

By Senator Wise

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1 A bill to be entitled
2 An act relating to firefighter and municipal police
3 pensions; amending s. 175.032, F.S.; revising the
4 definition of "firefighter"; amending s. 175.061, F.S.;
5 authorizing the terms of office for the board of trustees
6 of the firefighters' pension trust fund to be revised
7 under certain circumstances; authorizing the plan
8 administrator to withhold funds to pay for premiums for
9 accident, health, and long-term care insurance for the
10 retiree and the retiree's spouse and dependents; providing
11 an exemption from liability under certain circumstances;
12 amending s. 175.071, F.S.; requiring the board of trustees
13 to perform its powers subject to certain fiduciary
14 standards and ethics provisions; authorizing the use of
15 additional investment policy guidelines; increasing the
16 percentage of assets of the firefighters' pension trust
17 fund which the board of trustees may invest in foreign
18 securities; authorizing certain individuals to sign drafts
19 issued upon the firefighters' pension trust fund; amending
20 s. 175.101, F.S.; clarifying boundaries of a special fire
21 control district; amending s. 185.03, F.S.; specifying
22 application to certain consolidated governments; requiring
23 notice to the Division of Retirement of the Department of
24 Management Services of certain interlocal agreements;
25 authorizing the levy of taxes by municipal ordinance;
26 providing for the distribution of tax proceeds; amending
27 s. 185.05, F.S.; authorizing the terms of office for the
28 board of trustees of the municipal police officers'
29 retirement trust fund to be revised under certain

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30 circumstances; authorizing the plan administrator to
31 withhold funds to pay for premiums for accident, health,
32 and long-term care insurance for the retiree and the
33 retiree's spouse and dependents; providing an exemption
34 from liability under certain circumstances; amending s.
35 185.06, F.S.; requiring the board of trustees to perform
36 its powers subject to certain fiduciary standards and
37 ethics provisions; authorizing the use of additional
38 investment policy guidelines; increasing the percentage of
39 assets of the municipal police officers' retirement trust
40 fund that the board of trustees may invest in foreign
41 securities; authorizing certain individuals to sign drafts
42 issued upon the municipal police officers' retirement
43 trust fund; amending s. 185.08, F.S.; including certain
44 consolidated governments under provisions authorizing
45 imposition of a state excise tax on property insurance
46 premiums covering certain property for certain purposes;
47 providing for severability; providing an effective date.

48
49 Be It Enacted by the Legislature of the State of Florida:

50
51 Section 1. Paragraph (a) of subsection (8) of section
52 175.032, Florida Statutes, is amended to read:

53 175.032 Definitions.--For any municipality, special fire
54 control district, chapter plan, local law municipality, local law
55 special fire control district, or local law plan under this
56 chapter, the following words and phrases have the following
57 meanings:

58 (8) (a) "Firefighter" means any person employed solely by a

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59 constituted fire department of any municipality or special fire
60 control district who is certified as a firefighter as a condition
61 of employment in accordance with the provisions of s. 633.35 and
62 whose duty it is to extinguish fires, to protect life, or to
63 protect property. "Firefighter" includes all certified
64 supervisory and command personnel whose duties include, in whole
65 or in part, the supervision, training, guidance, and management
66 responsibilities of full-time firefighters, part-time
67 firefighters, or auxiliary firefighters but does not include
68 part-time firefighters or auxiliary firefighters. However, for
69 purposes of this chapter only, "firefighter" also includes public
70 safety officers who are responsible for performing both police
71 and fire services, who are certified as police officers or
72 firefighters, and who are certified by their employers to the
73 Chief Financial Officer as participating in this chapter prior to
74 October 1, 1979. Effective October 1, 1979, public safety
75 officers who have not been certified as participating in this
76 chapter shall be considered police officers for retirement
77 purposes and shall be eligible to participate in chapter 185. Any
78 plan may provide that the fire chief shall have an option to
79 participate, or not, in that plan.

80 Section 2. Paragraph (a) of subsection (1) and subsection
81 (7) of section 175.061, Florida Statutes, are amended to read:

82 175.061 Board of trustees; members; terms of office;
83 meetings; legal entity; costs; attorney's fees.--For any
84 municipality, special fire control district, chapter plan, local
85 law municipality, local law special fire control district, or
86 local law plan under this chapter:

87 (1) In each municipality and in each special fire control

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88 district there is hereby created a board of trustees of the
89 firefighters' pension trust fund, which shall be solely
90 responsible for administering the trust fund. Effective October
91 1, 1986, and thereafter:

92 (a) The membership of the board of trustees for a chapter
93 plan shall consist of five members, two of whom, unless otherwise
94 prohibited by law, shall be legal residents of the municipality
95 or special fire control district, who shall be appointed by the
96 governing body of the municipality or special fire control
97 district, and two of whom shall be full-time firefighters as
98 defined in s. 175.032 who shall be elected by a majority of the
99 active firefighters who are members of such plan. With respect to
100 any chapter plan or local law plan that, on January 1, 1997,
101 allowed retired firefighters to vote in such elections, retirees
102 may continue to vote in such elections. The fifth member shall be
103 chosen by a majority of the previous four members as provided for
104 herein, and such person's name shall be submitted to the
105 governing body of the municipality or special fire control
106 district. Upon receipt of the fifth person's name, the governing
107 body of the municipality or special fire control district shall,
108 as a ministerial duty, appoint such person to the board of
109 trustees as its fifth member. The fifth member shall have the
110 same rights as each of the other four members appointed or
111 elected as herein provided, shall serve as trustee for a period
112 of 2 years, and may succeed himself or herself in office. Each
113 resident member shall serve as trustee for a period of 2 years,
114 unless sooner replaced by the governing body at whose pleasure he
115 or she shall serve, and may succeed himself or herself as a
116 trustee. Each firefighter member shall serve as trustee for a

