. The nationwide standard numeric code must contain the same
79 number of numeric digits, and each digit or combination of
80 digits must refer to the same level of taxing jurisdiction
81 throughout the United States and must be in a format similar to
82 FIPS 55-3 or other appropriate standard approved by the
83 Federation of Tax Administrators and the Multistate Tax
84 Commission. Each address or address range must be provided in
85 standard postal format, including the street number, street
86 number range, street name, and zip code. Each year after the
87 creation of the initial database, the Department of Revenue
88 shall annually create and maintain a database for the current
89 tax year. Each annual database must be calendar-year specific.

90 (b)1. Each participating local taxing jurisdiction shall



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91 furnish to the Department of Revenue all information needed to
92 create the electronic database as soon as practicable and
93 feasible. The information furnished to the Department of Revenue
94 must specify an effective date.

95 2. Each participating local taxing jurisdiction shall
96 furnish to the Department of Revenue all information needed to
97 create and update the current year's database, including changes
98 in annexations, incorporations, and reorganizations and any
99 other changes in jurisdictional boundaries, as well as changes
100 in eligibility to participate in the excise tax imposed under
101 this chapter. The information must specify an effective date and
102 must be furnished to the Department of Revenue by July 1 of the
103 current year.

104 3. The Department of Revenue shall create and update the
105 current year's database in accordance with the information
106 furnished by participating local taxing jurisdictions under
107 subparagraph 1. or subparagraph 2., as appropriate. To the
108 extent practicable, the Department of Revenue shall post each
109 new annual database on a website by September 1 of each year.
110 Each participating local taxing jurisdiction shall have access
111 to this website and, within 30 days thereafter, shall provide
112 any corrections to the Department of Revenue. The Department of
113 Revenue shall finalize the current year's database and post it
114 on a website by November 1 of the tax year. If a dispute in
115 jurisdictional boundaries cannot be resolved so that changes in
116 boundaries may be included, as appropriate, in the database by
117 November 1, the changes may not be retroactively included in the
118 current year's database and the boundaries will remain the same
119 as in the previous year's database. The finalized database must
120 be used in assigning policies and premiums to the proper local



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121 taxing jurisdiction for the insurance premium tax return due on
122 the following March 1. The Department of Revenue shall furnish
123 the annual database on magnetic or electronic media to any
124 insurance company or vendor that requests the database for the
125 sole purpose of assigning insurance premiums to the proper local
126 taxing jurisdiction for the excise tax imposed under this
127 chapter. Information contained in the electronic database is
128 conclusive for purposes of this chapter. The electronic database
129 is not an order, a rule, or a policy of general applicability.

130 4. Each annual database must identify the additions,
131 deletions, and other changes to the preceding version of the
132 database.

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

137 (b) Notwithstanding any law to the contrary, an insurance
138 company is exercising due diligence if the insurance company
139 complies with the provisions of paragraph (1)(b) or if the
140 insurance company assigns an insured's premium to local taxing
141 jurisdictions in accordance with the Department of Revenue's
142 annual database and:

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

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

149 3. Corrects errors in the assignment of addresses to local
150 taxing jurisdictions within 120 days after the insurance company



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151 discovers the errors.

152 (4) There is annually appropriated from the moneys
153 collected under this chapter and deposited in the Police and
154 Firefighters' Premium Tax Trust Fund an amount sufficient to pay
155 the expenses of the Department of Revenue in administering this
156 section, but not to exceed \$50,000 annually, adjusted annually
157 by the lesser of a 5-percent increase or the percentage of
158 growth in the total collections.

159 (5) The Department of Revenue shall adopt rules necessary
160 to administer this section, including rules establishing
161 procedures and forms.

