

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative Sansom offered the following:

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3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause, and insert:

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

7 175.1015 Determination of local premium tax situs.--

8 (1)(a) Any insurance company that is obligated to report
9 and remit the excise tax on property insurance premiums imposed
10 under s. 175.101 shall be held harmless from any liability,
11 including, but not limited to, liability for taxes, interest, or
12 penalties that would otherwise be due solely as a result of an
13 assignment of an insured property to an incorrect local taxing
14 jurisdiction if the insurance company exercises due diligence in
15 applying an electronic database provided by the Department of
16 Revenue under subsection (2). Insurance companies that do not
17 use the electronic database provided by the Department of
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18 Revenue or that do not exercise due diligence in applying the
19 electronic database for tax years on or after January 1, 2006,
20 are subject to a 0.5 percent penalty on the portion of the
21 premium pertaining to any insured risk that is improperly
22 assigned, whether assigned to an improper local taxing
23 jurisdiction, not assigned to a local taxing jurisdiction when
24 it should be assigned to a local taxing jurisdiction, or
25 assigned to a local taxing jurisdiction when it should not be
26 assigned to a local taxing jurisdiction.

27 (b) Any insurance company that is obligated to report and
28 remit the excise tax on commercial property insurance premiums
29 imposed under s. 175.101 and is unable, after due diligence, to
30 assign an insured property to a specific local taxing
31 jurisdiction for purposes of complying with paragraph(a) shall
32 remit the excise tax on commercial property insurance premiums
33 using a methodology of apportionment in a manner consistent with
34 the remittance for the 2004 calendar year. An insurance company
35 which makes two contacts with the agent responsible for a
36 commercial property insurance application for the purpose of
37 verifying information on the application necessary for the
38 assignment to the appropriate taxing jurisdiction, shall be
39 considered to have exercised due diligence. Any insurance
40 company which complies with the provisions of this paragraph
41 shall not be subject to the penalty provided in paragraph (a).

42 (2)(a) The Department of Revenue shall, subject to
43 legislative appropriation, create as soon as practical and
44 feasible, and thereafter shall maintain, an electronic database
45 that conforms to any format approved by the American National
46 Standards Institute's Accredited Standards Committee X12 and
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47 that designates for each street address and address range in the
48 state, including any multiple postal street addresses applicable
49 to one street location, the local taxing jurisdiction in which
50 the street address and address range is located, and the
51 appropriate code for each such participating local taxing
52 jurisdiction, identified by one nationwide standard numeric
53 code. The nationwide standard numeric code must contain the same
54 number of numeric digits, and each digit or combination of
55 digits must refer to the same level of taxing jurisdiction
56 throughout the United States and must be in a format similar to
57 FIPS 55-3 or other appropriate standard approved by the
58 Federation of Tax Administrators and the Multistate Tax
59 Commission. Each address or address range must be provided in
60 standard postal format, including the street number, street
61 number range, street name, and zip code. Each year after the
62 creation of the initial database, the Department of Revenue
63 shall annually create and maintain a database for the current
64 tax year. Each annual database must be calendar-year specific.

65 (b)1. Each participating local taxing jurisdiction shall
66 furnish to the Department of Revenue all information needed to
67 create the electronic database as soon as practical and
68 feasible. The information furnished to the Department of Revenue
69 must specify an effective date.

70 2. Each participating local taxing jurisdiction shall
71 furnish to the Department of Revenue all information needed to
72 create and update the current year's database, including changes
73 in annexations, incorporations, and reorganizations and any
74 other changes in jurisdictional boundaries, as well as changes
75 in eligibility to participate in the excise tax imposed under
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76 this chapter. The information must specify an effective date and
77 must be furnished to the Department of Revenue by July 1 of the
78 current year.

