

By the Committee on Governmental Oversight and Productivity;
and Senators Fasano, Pruitt, Webster, Smith and Haridopolos

302-939-04

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 that the

7 act fulfills an important state interest;

8 providing an effective date.

9

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

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12 Section 1. Section 175.1015, Florida Statutes, is

13 created to read:

14 175.1015 Determination of local premium tax situs.--

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

16 report and remit the excise tax on property insurance premiums

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

18 liability for taxes, interest, or penalties that would

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

20 insured property to an incorrect local taxing jurisdiction if

21 the insurance company exercises due diligence in applying an

22 electronic database provided by the Department of Revenue

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

24 electronic database provided by the Department of Revenue or

25 that do not exercise due diligence in applying the electronic

26 database are subject to a 0.5 percent penalty on the portion

27 of the premium pertaining to any insured risk that is

28 improperly assigned, whether assigned to an improper local

29 taxing jurisdiction, not assigned to a local taxing

30 jurisdiction when it should be assigned to a local taxing

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1 jurisdiction, or assigned to a local taxing jurisdiction when
2 it should not be assigned to a local taxing jurisdiction.

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

9 insurance premiums using a methodology of apportionment in a
10 manner consistent with the remittance for the 2004 calendar
11 year.

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

1 year after the creation of the initial database, the
2 Department of Revenue shall annually create and maintain a
3 database for the current tax year. Each annual database must
4 be calendar-year specific.

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

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

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

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

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

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

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

28 1. Expends reasonable resources to accurately and
29 reliably implement such method;

30 2. Maintains adequate internal controls to correctly
31 include in its database of policyholders the location of the

1 property insured, in the proper address format, so that
2 matching with the department's database is accurate; and

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

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

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

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

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

3 185.085 Determination of local premium tax situs.--

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

22 (b) Any insurance company that is obligated to report
23 and remit the excise tax on commercial casualty insurance
24 premiums imposed under s. 185.08 and is unable, after due
25 diligence, to assign an insured property to a specific local
26 taxing jurisdiction for purposes of complying with paragraph

27 (a) shall remit the excise tax on commercial casualty
28 insurance premiums using a methodology of apportionment in a
29 manner consistent with the remittance for the 2004 calendar
30 year.

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

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

30 2. Each participating local taxing jurisdiction shall
31 furnish to the Department of Revenue all information needed to

1 create and update the current year's database, including
2 changes in annexations, incorporations, and reorganizations
3 and any other changes in jurisdictional boundaries, as well as
4 changes in eligibility to participate in the excise tax
5 imposed under this chapter. The information must specify an
6 effective date and must be furnished to the Department of
7 Revenue by July 1 of the current year.

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

1 Information contained in the electronic database is conclusive
2 for purposes of this chapter. The electronic database is not
3 an order, a rule, or a policy of general applicability.

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

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

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

17 1. Expends reasonable resources to accurately and
18 reliably implement such method;

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

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

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

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

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

1 calendar year 2004 distribution for the current year, to the
2 total amount over the calendar year 2004 distribution for all
3 municipalities with an amount reported for the current year
4 which is greater than the calendar year 2004 distribution.

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

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

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

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

1 175.351 Municipalities and special fire control
2 districts having their own pension plans for
3 firefighters.--For any municipality, special fire control
4 district, local law municipality, local law special fire
5 control district, or local law plan under this chapter, in
6 order for municipalities and special fire control districts
7 with their own pension plans for firefighters, or for
8 firefighters and police officers, where included, to
9 participate in the distribution of the tax fund established
10 pursuant to s. 175.101, local law plans must meet the minimum
11 benefits and minimum standards set forth in this chapter.

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

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

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

29
30 The premium tax provided by this chapter shall in all cases be
31 used in its entirety to provide extra benefits to

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

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

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

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1 (1) PREMIUM TAX INCOME.--If a municipality has a
2 pension plan for police officers, or for police officers and
3 firefighters where included, which, in the opinion of the
4 division, meets the minimum benefits and minimum standards set
5 forth in this chapter, the board of trustees of the pension
6 plan, as approved by a majority of police officers of the
7 municipality, may:

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

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

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

1 received by a municipality pursuant to s. 185.10 which that
2 exceed the amount received for calendar year 1997, and the
3 term "extra benefits" means benefits in addition to or greater
4 than those provided to general employees of the municipality
5 and in addition to those in existence for police officers on
6 March 12, 1999. Local law plans created by special act before
7 May 23, 1939, shall be deemed to comply with this chapter.

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

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

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

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

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

30 (6) The board of trustees may, upon written request by
31 the retiree of the plan, or by a dependent, when authorized by

1 the retiree or the retiree's beneficiary, authorize the plan
2 administrator to withhold from the monthly retirement payment
3 those funds that are necessary to pay for the benefits being
4 received through the governmental entity from which the
5 employee retired, to pay the certified bargaining agent of the
6 governmental entity, and to make any payments required by law.

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

17 Section 8. The Legislature finds that a proper and
18 legitimate state purpose is served when employees and retirees
19 of the state and its political subdivisions, and the
20 dependents, survivors, and beneficiaries of such employees and
21 retirees, are extended the basic protections afforded by
22 governmental retirement systems. These persons must be
23 provided benefits that are fair and adequate and that are
24 managed, administered, and funded in an actuarially sound
25 manner, as required by Section 14, Article X of the State
26 Constitution, and part VII of chapter 112, Florida Statutes.
27 Therefore, the Legislature determines and declares that this
28 act fulfills an important state interest.

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

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
SB 654

The Committee Substitute revises the effective implementation of insurance company compliance from the 2003 to the 2004 calendar year, provides a statement of important state interest, and alters the effective date to upon becoming a law.