162 (6) Any insurer that is obligated to collect and remit the
163 tax on property insurance imposed under s. 175.101 shall be held
164 harmless from any liability for taxes, interest, or penalties
165 that would otherwise be due solely as a result of an assignment
166 of an insured property to an incorrect local taxing
167 jurisdiction, based on the collection and remission of the tax
168 accruing before January 1, 2004, if the insurer collects and
169 reports this tax consistent with filings for periods before
170 January 1, 2004. Further, any insurer that is obligated to
171 collect and remit the tax on property insurance imposed under
172 this section is not subject to an examination under s. 624.316
173 or s. 624.3161 which would occur solely as a result of an
174 assignment of an insured property to an incorrect local taxing
175 jurisdiction, based on the collection and remission of such tax
176 accruing before January 1, 2004.

177 Section 2. Section 185.085, Florida Statutes, is created
178 to read:

179 185.085 Determination of local premium tax situs.--

180 (1)(a) Any insurance company that is obligated to report



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181 and remit the excise tax on casualty insurance premiums imposed
182 under s. 185.08 shall be held harmless from any liability for
183 taxes, interest, or penalties that would otherwise be due solely
184 as a result of an assignment of an insured property to an
185 incorrect local taxing jurisdiction if the insurance company
186 exercises due diligence in applying an electronic database
187 provided by the Department of Revenue under subsection (2).
188 Insurance companies that do not use the electronic database
189 provided by the Department of Revenue or that do not exercise
190 due diligence in applying the electronic database are subject to
191 a 0.5-percent penalty on the portion of the premium pertaining
192 to any insured risk that is improperly assigned, whether
193 assigned to an improper local taxing jurisdiction, not assigned
194 to a local taxing jurisdiction when it should be assigned to a
195 local taxing jurisdiction, or assigned to a local taxing
196 jurisdiction when it should not be assigned to a local taxing
197 jurisdiction.

198 (b) Any insurance company that is obligated to report and
199 remit the excise tax on commercial casualty insurance premiums
200 imposed under s. 185.08 and is unable, after due diligence, to
201 assign an insured property to a specific local taxing
202 jurisdiction for purposes of complying with paragraph (a) shall
203 remit the excise tax on commercial casualty insurance premiums
204 using a methodology of apportionment in a manner consistent with
205 the remittance for the 2002 calendar year.

206 (2)(a) The Department of Revenue shall, subject to
207 legislative appropriation, create as soon as practicable and
208 feasible, and thereafter shall maintain, an electronic database
209 that conforms to any format approved by the American National
210 Standards Institute's Accredited Standards Committee X12 and



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211 that designates for each street address and address range in the
212 state, including any multiple postal street addresses applicable
213 to one street location, the local taxing jurisdiction in which
214 the street address and address range is located, and the
215 appropriate code for each such participating local taxing
216 jurisdiction, identified by one nationwide standard numeric
217 code. The nationwide standard numeric code must contain the same
218 number of numeric digits, and each digit or combination of
219 digits must refer to the same level of taxing jurisdiction
220 throughout the United States and must be in a format similar to
221 FIPS 55-3 or other appropriate standard approved by the
222 Federation of Tax Administrators and the Multistate Tax
223 Commission. Each address or address range must be provided in
224 standard postal format, including the street number, street
225 number range, street name, and zip code. Each year after the
226 creation of the initial database, the Department of Revenue
227 shall annually create and maintain a database for the current
228 tax year. Each annual database must be calendar-year specific.

229 (b)1. Each participating local taxing jurisdiction shall
230 furnish to the Department of Revenue all information needed to
231 create the electronic database as soon as practicable and
232 feasible. The information furnished to the Department of Revenue
233 must specify an effective date.

234 2. Each participating local taxing jurisdiction shall
235 furnish to the Department of Revenue all information needed to
236 create and update the current year's database, including changes
237 in annexations, incorporations, and reorganizations and any
238 other changes in jurisdictional boundaries, as well as changes
239 in eligibility to participate in the excise tax imposed under
240 this chapter. The information must specify an effective date and



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241 must be furnished to the Department of Revenue by July 1 of the
242 current year.