79 3. The Department of Revenue shall create and update the
80 current year's database in accordance with the information
81 furnished by participating local taxing jurisdictions under
82 subparagraph 1. or subparagraph 2., as appropriate. To the
83 extent practicable, the Department of Revenue shall post each
84 new annual database on a web site by September 1 of each year.
85 Each participating local taxing jurisdiction shall have access
86 to this web site and, within 30 days thereafter, shall provide
87 any corrections to the Department of Revenue. The Department of
88 Revenue shall finalize the current year's database and post it
89 on a web site by November 1 of the current year. If a dispute in
90 jurisdictional boundaries cannot be resolved so that changes in
91 boundaries may be included, as appropriate, in the database by
92 November 1, the changes may not be retroactively included in the
93 current year's database and the boundaries will remain the same
94 as in the previous year's database. The finalized database must
95 be used in assigning policies and premiums to the proper local
96 taxing jurisdiction for the insurance premium tax return due on
97 the following March 1 for the tax year 2005. For subsequent tax
98 years, the finalized database must be used in assigning policies
99 and premiums to the proper local taxing jurisdiction for the
100 insurance premium tax return due for the tax year beginning on
101 or after the January 1 following the website posting of the
102 database. Information contained in the electronic database is
103 conclusive for purposes of this chapter. The electronic database
104 is not an order, a rule, or a policy of general applicability.

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105 4. Each annual database must identify the additions,
106 deletions, and other changes to the preceding version of the
107 database.

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

112 (b) Notwithstanding any law to the contrary, an insurance
113 company is exercising due diligence if the insurance company
114 complies with the provisions of paragraph (1)(b) or if the
115 insurance company assigns an insured's premium to local taxing
116 jurisdictions in accordance with the Department of Revenue's
117 annual database and with respect to such database:

118 1. Expends reasonable resources to accurately and reliably
119 implement such method;

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

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

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

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134 (5) The Department of Revenue shall adopt rules necessary
135 to administer this section, including rules establishing
136 procedures and forms.

137 (6) Any insurer that is obligated to collect and remit the
138 tax on property insurance imposed under s. 175.101 shall be held
139 harmless from any liability, including, but not limited to,
140 liability for taxes, interest, or penalties that would otherwise
141 be due solely as a result of an assignment of an insured
142 property to an incorrect local taxing jurisdiction, based on the
143 collection and remission of the tax accruing before January 1,
144 2005, if the insurer collects and reports this tax consistent
145 with filings for periods before January 1, 2005. Further, any
146 insurer that is obligated to collect and remit the tax on
147 property insurance imposed under this section is not subject to
148 an examination under s. 624.316 or s. 624.3161 which would occur
149 solely as a result of an assignment of an insured property to an
150 incorrect local taxing jurisdiction, based on the collection and
151 remission of such tax accruing before January 1, 2005.

152 Section 2. Section 185.085, Florida Statutes, is created
153 to read:

154 185.085 Determination of local premium tax situs.--

155 (1)(a) Any insurance company that is obligated to report
156 and remit the excise tax on casualty insurance premiums imposed
157 under s. 185.08 shall be held harmless from any liability,
158 including, but not limited to, liability for taxes, interest, or
159 penalties that would otherwise be due solely as a result of an
160 assignment of an insured property to an incorrect local taxing
161 jurisdiction if the insurance company exercises due diligence in
162 applying an electronic database provided by the Department of
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163 Revenue under subsection (2). Insurance companies that do not
164 use the electronic database provided by the Department of
165 Revenue or that do not exercise due diligence in applying the
166 electronic database for tax years on or after January 1, 2006,
167 are subject to a 0.5 percent penalty on the portion of the
168 premium pertaining to any insured risk that is improperly
169 assigned, whether assigned to an improper local taxing
170 jurisdiction, not assigned to a local taxing jurisdiction when
171 it should be assigned to a local taxing jurisdiction, or
172 assigned to a local taxing jurisdiction when it should not be
173 assigned to a local taxing jurisdiction.

174 (b) Any insurance company that is obligated to report and
175 remit the excise tax on commercial casualty insurance premiums
176 imposed under s. 185.08 and is unable, after due diligence, to
177 assign an insured property to a specific local taxing
178 jurisdiction for purposes of complying with paragraph(a) shall
179 remit the excise tax on commercial casualty insurance premiums
180 using a methodology of apportionment in a manner consistent with
181 the remittance for the 2004 calendar year. An insurance company
182 which makes two contacts with the agent responsible for a
183 commercial property insurance application for the purpose of
184 verifying information on the application necessary for the
185 assignment to the appropriate taxing jurisdiction, shall be
186 considered to have exercised due diligence. Any insurance
187 company which complies with the provisions of this paragraph
188 shall not be subject to the penalty provided in paragraph (a).

