

1 A bill to be entitled

2 An act relating to the Florida Retirement System; amending  
3 s. 121.055, F.S.; during a specified period of time,  
4 permitting local government employees who are members of  
5 the Senior Management Service Class, who have withdrawn  
6 from the Florida Retirement System, to elect membership in  
7 the defined benefit program or the public employee  
8 optional retirement program of the system; prescribing  
9 requirements in making such election; providing for  
10 payment of the costs of such membership; amending s.  
11 175.041, F.S.; providing that any municipality that  
12 provides fire protection services to another municipality  
13 under an interlocal agreement is eligible to receive  
14 premium taxes; authorizing the municipality that receives  
15 the fire protection services to enact an ordinance levying  
16 the tax; authorizing the Division of Retirement within the  
17 Department of Management Services to distribute the  
18 premium taxes; amending s. 175.101, F.S.; authorizing any  
19 municipality that has entered into an interlocal agreement  
20 for fire protection services with another municipality to  
21 impose an excise tax on entities that are engaged in the  
22 business of property insurance; amending s. 121.021, F.S.;  
23 redefining the term "compensation" to include certain  
24 supplementary payments made to firefighters, paramedics,  
25 and emergency medical technicians and to certain employer-  
26 reported retirement contributions; providing a finding of  
27 important state interest; providing an effective date.  
28

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

30

31 Section 1. Paragraph (b) of subsection (1) of section  
 32 121.055, Florida Statutes, is amended to read:

33 121.055 Senior Management Service Class.--There is hereby  
 34 established a separate class of membership within the Florida  
 35 Retirement System to be known as the "Senior Management Service  
 36 Class," which shall become effective February 1, 1987.

37 (1)

38 (b)1. Except as provided in subparagraph 2., effective  
 39 January 1, 1990, participation in the Senior Management Service  
 40 Class shall be compulsory for the president of each community  
 41 college, the manager of each participating city or county, and  
 42 all appointed district school superintendents. Effective  
 43 January 1, 1994, additional positions may be designated for  
 44 inclusion in the Senior Management Service Class of the Florida  
 45 Retirement System, provided that:

46 a. Positions to be included in the class shall be  
 47 designated by the local agency employer. Notice of intent to  
 48 designate positions for inclusion in the class shall be  
 49 published once a week for 2 consecutive weeks in a newspaper of  
 50 general circulation published in the county or counties  
 51 affected, as provided in chapter 50.

52 b. Up to 10 nonelective full-time positions may be  
 53 designated for each local agency employer reporting to the  
 54 Department of Management Services; for local agencies with 100  
 55 or more regularly established positions, additional nonelective

56 full-time positions may be designated, not to exceed 1 percent  
57 of the regularly established positions within the agency.

58 c. Each position added to the class must be a managerial  
59 or policymaking position filled by an employee who is not  
60 subject to continuing contract and serves at the pleasure of the  
61 local agency employer without civil service protection, and who:

62 (I) Heads an organizational unit; or

63 (II) Has responsibility to effect or recommend personnel,  
64 budget, expenditure, or policy decisions in his or her areas of  
65 responsibility.

66 2. In lieu of participation in the Senior Management  
67 Service Class, members of the Senior Management Service Class  
68 pursuant to the provisions of subparagraph 1. may withdraw from  
69 the Florida Retirement System altogether. The decision to  
70 withdraw from the Florida Retirement System shall be irrevocable  
71 for as long as the employee holds such a position. Any service  
72 creditable under the Senior Management Service Class shall be  
73 retained after the member withdraws from the Florida Retirement  
74 System; however, additional service credit in the Senior  
75 Management Service Class shall not be earned after such  
76 withdrawal. Such members shall not be eligible to participate  
77 in the Senior Management Service Optional Annuity Program.

78 3. Effective January 1, 2006, through June 30, 2006, an  
79 employee who has withdrawn from the Florida Retirement System  
80 under subparagraph 2. has one opportunity to elect to  
81 participate in either the defined benefit program or the Public  
82 Employee Optional Retirement Program of the Florida Retirement  
83 System.

84        a. If the employee elects to participate in the Public  
85 Employee Optional Retirement Program, membership shall be  
86 prospective, and the applicable provisions of s. 121.4501(4)  
87 shall govern the election.

88        b. If the employee elects to participate in the defined  
89 benefit program of the Florida Retirement System, the employee  
90 shall, upon payment to the system trust fund of the amount  
91 calculated under sub-sub-subparagraph (I), receive service  
92 credit for prior service based upon the time during which the  
93 employee had withdrawn from the system.