243 3. The Department of Revenue shall create and update the
244 current year's database in accordance with the information
245 furnished by participating local taxing jurisdictions under
246 subparagraph 1. or subparagraph 2., as appropriate. To the
247 extent practicable, the Department of Revenue shall post each
248 new annual database on a website by September 1 of each year.
249 Each participating local taxing jurisdiction shall have access
250 to this website and, within 30 days thereafter, shall provide
251 any corrections to the Department of Revenue. The Department of
252 Revenue shall finalize the current year's database and post it
253 on a website by November 1 of the tax year. If a dispute in
254 jurisdictional boundaries cannot be resolved so that changes in
255 boundaries may be included, as appropriate, in the database by
256 November 1, the changes may not be retroactively included in the
257 current year's database and the boundaries will remain the same
258 as in the previous year's database. The finalized database must
259 be used in assigning policies and premiums to the proper local
260 taxing jurisdiction for the insurance premium tax return due on
261 the following March 1. The Department of Revenue shall furnish
262 the annual database on magnetic or electronic media to any
263 insurance company or vendor that requests the database for the
264 sole purpose of assigning insurance premiums to the proper local
265 taxing jurisdiction for the excise tax imposed under this
266 chapter. Information contained in the electronic database is
267 conclusive for purposes of this chapter. The electronic database
268 is not an order, a rule, or a policy of general applicability.

269 4. Each annual database must identify the additions,
270 deletions, and other changes to the preceding version of the



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271 database.

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

276 (b) Notwithstanding any law to the contrary, an insurance
277 company is exercising due diligence if the insurance company
278 complies with the provisions of paragraph (1)(b) or if the
279 insurance company assigns an insured's premium to local taxing
280 jurisdictions in accordance with the Department of Revenue's
281 annual database and:

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

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

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

291 (4) There is annually appropriated from the moneys
292 collected under this chapter and deposited in the Police and
293 Firefighters' Premium Tax Trust Fund an amount sufficient to pay
294 the expenses of the Department of Revenue in administering this
295 section, but not to exceed \$50,000 annually, adjusted annually
296 by the lesser of a 5-percent increase or the percentage of
297 growth in the total collections.

298 (5) The Department of Revenue shall adopt rules necessary
299 to administer this section, including rules establishing
300 procedures and forms.



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301 (6)(a) Notwithstanding any other law, no methodology,
302 formula, or database that is adopted in any year after January
303 1, 2004, may result in a distribution to a participating
304 municipality that has a retirement plan created pursuant to this
305 chapter of an amount of excise tax which is less than the amount
306 distributed to such participating municipality for calendar year
307 2003. However, if the total proceeds to be distributed for the
308 current year from the excise tax imposed under s. 185.08 are
309 less than the total amount distributed for calendar year 2003,
310 each participating municipality shall receive a current year
311 distribution that is proportionate to its share of the total
312 2003 calendar year distribution. If the total of the proceeds to
313 be distributed for the current year from the excise tax imposed
314 under s. 185.08 are greater than or equal to the total amount
315 distributed for calendar year 2003, each participating
316 municipality shall initially be distributed a minimum amount
317 equal to the amount received for calendar year 2003. The
318 remaining amount to be distributed for the current year, which
319 equals the total to be distributed for the current year, less
320 minimum distribution amount, shall be distributed to those
321 municipalities with a current-year reported amount that is
322 greater than the amount distributed to such municipality for
323 calendar year 2003. Each municipality eligible for distribution
324 of this remaining amount shall receive its proportionate share
325 of the remaining amount based upon the amount reported for that
326 municipality, above the calendar year 2003 distribution for the
327 current year, to the total amount over the calendar year 2003
328 distribution for all municipalities with a current year reported
329 amount that is greater than the calendar year 2003 distribution.

330 (b) If a new municipality elects to participate under this



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331 chapter during any year after January 1, 2004, such municipality
 332 shall receive the total amount reported for the current year for
 333 such municipality. All other participating municipalities shall
 334 receive a current year distribution, calculated as provided in
 335 this section, which is proportionate to their share of the total
 336 2003 calendar year distribution after subtracting the amount
 337 paid to the new participating plans.

