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A bill to be entitled

An act relating to firefighter and municipal police pensions; creating s. 175.1015, F.S.; authorizing the Department of Revenue to create and maintain a database for use by insurers that report and remit an excise tax on property insurance premiums; providing incentives to insurers for using the database and penalties for failure to use the database; requiring local governments to provide information to the department; appropriating funds to the department for the administration of the database; authorizing the department to adopt rules; creating s. 185.085, F.S.; authorizing the Department of Revenue to create and maintain a database for use by insurers that report and remit an excise tax on casualty insurers premiums; providing incentives to insurers for using the database and penalties for failure to use the database; requiring local governments to provide information to the department; appropriating funds to the department for the administration of the database; authorizing the department to adopt rules; providing for distribution of tax revenues through 2007; amending s. 175.351, F.S.; providing for the meaning of the term "extra benefits" with respect to pension plans for firefighters; amending s. 185.35, F.S.; providing for the meaning of the term "extra benefits" with respect to pension plans for municipal police officers; amending s. 175.061, F.S.; authorizing the plan administrator to withhold certain funds; amending s. 185.05, F.S.; authorizing the plan administrator to withhold certain funds; providing an appropriation to the Department of Revenue; providing an effective date.

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

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

175.1015 Determination of local premium tax situs.--

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

(b) Any insurance company that is obligated to report and remit the excise tax on commercial property insurance premiums imposed under s. 175.101 and is unable, after due diligence, to assign an insured property to a specific local taxing jurisdiction for purposes of complying with paragraph (a) shall remit the excise tax on commercial property insurance premiums

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61 using a methodology of apportionment in a manner consistent with  
62 the remittance for the 2002 calendar year.

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

86 (b)1. Each participating local taxing jurisdiction shall  
87 furnish to the Department of Revenue all information needed to  
88 create the electronic database as soon as practicable and  
89 feasible. The information furnished to the Department of Revenue  
90 must specify an effective date.

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

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

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121 sole purpose of assigning insurance premiums to the proper local  
 122 taxing jurisdiction for the excise tax imposed under this  
 123 chapter. Information contained in the electronic database is  
 124 conclusive for purposes of this chapter. The electronic database  
 125 is not an order, a rule, or a policy of general applicability.

126 4. Each annual database must identify the additions,  
 127 deletions, and other changes to the preceding version of the  
 128 database.

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

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

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

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

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

148 (4) There is annually appropriated from the moneys  
 149 collected under this chapter and deposited in the Police and  
 150 Firefighters' Premium Tax Trust Fund an amount sufficient to pay

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151 the expenses of the Department of Revenue in administering this  
 152 section, but not to exceed \$50,000 annually, adjusted annually  
 153 by the lesser of a 5-percent increase or the percentage of  
 154 growth in the total collections.

155 (5) The Department of Revenue shall adopt rules necessary  
 156 to administer this section, including rules establishing  
 157 procedures and forms.

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

173 Section 2. Section 185.085, Florida Statutes, is created  
 174 to read:

175 185.085 Determination of local premium tax situs.--

176 (1)(a) Any insurance company that is obligated to report  
 177 and remit the excise tax on casualty insurance premiums imposed  
 178 under s. 185.08 shall be held harmless from any liability for  
 179 taxes, interest, or penalties that would otherwise be due solely  
 180 as a result of an assignment of an insured property to an

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181 incorrect local taxing jurisdiction if the insurance company  
 182 exercises due diligence in applying an electronic database  
 183 provided by the Department of Revenue under subsection (2).  
 184 Insurance companies that do not use the electronic database  
 185 provided by the Department of Revenue or that do not exercise  
 186 due diligence in applying the electronic database are subject to  
 187 a 0.5-percent penalty on the portion of the premium pertaining  
 188 to any insured risk that is improperly assigned, whether  
 189 assigned to an improper local taxing jurisdiction, not assigned  
 190 to a local taxing jurisdiction when it should be assigned to a  
 191 local taxing jurisdiction, or assigned to a local taxing  
 192 jurisdiction when it should not be assigned to a local taxing  
 193 jurisdiction.

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

202 (2)(a) The Department of Revenue shall, subject to  
 203 legislative appropriation, create as soon as practicable and  
 204 feasible, and thereafter shall maintain, an electronic database  
 205 that conforms to any format approved by the American National  
 206 Standards Institute's Accredited Standards Committee X12 and  
 207 that designates for each street address and address range in the  
 208 state, including any multiple postal street addresses applicable  
 209 to one street location, the local taxing jurisdiction in which  
 210 the street address and address range is located, and the

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

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

230 2. Each participating local taxing jurisdiction shall  
231 furnish to the Department of Revenue all information needed to  
232 create and update the current year's database, including changes  
233 in annexations, incorporations, and reorganizations and any  
234 other changes in jurisdictional boundaries, as well as changes  
235 in eligibility to participate in the excise tax imposed under  
236 this chapter. The information must specify an effective date and  
237 must be furnished to the Department of Revenue by July 1 of the  
238 current year.