94        (I) The cost for such credit shall be an amount  
95 representing the actuarial accrued liability for the affected  
96 period of service. The cost shall be calculated using the  
97 discount rate and other relevant actuarial assumptions that were  
98 used to value the Florida Retirement System defined benefit plan  
99 liabilities in the most recent actuarial valuation. The  
100 calculation shall include any service already maintained under  
101 the defined benefit plan in addition to the period of  
102 withdrawal. The actuarial accrued liability attributable to any  
103 service already maintained under the defined benefit plan shall  
104 be applied as a credit to the total cost resulting from the  
105 calculation. The division shall ensure that the transfer sum is  
106 prepared using a formula and methodology certified by an  
107 actuary.

108        (II) The employee must transfer a sum representing the net  
109 cost owed for the actuarial accrued liability in sub-sub-  
110 subparagraph (I) immediately following the time of such  
111 movement, determined assuming that attained service equals the

112 | sum of service in the defined benefit program and the period of  
 113 | withdrawal.

114 | Section 2. Subsection (3) of section 175.041, Florida  
 115 | Statutes, is amended to read:

116 | 175.041 Firefighters' Pension Trust Fund created;  
 117 | applicability of provisions.--For any municipality, special fire  
 118 | control district, chapter plan, local law municipality, local  
 119 | law special fire control district, or local law plan under this  
 120 | chapter:

121 | (3) The provisions of this chapter shall apply only to  
 122 | municipalities organized and established pursuant to the laws of  
 123 | the state and to special fire control districts, and said  
 124 | provisions shall not apply to the unincorporated areas of any  
 125 | county or counties except with respect to special fire control  
 126 | districts that include unincorporated areas, nor shall the  
 127 | provisions hereof apply to any governmental entity whose  
 128 | firefighters are eligible to participate in the Florida  
 129 | Retirement System.

130 | (a) Special fire control districts that include, or  
 131 | consist exclusively of, unincorporated areas of one or more  
 132 | counties may levy and impose the tax and participate in the  
 133 | retirement programs enabled by this chapter.

134 | (b) With respect to the distribution of premium taxes, a  
 135 | single consolidated government consisting of a former county and  
 136 | one or more municipalities, consolidated pursuant to s. 3 or s.  
 137 | 6(e) ~~(6)(e)~~, Art. VIII of the State Constitution, is also  
 138 | eligible to participate under this chapter. The consolidated  
 139 | government shall notify the division when it has entered into an

140 interlocal agreement to provide fire services to a municipality  
141 within its boundaries. The municipality may enact an ordinance  
142 levying the tax as provided in s. 175.101. Upon being provided  
143 copies of the interlocal agreement and the municipal ordinance  
144 levying the tax, the division may distribute any premium taxes  
145 reported for the municipality to the consolidated government as  
146 long as the interlocal agreement is in effect.

147 (c) Any municipality that has entered into an interlocal  
148 agreement to provide fire protection services to any other  
149 incorporated municipality, in its entirety, for a period of 12  
150 months or more may be eligible to receive the premium taxes  
151 reported for such other municipality. In order to be eligible  
152 for such premium taxes, the municipality providing the fire  
153 services must notify the division that it has entered into an  
154 interlocal agreement with another municipality. The municipality  
155 receiving the fire services may enact an ordinance levying the  
156 tax as provided in s. 175.101. Upon being provided copies of the  
157 interlocal agreement and the municipal ordinance levying the  
158 tax, the division may distribute any premium taxes reported for  
159 the municipality receiving the fire services to the  
160 participating municipality providing the fire services as long  
161 as the interlocal agreement is in effect.

162 Section 3. Section 175.101, Florida Statutes, is amended  
163 to read:

164 175.101 State excise tax on property insurance premiums  
165 authorized; procedure.--For any municipality, special fire  
166 control district, chapter plan, local law municipality, local

167 law special fire control district, or local law plan under this  
168 chapter:

169 (1) Each municipality or special fire control district in  
170 this state described and classified in s. 175.041, having a  
171 lawfully established firefighters' pension trust fund or  
172 municipal fund or special fire control district fund, by  
173 whatever name known, providing pension benefits to firefighters  
174 as provided under this chapter, may assess and impose on every  
175 insurance company, corporation, or other insurer now engaged in  
176 or carrying on, or who shall hereinafter engage in or carry on,  
177 the business of property insurance as shown by the records of  
178 the Office of Insurance Regulation of the Financial Services  
179 Commission an excise tax in addition to any lawful license or  
180 excise tax now levied by each of the municipalities or special  
181 fire control districts, respectively, amounting to 1.85 percent  
182 of the gross amount of receipts of premiums from policyholders  
183 on all premiums collected on property insurance policies  
184 covering property within the corporate limits of such  
185 municipalities or within the legally defined boundaries of  
186 special fire control districts, respectively. Whenever the  
187 boundaries of a special fire control district that has lawfully  
188 established a firefighters' pension trust fund encompass a  
189 portion of the corporate territory of a municipality that has  
190 also lawfully established a firefighters' pension trust fund,  
191 that portion of the tax receipts attributable to insurance  
192 policies covering property situated both within the municipality  
193 and the special fire control district shall be given to the fire  
194 service provider. The agent shall identify the fire service

195 provider on the property owner's application for insurance.  
196 Remaining revenues collected pursuant to this chapter shall be  
197 distributed to the municipality or special fire control district  
198 according to the location of the insured property.