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

339 (7) Any insurer that is obligated to collect and remit the
 340 tax on casualty insurance imposed under s. 185.08 shall be held
 341 harmless from any liability for taxes, interest, or penalties
 342 that would otherwise be due solely as a result of an assignment
 343 of an insured risk to an incorrect local taxing jurisdiction,
 344 based on the collection and remission of the tax accruing before
 345 January 1, 2004, if the insurer collects and reports this tax
 346 consistent with filings for periods before January 1, 2004.
 347 Further, any insurer that is obligated to collect and remit the
 348 tax on casualty insurance imposed under this section is not
 349 subject to an examination under s. 624.316 or s. 624.3161 which
 350 would occur solely as a result of an assignment of an insured
 351 risk to an incorrect local taxing jurisdiction, based on the
 352 collection and remission of such tax accruing before the
 353 effective date of this section.

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

356 175.351 Municipalities and special fire control districts
 357 having their own pension plans for firefighters.--For any
 358 municipality, special fire control district, local law
 359 municipality, local law special fire control district, or local
 360 law plan under this chapter, in order for municipalities and



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361 special fire control districts with their own pension plans for
362 firefighters, or for firefighters and police officers, where
363 included, to participate in the distribution of the tax fund
364 established pursuant to s. 175.101, local law plans must meet
365 the minimum benefits and minimum standards set forth in this
366 chapter.

367 (1) PREMIUM TAX INCOME.--If a municipality has a pension
368 plan for firefighters, or a pension plan for firefighters and
369 police officers, where included, which in the opinion of the
370 division meets the minimum benefits and minimum standards set
371 forth in this chapter, the board of trustees of the pension
372 plan, as approved by a majority of firefighters of the
373 municipality, may:

374 (a) Place the income from the premium tax in s. 175.101 in
375 such pension plan for the sole and exclusive use of its
376 firefighters, or for firefighters and police officers, where
377 included, where it shall become an integral part of that pension
378 plan and shall be used to pay extra benefits to the firefighters
379 included in that pension plan; or

380 (b) Place the income from the premium tax in s. 175.101 in
381 a separate supplemental plan to pay extra benefits to
382 firefighters, or to firefighters and police officers where
383 included, participating in such separate supplemental plan.

384
385 The premium tax provided by this chapter shall in all cases be
386 used in its entirety to provide extra benefits to firefighters,
387 or to firefighters and police officers, where included. However,
388 local law plans in effect on October 1, 1998, shall be required
389 to comply with the minimum benefit provisions of this chapter
390 only to the extent that additional premium tax revenues become



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391 available to incrementally fund the cost of such compliance as
 392 provided in s. 175.162(2)(a). When a plan is in compliance with
 393 such minimum benefit provisions, as subsequent additional
 394 premium tax revenues become available, they shall be used to
 395 provide extra benefits. For the purpose of this chapter,
 396 "additional premium tax revenues" means revenues received by a
 397 municipality or special fire control district pursuant to s.
 398 175.121 which ~~that~~ exceed that amount received for calendar year
 399 1997, and the term "extra benefits" means benefits in addition
 400 to or greater than those provided to general employees of the
 401 municipality and in addition to those in existence for
 402 firefighters on March 12, 1999. Local law plans created by
 403 special act before May 23, 1939, shall be deemed to comply with
 404 this chapter.

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

407 185.35 Municipalities having their own pension plans for
 408 police officers.--For any municipality, chapter plan, local law
 409 municipality, or local law plan under this chapter, in order for
 410 municipalities with their own pension plans for police officers,
 411 or for police officers and firefighters where included, to
 412 participate in the distribution of the tax fund established
 413 pursuant to s. 185.08, local law plans must meet the minimum
 414 benefits and minimum standards set forth in this chapter:

415 (1) PREMIUM TAX INCOME.--If a municipality has a pension
 416 plan for police officers, or for police officers and
 417 firefighters where included, which, in the opinion of the
 418 division, meets the minimum benefits and minimum standards set
 419 forth in this chapter, the board of trustees of the pension
 420 plan, as approved by a majority of police officers of the



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421 municipality, may:

422 (a) Place the income from the premium tax in s. 185.08 in
423 such pension plan for the sole and exclusive use of its police
424 officers, or its police officers and firefighters where
425 included, where it shall become an integral part of that pension
426 plan and shall be used to pay extra benefits to the police
427 officers included in that pension plan; or

428 (b) May place the income from the premium tax in s. 185.08
429 in a separate supplemental plan to pay extra benefits to the
430 police officers, or police officers and firefighters where
431 included, participating in such separate supplemental plan.

