

ENROLLED  
 HB 1159, Engrossed 2

2005 Legislature

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 5           the Senior Management Service Class, who have withdrawn  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; providing an effective  
 23          date.

24  
 25   Be It Enacted by the Legislature of the State of Florida:

26  
 27           Section 1. Paragraph (b) of subsection (1) of section  
 28   121.055, Florida Statutes, is amended to read:

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29 |       121.055 Senior Management Service Class.--There is hereby  
30 | established a separate class of membership within the Florida  
31 | Retirement System to be known as the "Senior Management Service  
32 | Class," which shall become effective February 1, 1987.

33 |       (1)

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

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

48 |       b. Up to 10 nonelective full-time positions may be  
49 | designated for each local agency employer reporting to the  
50 | Department of Management Services; for local agencies with 100  
51 | or more regularly established positions, additional nonelective  
52 | full-time positions may be designated, not to exceed 1 percent  
53 | of the regularly established positions within the agency.

54 |       c. Each position added to the class must be a managerial  
55 | or policymaking position filled by an employee who is not

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56 subject to continuing contract and serves at the pleasure of the  
 57 local agency employer without civil service protection, and who:

- 58 (I) Heads an organizational unit; or
- 59 (II) Has responsibility to effect or recommend personnel,  
 60 budget, expenditure, or policy decisions in his or her areas of  
 61 responsibility.

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

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

80 a. If the employee elects to participate in the Public  
 81 Employee Optional Retirement Program, membership shall be  
 82 prospective, and the applicable provisions of s. 121.4501(4)  
 83 shall govern the election.

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

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

104        (II) The employee must transfer a sum representing the net  
 105 cost owed for the actuarial accrued liability in sub-sub-  
 106 subparagraph (I) immediately following the time of such  
 107 movement, determined assuming that attained service equals the  
 108 sum of service in the defined benefit program and the period of  
 109 withdrawal.

110        Section 2. Subsection (3) of section 175.041, Florida  
 111 Statutes, is amended to read:

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112 | 175.041 Firefighters' Pension Trust Fund created;  
113 | applicability of provisions.--For any municipality, special fire  
114 | control district, chapter plan, local law municipality, local  
115 | law special fire control district, or local law plan under this  
116 | chapter:

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

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

130 | (b) With respect to the distribution of premium taxes, a  
131 | single consolidated government consisting of a former county and  
132 | one or more municipalities, consolidated pursuant to s. 3 or s.  
133 | 6(e) ~~(6)(e)~~, Art. VIII of the State Constitution, is also  
134 | eligible to participate under this chapter. The consolidated  
135 | government shall notify the division when it has entered into an  
136 | interlocal agreement to provide fire services to a municipality  
137 | within its boundaries. The municipality may enact an ordinance  
138 | levying the tax as provided in s. 175.101. Upon being provided  
139 | copies of the interlocal agreement and the municipal ordinance

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140 | levying the tax, the division may distribute any premium taxes  
 141 | reported for the municipality to the consolidated government as  
 142 | long as the interlocal agreement is in effect.

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

158 |       Section 3. Section 175.101, Florida Statutes, is amended  
 159 | to read:

160 |       175.101 State excise tax on property insurance premiums  
 161 | authorized; procedure.--For any municipality, special fire  
 162 | control district, chapter plan, local law municipality, local  
 163 | law special fire control district, or local law plan under this  
 164 | chapter:

165 |       (1) Each municipality or special fire control district in  
 166 | this state described and classified in s. 175.041, having a  
 167 | lawfully established firefighters' pension trust fund or

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

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

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

205  
 206 This section also applies to any municipality consisting of a  
 207 single consolidated government which is made up of a former  
 208 county and one or more municipalities, consolidated pursuant to  
 209 the authority in s. 3 or s. 6(e), Art. VIII of the State  
 210 Constitution, and to property insurance policies covering  
 211 property within the boundaries of the consolidated government,  
 212 regardless of whether the properties are located within one or  
 213 more separately incorporated areas within the consolidated  
 214 government, provided the properties are being provided fire  
 215 protection services by the consolidated government. This section  
 216 also applies to any municipality, as provided in s.  
 217 175.041(3)(c), which has entered into an interlocal agreement to  
 218 receive fire protection services from another municipality  
 219 participating under chapter 175. The excise tax may be levied on  
 220 all premiums collected on property insurance policies covering  
 221 property located within the corporate limits of the municipality  
 222 receiving the fire protection services, but will be available



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223 for distribution to the municipality providing the fire  
224 protection services.

225 Section 4. This act shall take effect October 1, 2005.