199 (2) In the case of multiple peril policies with a single  
200 premium for both the property and casualty coverages in such  
201 policies, 70 percent of such premium shall be used as the basis  
202 for the 1.85-percent tax.

203 (3) This excise tax shall be payable annually on March 1  
204 of each year after the passage of an ordinance, in the case of a  
205 municipality, or resolution, in the case of a special fire  
206 control district, assessing and imposing the tax authorized by  
207 this section. Installments of taxes shall be paid according to  
208 the provision of s. 624.5092(2)(a), (b), and (c).

209  
210 This section also applies to any municipality consisting of a  
211 single consolidated government which is made up of a former  
212 county and one or more municipalities, consolidated pursuant to  
213 the authority in s. 3 or s. 6(e), Art. VIII of the State  
214 Constitution, and to property insurance policies covering  
215 property within the boundaries of the consolidated government,  
216 regardless of whether the properties are located within one or  
217 more separately incorporated areas within the consolidated  
218 government, provided the properties are being provided fire  
219 protection services by the consolidated government. This section  
220 also applies to any municipality, as provided in s.  
221 175.041(3)(c), which has entered into an interlocal agreement to  
222 receive fire protection services from another municipality



223 participating under chapter 175. The excise tax may be levied on  
 224 all premiums collected on property insurance policies covering  
 225 property located within the corporate limits of the municipality  
 226 receiving the fire protection services, but will be available  
 227 for distribution to the municipality providing the fire  
 228 protection services.

229 Section 4. Paragraph (a) of subsection (22) of section  
 230 121.021, Florida Statutes, is amended to read:

231 121.021 Definitions.--The following words and phrases as  
 232 used in this chapter have the respective meanings set forth  
 233 unless a different meaning is plainly required by the context:

234 (22) "Compensation" means the monthly salary paid a member  
 235 by his or her employer for work performed arising from that  
 236 employment.

237 (a) Compensation shall include:

- 238 1. Overtime payments paid from a salary fund.
- 239 2. Accumulated annual leave payments.
- 240 3. Payments in addition to the employee's base rate of pay  
 241 if all the following apply:

242 a. The payments are paid according to a formal written  
 243 policy that applies to all eligible employees equally;

244 b. The policy provides that payments shall commence no  
 245 later than the 11th year of employment;

246 c. The payments are paid for as long as the employee  
 247 continues his or her employment; and

248 d. The payments are paid at least annually.

249 4. Amounts withheld for tax sheltered annuities or  
250 deferred compensation programs, or any other type of salary  
251 reduction plan authorized under the Internal Revenue Code.

252 5. Payments made in lieu of a permanent increase in the  
253 base rate of pay, whether made annually or in 12 or 26 equal  
254 payments within a 12-month period, when the member's base pay is  
255 at the maximum of his or her pay range. When a portion of a  
256 member's annual increase raises his or her pay range and the  
257 excess is paid as a lump sum payment, such lump sum payment  
258 shall be compensation for retirement purposes.

259 6. Effective July 1, 2002, salary supplements made  
260 pursuant to s. 1012.72 requiring a valid National Board for  
261 Professional Standards certificate, notwithstanding the  
262 provisions of subparagraph 3.

263 7. Effective July 1, 2005, salary supplements made to  
264 firefighters, paramedics, or emergency medical technicians for  
265 the successful completion of employer-approved educational  
266 training or for additional job-related duties and  
267 responsibilities, notwithstanding the provisions of subparagraph  
268 3. For all periods prior to July 1, 2005, employer-reported  
269 retirement contributions on these supplemental payments shall be  
270 compensation.

271 Section 5. The Legislature finds that a proper and  
272 legitimate state purpose is served when employees and retirees  
273 of the state and of its political subdivisions, and the  
274 dependents, survivors, and beneficiaries of such employees and  
275 retirees, are extended the basic protections afforded by  
276 governmental retirement systems that provide fair and adequate

277 benefits that are managed, administered, and funded in an  
278 actuarially sound manner, as required by s. 14, Art. X of the  
279 State Constitution and part VII of chapter 112, Florida  
280 Statutes. Therefore, the Legislature determines and declares  
281 that section 3 of this act fulfills an important state interest.

282 Section 6. This act shall take effect October 1, 2005.