432
433 The premium tax provided by this chapter shall in all cases be
434 used in its entirety to provide extra benefits to police
435 officers, or to police officers and firefighters, where
436 included. However, local law plans in effect on October 1, 1998,
437 shall be required to comply with the minimum benefit provisions
438 of this chapter only to the extent that additional premium tax
439 revenues become available to incrementally fund the cost of such
440 compliance as provided in s. 185.16(2). When a plan is in
441 compliance with such minimum benefit provisions, as subsequent
442 additional tax revenues become available, they shall be used to
443 provide extra benefits. For the purpose of this chapter,
444 "additional premium tax revenues" means revenues received by a
445 municipality pursuant to s. 185.10 which ~~that~~ exceed the amount
446 received for calendar year 1997, and the term "extra benefits"
447 means benefits in addition to or greater than those provided to
448 general employees of the municipality and in addition to those
449 in existence for police officers on March 12, 1999. Local law
450 plans created by special act before May 23, 1939, shall be



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451 deemed to comply with this chapter.

452 Section 5. Subsection (7) is added to section 175.061,
 453 Florida Statutes, to read:

454 175.061 Board of trustees; members; terms of office;
 455 meetings; legal entity; costs; attorney's fees.--For any
 456 municipality, special fire control district, chapter plan, local
 457 law municipality, local law special fire control district, or
 458 local law plan under this chapter:

459 (7) The board of trustees may, upon written request by the
 460 retiree of the plan, or by a dependent, when authorized by the
 461 retiree or the retiree's beneficiary, authorize the plan
 462 administrator to withhold from the monthly retirement payment
 463 those funds that are necessary to pay for the benefits being
 464 received through the governmental entity from which the employee
 465 retired, to pay the certified bargaining agent of the
 466 governmental entity, and to make any payments required by law.

467 Section 6. Present subsection (6) of section 185.05,
 468 Florida Statutes, is renumbered as subsection (7), and a new
 469 subsection (6) is added to said section, to read:

470 185.05 Board of trustees; members; terms of office;
 471 meetings; legal entity; costs; attorney's fees.--For any
 472 municipality, chapter plan, local law municipality, or local law
 473 plan under this chapter:

474 (6) The board of trustees may, upon written request by the
 475 retiree of the plan, or by a dependent, when authorized by the
 476 retiree or the retiree's beneficiary, authorize the plan
 477 administrator to withhold from the monthly retirement payment
 478 those funds that are necessary to pay for the benefits being
 479 received through the governmental entity from which the employee
 480 retired, to pay the certified bargaining agent of the



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481 governmental entity, and to make any payments required by law.

482 Section 7. The sum of \$300,000 is appropriated from the
483 General Revenue Fund to the Department of Revenue for the one-
484 time expense of creating the original database called for by ss.
485 175.1015 and 185.085, Florida Statutes, as created by this act,
486 and to support the implementation process for use of the
487 database. It is the intent of the Legislature in providing this
488 appropriation that the database for ss. 175.1015 and 185.085,
489 Florida Statutes, as created by this act, be available for use
490 in determining the allocation of premiums to the various
491 municipalities and special fire control districts for the 2004
492 insurance premium tax return that is due by March 1, 2005.

493 Section 8. If any law amended by this act was also amended
494 by a law enacted at the 2003 Regular Session or any 2003 Special
495 Session of the Legislature, such laws shall be construed as if
496 they had been enacted at the same session of the Legislature,
497 and full effect shall be given to each if possible.

498 Section 9. This act shall take effect January 1, 2004.