

By Senators Fasano, Pruitt, Webster, Smith and Haridopolos

11-772-04

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

1 officers; amending s. 175.061, F.S. ;
2 authorizing the plan administrator to withhold
3 certain funds; amending s. 185.05, F.S. ;
4 authorizing the plan administrator to withhold
5 certain funds; providing an appropriation to
6 the Department of Revenue; providing an
7 effective date.

8

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

10

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

13 175.1015 Determination of local premium tax situs.--

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

1 (b) Any insurance company that is obligated to report
2 and remit the excise tax on commercial property insurance
3 premiums imposed under s. 175.101 and is unable, after due
4 diligence, to assign an insured property to a specific local
5 taxing jurisdiction for purposes of complying with paragraph
6 (a) shall remit the excise tax on commercial property
7 insurance premiums using a methodology of apportionment in a
8 manner consistent with the remittance for the 2003 calendar
9 year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (6) Any insurer that is obligated to collect and remit
15 the tax on property insurance imposed under s. 175.101 shall
16 be held harmless from any liability for taxes, interest, or
17 penalties that would otherwise be due solely as a result of an
18 assignment of an insured property to an incorrect local taxing
19 jurisdiction, based on the collection and remission of the tax
20 accruing before January 1, 2005, if the insurer collects and
21 reports this tax consistent with filings for periods before
22 January 1, 2005. Further, any insurer that is obligated to
23 collect and remit the tax on property insurance imposed under
24 this section is not subject to an examination under s. 624.316
25 or s. 624.3161 which would occur solely as a result of an
26 assignment of an insured property to an incorrect local taxing
27 jurisdiction, based on the collection and remission of such
28 tax accruing before January 1, 2005.

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

31 185.085 Determination of local premium tax situs.--

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

19 (b) Any insurance company that is obligated to report
20 and remit the excise tax on commercial casualty insurance
21 premiums imposed under s. 185.08 and is unable, after due
22 diligence, to assign an insured property to a specific local
23 taxing jurisdiction for purposes of complying with paragraph
24 (a) shall remit the excise tax on commercial casualty
25 insurance premiums using a methodology of apportionment in a
26 manner consistent with the remittance for the 2003 calendar
27 year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (6)(a) Notwithstanding any other law, a methodology,
5 formula, or database that is adopted in any year after January
6 1, 2005, may not result in a distribution to a participating
7 municipality that has a retirement plan created pursuant to
8 this chapter of an amount of excise tax which is less than the
9 amount distributed to such participating municipality for
10 calendar year 2004. However, if the total proceeds to be
11 distributed for the current year from the excise tax imposed
12 under s. 185.08 are less than the total amount distributed for
13 calendar year 2004, each participating municipality shall
14 receive a current year distribution that is proportionate to
15 its share of the total 2004 calendar year distribution. If the
16 total proceeds to be distributed for the current year from the
17 excise tax imposed under s. 185.08 are greater than or equal
18 to the total amount distributed for calendar year 2004, each
19 participating municipality shall initially be distributed a
20 minimum amount equal to the amount received for calendar year
21 2004. The remaining amount to be distributed for the current
22 year, which equals the total to be distributed for the current
23 year, less minimum distribution amount, shall be distributed
24 to those municipalities with an amount reported for the
25 current year which is greater than the amount distributed to
26 such municipality for calendar year 2004. Each municipality
27 eligible for distribution of this remaining amount shall
28 receive its proportionate share of the remaining amount based
29 upon the amount reported for that municipality, above the
30 calendar year 2004 distribution for the current year, to the
31 total amount over the calendar year 2004 distribution for all

1 municipalities with an amount reported for the current year
2 which is greater than the calendar year 2004 distribution.

3 (b) If a new municipality elects to participate under
4 this chapter during any year after January 1, 2005, such
5 municipality shall receive the total amount reported for the
6 current- year for such municipality. All other participating
7 municipalities shall receive a current year distribution,
8 calculated as provided in this section, which is proportionate
9 to their share of the total 2004 calendar year distribution
10 after subtracting the amount paid to the new participating
11 plans.

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

13 (7) Any insurer that is obligated to collect and remit
14 the tax on casualty insurance imposed under s. 185.08 shall be
15 held harmless from any liability for taxes, interest, or
16 penalties that would otherwise be due solely as a result of an
17 assignment of an insured risk to an incorrect local taxing
18 jurisdiction, based on the collection and remission of the tax
19 accruing before January 1, 2005, if the insurer collects and
20 reports this tax consistent with filings for periods before
21 January 1, 2005. Further, any insurer that is obligated to
22 collect and remit the tax on casualty insurance imposed under
23 this section is not subject to an examination under s. 624.316
24 or s. 624.3161 which would occur solely as a result of an
25 assignment of an insured risk to an incorrect local taxing
26 jurisdiction, based on the collection and remission of such
27 tax accruing before January 1, 2005.

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (b) May place the income from the premium tax in s.
12 185.08 in a separate supplemental plan to pay extra benefits
13 to the police officers, or police officers and firefighters
14 where included, participating in such separate supplemental
15 plan.

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

1 than those provided to general employees of the municipality
2 and in addition to those in existence for police officers on
3 March 12, 1999. Local law plans created by special act before
4 May 23, 1939, shall be deemed to comply with this chapter.

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

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

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

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

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

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

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

4 Section 7. The sum of \$300,000 is appropriated from
5 the General Revenue Fund to the Department of Revenue for the
6 one-time expense of creating the original database called for
7 by sections 1 and 2 of this act and to support the
8 implementation process for use of the database. It is the
9 intent of the Legislature in providing this appropriation that
10 the database for sections 1 and 2 of this act be available for
11 use in determining the allocation of premiums to the various
12 municipalities and special fire control districts for the 2005
13 insurance premium tax return that is due by March 1, 2006.

14 Section 8. This act shall take effect January 1, 2005.

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17 SENATE SUMMARY

18 Subject to legislative appropriation, requires the
19 Department of Revenue to create and maintain databases
20 for use by insurers that report and remit excise taxes on
21 property insurance premiums or casualty insurance
22 premiums. Provides insurers with incentives for using the
23 databases and specifies penalties for failure to use the
24 databases. Requires local governments to provide
25 information to the department. Authorizes the Department
26 of Revenue to adopt rules. Provides that the term "extra
27 benefits" for purposes of the premium tax includes
28 benefits provided for firefighters and police officers on
29 March 12, 1999. Provides an appropriation. (See bill for
30 details.)
31