189 (2)(a) The Department of Revenue shall, subject to
190 legislative appropriation, create as soon as practical and
191 feasible, and thereafter shall maintain, an electronic database
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192 that conforms to any format approved by the American National
193 Standards Institute's Accredited Standards Committee X12 and
194 that designates for each street address and address range in the
195 state, including any multiple postal street addresses applicable
196 to one street location, the local taxing jurisdiction in which
197 the street address and address range is located, and the
198 appropriate code for each such participating local taxing
199 jurisdiction, identified by one nationwide standard numeric
200 code. The nationwide standard numeric code must contain the same
201 number of numeric digits, and each digit or combination of
202 digits must refer to the same level of taxing jurisdiction
203 throughout the United States and must be in a format similar to
204 FIPS 55-3 or other appropriate standard approved by the
205 Federation of Tax Administrators and the Multistate Tax
206 Commission. Each address or address range must be provided in
207 standard postal format, including the street number, street
208 number range, street name, and zip code. Each year after the
209 creation of the initial database, the Department of Revenue
210 shall annually create and maintain a database for the current
211 tax year. Each annual database must be calendar-year specific.

212 (b)1. Each participating local taxing jurisdiction shall
213 furnish to the Department of Revenue all information needed to
214 create the electronic database as soon as practical and
215 feasible. The information furnished to the Department of Revenue
216 must specify an effective date.

217 2. Each participating local taxing jurisdiction shall
218 furnish to the Department of Revenue all information needed to
219 create and update the current year's database, including changes
220 in annexations, incorporations, and reorganizations and any
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221 other changes in jurisdictional boundaries, as well as changes
222 in eligibility to participate in the excise tax imposed under
223 this chapter. The information must specify an effective date and
224 must be furnished to the Department of Revenue by July 1 of the
225 current year.

226 3. The Department of Revenue shall create and update the
227 current year's database in accordance with the information
228 furnished by participating local taxing jurisdictions under
229 subparagraph 1. or subparagraph 2., as appropriate. To the
230 extent practicable, the Department of Revenue shall post each
231 new annual database on a web site by September 1 of each year.
232 Each participating local taxing jurisdiction shall have access
233 to this web site and, within 30 days thereafter, shall provide
234 any corrections to the Department of Revenue. The Department of
235 Revenue shall finalize the current year's database and post it
236 on a web site by November 1 of the current year. If a dispute in
237 jurisdictional boundaries cannot be resolved so that changes in
238 boundaries may be included, as appropriate, in the database by
239 November 1, the changes may not be retroactively included in the
240 current year's database and the boundaries will remain the same
241 as in the previous year's database. The finalized database must
242 be used in assigning policies and premiums to the proper local
243 taxing jurisdiction for the insurance premium tax return due on
244 the following March 1 for the tax year 2005. For subsequent tax
245 years, the finalized database must be used in assigning policies
246 and premiums to the proper local taxing jurisdiction for the
247 insurance premium tax return due for the tax year beginning on
248 or after the January 1 following the website posting of the
249 database. Information contained in the electronic database is
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250 conclusive for purposes of this chapter. The electronic database
251 is not an order, a rule, or a policy of general applicability.

252 4. Each annual database must identify the additions,
253 deletions, and other changes to the preceding version of the
254 database.

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

259 (b) Notwithstanding any law to the contrary, an insurance
260 company is exercising due diligence if the insurance company
261 complies with the provisions of paragraph (1)(b) or if the
262 insurance company assigns an insured's premium to local taxing
263 jurisdictions in accordance with the Department of Revenue's
264 annual database and with respect to such database:

265 1. Expends reasonable resources to accurately and reliably
266 implement such method;

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

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

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

281 (5) The Department of Revenue shall adopt rules necessary
282 to administer this section, including rules establishing
283 procedures and forms.

284 (6)(a) Notwithstanding any other law, a methodology,
285 formula, or database that is adopted in any year after January
286 1, 2005, may not result in a distribution to a participating
287 municipality that has a retirement plan created pursuant to this
288 chapter of an amount of excise tax which is less than the amount
289 distributed to such participating municipality for calendar year
290 2004. However, if the total proceeds to be distributed for the
291 current year from the excise tax imposed under s. 185.08 are
292 less than the total amount distributed for calendar year 2004,
293 each participating municipality shall receive a current year
294 distribution that is proportionate to its share of the total
295 2004 calendar year distribution. If the total proceeds to be
296 distributed for the current year from the excise tax imposed
297 under s. 185.08 are greater than or equal to the total amount
298 distributed for calendar year 2004, each participating
299 municipality shall initially be distributed a minimum amount
300 equal to the amount received for calendar year 2004. The
301 remaining amount to be distributed for the current year, which
302 equals the total to be distributed for the current year, less
303 minimum distribution amount, shall be distributed to those
304 municipalities with an amount reported for the current year
305 which is greater than the amount distributed to such
306 municipality for calendar year 2004. Each municipality eligible
307 for distribution of this remaining amount shall receive its
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308 proportionate share of the remaining amount based upon the
309 amount reported for that municipality, above the calendar year
310 2004 distribution for the current year, to the total amount over
311 the calendar year 2004 distribution for all municipalities with
312 an amount reported for the current year which is greater than
313 the calendar year 2004 distribution.