239 3. The Department of Revenue shall create and update the  
240 current year's database in accordance with the information



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

265 4. Each annual database must identify the additions,  
266 deletions, and other changes to the preceding version of the  
267 database.

268 (3)(a) As used in this section, the term "due diligence"  
269 means the care and attention that is expected from and is  
270 ordinarily exercised by a reasonable and prudent person under

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271 the circumstances.

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

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

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

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

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

294 (5) The Department of Revenue shall adopt rules necessary  
 295 to administer this section, including rules establishing  
 296 procedures and forms.

297 (6)(a) Notwithstanding any other law, no methodology,  
 298 formula, or database that is adopted in any year after January  
 299 1, 2004, may result in a distribution to a participating  
 300 municipality that has a retirement plan created pursuant to this

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301 chapter of an amount of excise tax which is less than the amount  
 302 distributed to such participating municipality for calendar year  
 303 2003. However, if the total proceeds to be distributed for the  
 304 current year from the excise tax imposed under s. 185.08 are  
 305 less than the total amount distributed for calendar year 2003,  
 306 each participating municipality shall receive a current year  
 307 distribution that is proportionate to its share of the total  
 308 2003 calendar year distribution. If the total of the proceeds to  
 309 be distributed for the current year from the excise tax imposed  
 310 under s. 185.08 are greater than or equal to the total amount  
 311 distributed for calendar year 2003, each participating  
 312 municipality shall initially be distributed a minimum amount  
 313 equal to the amount received for calendar year 2003. The  
 314 remaining amount to be distributed for the current year, which  
 315 equals the total to be distributed for the current year, less  
 316 minimum distribution amount, shall be distributed to those  
 317 municipalities with a current-year reported amount that is  
 318 greater than the amount distributed to such municipality for  
 319 calendar year 2003. Each municipality eligible for distribution  
 320 of this remaining amount shall receive its proportionate share  
 321 of the remaining amount based upon the amount reported for that  
 322 municipality, above the calendar year 2003 distribution for the  
 323 current year, to the total amount over the calendar year 2003  
 324 distribution for all municipalities with a current year reported  
 325 amount that is greater than the calendar year 2003 distribution.

326 (b) If a new municipality elects to participate under this  
 327 chapter during any year after January 1, 2004, such municipality  
 328 shall receive the total amount reported for the current year for  
 329 such municipality. All other participating municipalities shall  
 330 receive a current year distribution, calculated as provided in

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331 this section, which is proportionate to their share of the total  
 332 2003 calendar year distribution after subtracting the amount  
 333 paid to the new participating plans.

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

335 (7) Any insurer that is obligated to collect and remit the  
 336 tax on casualty insurance imposed under s. 185.08 shall be held  
 337 harmless from any liability for taxes, interest, or penalties  
 338 that would otherwise be due solely as a result of an assignment  
 339 of an insured risk to an incorrect local taxing jurisdiction,  
 340 based on the collection and remission of the tax accruing before  
 341 January 1, 2004, if the insurer collects and reports this tax  
 342 consistent with filings for periods before January 1, 2004.

343 Further, any insurer that is obligated to collect and remit the  
 344 tax on casualty insurance imposed under this section is not  
 345 subject to an examination under s. 624.316 or s. 624.3161 which  
 346 would occur solely as a result of an assignment of an insured  
 347 risk to an incorrect local taxing jurisdiction, based on the  
 348 collection and remission of such tax accruing before the  
 349 effective date of this section.

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

352 175.351 Municipalities and special fire control districts  
 353 having their own pension plans for firefighters.--For any  
 354 municipality, special fire control district, local law  
 355 municipality, local law special fire control district, or local  
 356 law plan under this chapter, in order for municipalities and  
 357 special fire control districts with their own pension plans for  
 358 firefighters, or for firefighters and police officers, where  
 359 included, to participate in the distribution of the tax fund  
 360 established pursuant to s. 175.101, local law plans must meet

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361 the minimum benefits and minimum standards set forth in this  
 362 chapter.

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

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

376 (b) Place the income from the premium tax in s. 175.101 in  
 377 a separate supplemental plan to pay extra benefits to  
 378 firefighters, or to firefighters and police officers where  
 379 included, participating in such separate supplemental plan.