314 (b) If a new municipality elects to participate under this
315 chapter during any year after January 1, 2005, such municipality
316 shall receive the total amount reported for the current- year
317 for such municipality. All other participating municipalities
318 shall receive a current year distribution, calculated as
319 provided in this section, which is proportionate to their share
320 of the total 2004 calendar year distribution after subtracting
321 the amount paid to the new participating plans.

322 (c) This subsection expires January 1, 2008.

323 (7) Any insurer that is obligated to collect and remit the
324 tax on casualty insurance imposed under s. 185.08 shall be held
325 harmless from any liability, including, but not limited to,
326 liability for taxes, interest, or penalties that would otherwise
327 be due solely as a result of an assignment of an insured risk to
328 an incorrect local taxing jurisdiction, based on the collection
329 and remission of the tax accruing before January 1, 2005, if the
330 insurer collects and reports this tax consistent with filings
331 for periods before January 1, 2005. Further, any insurer that is
332 obligated to collect and remit the tax on casualty insurance
333 imposed under this section is not subject to an examination
334 under s. 624.316 or s. 624.3161 which would occur solely as a
335 result of an assignment of an insured risk to an incorrect local

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336 taxing jurisdiction, based on the collection and remission of
337 such tax accruing before January 1, 2005.

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

340 175.351 Municipalities and special fire control districts
341 having their own pension plans for firefighters.--For any
342 municipality, special fire control district, local law
343 municipality, local law special fire control district, or local
344 law plan under this chapter, in order for municipalities and
345 special fire control districts with their own pension plans for
346 firefighters, or for firefighters and police officers, where
347 included, to participate in the distribution of the tax fund
348 established pursuant to s. 175.101, local law plans must meet
349 the minimum benefits and minimum standards set forth in this
350 chapter.

351 (1) PREMIUM TAX INCOME.--If a municipality has a pension
352 plan for firefighters, or a pension plan for firefighters and
353 police officers, where included, which in the opinion of the
354 division meets the minimum benefits and minimum standards set
355 forth in this chapter, the board of trustees of the pension
356 plan, as approved by a majority of firefighters of the
357 municipality, may:

358 (a) Place the income from the premium tax in s. 175.101 in
359 such pension plan for the sole and exclusive use of its
360 firefighters, or for firefighters and police officers, where
361 included, where it shall become an integral part of that pension
362 plan and shall be used to pay extra benefits to the firefighters
363 included in that pension plan; or

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364 (b) Place the income from the premium tax in s. 175.101 in
365 a separate supplemental plan to pay extra benefits to
366 firefighters, or to firefighters and police officers where
367 included, participating in such separate supplemental plan.
368

369 The premium tax provided by this chapter shall in all cases be
370 used in its entirety to provide extra benefits to firefighters,
371 or to firefighters and police officers, where included.
372 However, local law plans in effect on October 1, 1998, shall be
373 required to comply with the minimum benefit provisions of this
374 chapter only to the extent that additional premium tax revenues
375 become available to incrementally fund the cost of such
376 compliance as provided in s. 175.162(2)(a). When a plan is in
377 compliance with such minimum benefit provisions, as subsequent
378 additional premium tax revenues become available, they shall be
379 used to provide extra benefits. For the purpose of this chapter,
380 "additional premium tax revenues" means revenues received by a
381 municipality or special fire control district pursuant to s.
382 175.121 which ~~that~~ exceed that amount received for calendar year
383 1997, and the term "extra benefits" means benefits in addition
384 to or greater than those provided to general employees of the
385 municipality and in addition to those in existence for
386 firefighters on March 12, 1999. Local law plans created by
387 special act before May 23, 1939, shall be deemed to comply with
388 this chapter.