380  
 381 The premium tax provided by this chapter shall in all cases be  
 382 used in its entirety to provide extra benefits to firefighters,  
 383 or to firefighters and police officers, where included. However,  
 384 local law plans in effect on October 1, 1998, shall be required  
 385 to comply with the minimum benefit provisions of this chapter  
 386 only to the extent that additional premium tax revenues become  
 387 available to incrementally fund the cost of such compliance as  
 388 provided in s. 175.162(2)(a). When a plan is in compliance with  
 389 such minimum benefit provisions, as subsequent additional  
 390 premium tax revenues become available, they shall be used to

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391 provide extra benefits. For the purpose of this chapter,  
 392 "additional premium tax revenues" means revenues received by a  
 393 municipality or special fire control district pursuant to s.  
 394 175.121 which ~~that~~ exceed that amount received for calendar year  
 395 1997, and the term "extra benefits" means benefits in addition  
 396 to or greater than those provided to general employees of the  
 397 municipality and in addition to those in existence for  
 398 firefighters on March 12, 1999. Local law plans created by  
 399 special act before May 23, 1939, shall be deemed to comply with  
 400 this chapter.

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

403 185.35 Municipalities having their own pension plans for  
 404 police officers.--For any municipality, chapter plan, local law  
 405 municipality, or local law plan under this chapter, in order for  
 406 municipalities with their own pension plans for police officers,  
 407 or for police officers and firefighters where included, to  
 408 participate in the distribution of the tax fund established  
 409 pursuant to s. 185.08, local law plans must meet the minimum  
 410 benefits and minimum standards set forth in this chapter:

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

418 (a) Place the income from the premium tax in s. 185.08 in  
 419 such pension plan for the sole and exclusive use of its police  
 420 officers, or its police officers and firefighters where

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421 included, where it shall become an integral part of that pension  
 422 plan and shall be used to pay extra benefits to the police  
 423 officers included in that pension plan; or

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

428  
 429 The premium tax provided by this chapter shall in all cases be  
 430 used in its entirety to provide extra benefits to police  
 431 officers, or to police officers and firefighters, where  
 432 included. However, local law plans in effect on October 1, 1998,  
 433 shall be required to comply with the minimum benefit provisions  
 434 of this chapter only to the extent that additional premium tax  
 435 revenues become available to incrementally fund the cost of such  
 436 compliance as provided in s. 185.16(2). When a plan is in  
 437 compliance with such minimum benefit provisions, as subsequent  
 438 additional tax revenues become available, they shall be used to  
 439 provide extra benefits. For the purpose of this chapter,  
 440 "additional premium tax revenues" means revenues received by a  
 441 municipality pursuant to s. 185.10 which ~~that~~ exceed the amount  
 442 received for calendar year 1997, and the term "extra benefits"  
 443 means benefits in addition to or greater than those provided to  
 444 general employees of the municipality and in addition to those  
 445 in existence for police officers on March 12, 1999. Local law  
 446 plans created by special act before May 23, 1939, shall be  
 447 deemed to comply with this chapter.

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

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450 175.061 Board of trustees; members; terms of office;  
 451 meetings; legal entity; costs; attorney's fees.--For any  
 452 municipality, special fire control district, chapter plan, local  
 453 law municipality, local law special fire control district, or  
 454 local law plan under this chapter:

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

463 Section 6. Subsection (6) of section 185.05, Florida  
 464 Statutes, is renumbered as subsection (7), and a new subsection  
 465 (6) is added to said section, to read:

466 185.05 Board of trustees; members; terms of office;  
 467 meetings; legal entity; costs; attorney's fees.--For any  
 468 municipality, chapter plan, local law municipality, or local law  
 469 plan under this chapter:

470 (6) The board of trustees may, upon written request by the  
 471 retiree of the plan, or by a dependent, when authorized by the  
 472 retiree or the retiree's beneficiary, authorize the plan  
 473 administrator to withhold from the monthly retirement payment  
 474 those funds that are necessary to pay for the benefits being  
 475 received through the governmental entity from which the employee  
 476 retired, to pay the certified bargaining agent of the  
 477 governmental entity, and to make any payments required by law.

478 Section 7. The sum of \$300,000 is appropriated from the  
 479 General Revenue Fund to the Department of Revenue for the one-



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480 time expense of creating the original database called for by ss.  
 481 175.1015 and 185.085, Florida Statutes, as created by this act,  
 482 and to support the implementation process for use of the  
 483 database. It is the intent of the Legislature in providing this  
 484 appropriation that the database for ss. 175.1015 and 185.085,  
 485 Florida Statutes, as created by this act, be available for use  
 486 in determining the allocation of premiums to the various  
 487 municipalities and special fire control districts for the 2004  
 488 insurance premium tax return that is due by March 1, 2005.

489 Section 8. This act shall take effect January 1, 2004.