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

391 185.35 Municipalities having their own pension plans for
392 police officers.--For any municipality, chapter plan, local law
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393 municipality, or local law plan under this chapter, in order for
394 municipalities with their own pension plans for police officers,
395 or for police officers and firefighters where included, to
396 participate in the distribution of the tax fund established
397 pursuant to s. 185.08, local law plans must meet the minimum
398 benefits and minimum standards set forth in this chapter:

399 (1) PREMIUM TAX INCOME.--If a municipality has a pension
400 plan for police officers, or for police officers and
401 firefighters where included, which, in the opinion of the
402 division, meets the minimum benefits and minimum standards set
403 forth in this chapter, the board of trustees of the pension
404 plan, as approved by a majority of police officers of the
405 municipality, may:

406 (a) Place the income from the premium tax in s. 185.08 in
407 such pension plan for the sole and exclusive use of its police
408 officers, or its police officers and firefighters where
409 included, where it shall become an integral part of that pension
410 plan and shall be used to pay extra benefits to the police
411 officers included in that pension plan; or

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

416

417 The premium tax provided by this chapter shall in all cases be
418 used in its entirety to provide extra benefits to police
419 officers, or to police officers and firefighters, where
420 included. However, local law plans in effect on October 1,
421 1998, shall be required to comply with the minimum benefit
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422 provisions of this chapter only to the extent that additional
423 premium tax revenues become available to incrementally fund the
424 cost of such compliance as provided in s. 185.16(2). When a plan
425 is in compliance with such minimum benefit provisions, as
426 subsequent additional tax revenues become available, they shall
427 be used to provide extra benefits. For the purpose of this
428 chapter, "additional premium tax revenues" means revenues
429 received by a municipality pursuant to s. 185.10 which that
430 exceed the amount received for calendar year 1997, and the term
431 "extra benefits" means benefits in addition to or greater than
432 those provided to general employees of the municipality and in
433 addition to those in existence for police officers on March 12,
434 1999. Local law plans created by special act before May 23,
435 1939, shall be deemed to comply with this chapter.

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

438 175.061 Board of trustees; members; terms of office;
439 meetings; legal entity; costs; attorney's fees.--For any
440 municipality, special fire control district, chapter plan, local
441 law municipality, local law special fire control district, or
442 local law plan under this chapter:

443 (7) The board of trustees may, upon written request by the
444 retiree of the plan, or by a dependent, when authorized by the
445 retiree or the retiree's beneficiary, authorize the plan
446 administrator to withhold from the monthly retirement payment
447 those funds that are necessary to pay for the benefits being
448 received through the governmental entity from which the employee
449 retired, to pay the certified bargaining agent of the
450 governmental entity, and to make any payments required by law.
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451 Section 6. Present subsection (6) of section 185.05,
452 Florida Statutes, is redesignated as subsection (7), and a new
453 subsection (6) is added to that section, to read:

454 185.05 Board of trustees; members; terms of office;
455 meetings; legal entity; costs; attorney's fees.--For any
456 municipality, chapter plan, local law municipality, or local law
457 plan under this chapter:

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

466 Section 7. The sum of \$300,000 is appropriated from the
467 General Revenue Fund to the Department of Revenue for the one-
468 time expense of creating the original database called for by
469 sections 1 and 2 of this act and to support the implementation
470 process for use of the database. It is the intent of the
471 Legislature in providing this appropriation that the database
472 for sections 1 and 2 of this act be available for use in
473 determining the allocation of premiums to the various
474 municipalities and special fire control districts for the 2005
475 insurance premium tax return that is due by March 1, 2006.

476 Section 8. The Legislature finds that a proper and
477 legitimate state purpose is served when employees and retirees
478 of the state and its political subdivisions, and the dependents,
479 survivors, and beneficiaries of such employees and retirees, are
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480 extended the basic protections afforded by governmental
 481 retirement systems. These persons must be provided benefits that
 482 are fair and adequate and that are managed, administered, and
 483 funded in an actuarially sound manner, as required by Section
 484 14, Article X of the State Constitution, and part VII of chapter
 485 112, Florida Statutes. Therefore, the Legislature determines and
 486 declares that this act fulfills an important state interest.

487 Section 9. This act shall take effect upon becoming a law.

488

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

490 Remove line 30 and insert:

491 Department of Revenue; providing that the act fulfills an
 492 important state interest; providing an effective date.