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117 | period of 2 years, unless he or she sooner leaves the employment
118 | of the municipality or special fire control district as a
119 | firefighter, whereupon a successor shall be chosen in the same
120 | manner as an original appointment. Each firefighter may succeed
121 | himself or herself in office. The terms of office of the
122 | appointed and elected members of the board may be amended by
123 | municipal ordinance, special act of the Legislature, or
124 | resolution adopted by the governing body of the special fire
125 | control district to extend the terms of office from 2 years to 4
126 | years. The length of the terms of office shall be the same for
127 | all board members.

128 | (7) The board of trustees may, upon written request by the
129 | retiree of the plan, or by a dependent, when authorized by the
130 | retiree or the retiree's beneficiary, authorize the plan
131 | administrator to withhold from the monthly retirement payment
132 | those funds that are necessary to pay for the benefits being
133 | received through the governmental entity from which the employee
134 | retired, to pay the certified bargaining agent of the
135 | governmental entity, and to make any payments for child support
136 | or alimony. Further, the board of trustees may, upon written
137 | request of the retiree of the plan, authorize the plan
138 | administrator to withhold from the retirement payment those funds
139 | that are necessary to pay for premiums for accident, health, and
140 | long-term care insurance for the retiree and the retiree's spouse
141 | and dependents. A retirement plan does not incur any liability
142 | for participation in this permissive program if its actions are
143 | taken in good faith.

144 | Section 3. Subsection (1) of section 175.071, Florida
145 | Statutes, is amended to read:

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146 175.071 General powers and duties of board of trustees.--
147 For any municipality, special fire control district, chapter
148 plan, local law municipality, local law special fire control
149 district, or local law plan under this chapter:

150 (1) The board of trustees, subject to the fiduciary
151 standards in ss. 112.656, 112.661, and 518.11 and the Code of
152 Ethics in ss. 112.311-112.3187, may use the investment policy
153 guidelines provided in s. 112.661(5) or:

154 (a) Invest and reinvest the assets of the firefighters'
155 pension trust fund in annuity and life insurance contracts of
156 life insurance companies in amounts sufficient to provide, in
157 whole or in part, the benefits to which all of the participants
158 in the firefighters' pension trust fund shall be entitled under
159 the provisions of this chapter and pay the initial and subsequent
160 premiums thereon.

161 (b) Invest and reinvest the assets of the firefighters'
162 pension trust fund in:

163 1. Time or savings accounts of a national bank, a state
164 bank insured by the Bank Insurance Fund, or a savings, building,
165 and loan association insured by the Savings Association Insurance
166 Fund which is administered by the Federal Deposit Insurance
167 Corporation or a state or federal chartered credit union whose
168 share accounts are insured by the National Credit Union Share
169 Insurance Fund.

170 2. Obligations of the United States or obligations
171 guaranteed as to principal and interest by the government of the
172 United States.

173 3. Bonds issued by the State of Israel.

174 4. Bonds, stocks, or other evidences of indebtedness issued

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175 | or guaranteed by a corporation organized under the laws of the
176 | United States, any state or organized territory of the United
177 | States, or the District of Columbia, provided:

178 | a. The corporation is listed on any one or more of the
179 | recognized national stock exchanges or on the National Market
180 | System of the NASDAQ Stock Market and, in the case of bonds only,
181 | holds a rating in one of the three highest classifications by a
182 | major rating service; and

183 | b. The board of trustees shall not invest more than 5
184 | percent of its assets in the common stock or capital stock of any
185 | one issuing company, nor shall the aggregate investment in any
186 | one issuing company exceed 5 percent of the outstanding capital
187 | stock of that company or the aggregate of its investments under
188 | this subparagraph at cost exceed 50 percent of the assets of the
189 | fund.

190 |
191 | This paragraph shall apply to all boards of trustees and
192 | participants. However, in the event that a municipality or
193 | special fire control district has a duly enacted pension plan
194 | pursuant to, and in compliance with, s. 175.351, and the trustees
195 | thereof desire to vary the investment procedures herein, the
196 | trustees of such plan shall request a variance of the investment
197 | procedures as outlined herein only through a municipal ordinance,
198 | special act of the Legislature, or resolution by the governing
199 | body of the special fire control district; where a special act,
200 | or a municipality by ordinance adopted prior to July 1, 1998,
201 | permits a greater than 50-percent equity investment, such
202 | municipality shall not be required to comply with the aggregate
203 | equity investment provisions of this paragraph. Notwithstanding

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204 any other provision of law to the contrary, nothing in this
205 section may be construed to take away any preexisting legal
206 authority to make equity investments that exceed the requirements
207 of this paragraph. The board of trustees may invest up to 20 ~~10~~
208 percent of plan assets in foreign securities.

209 (c) Issue drafts upon the firefighters' pension trust fund
210 pursuant to this act and rules and regulations prescribed by the
211 board of trustees. All such drafts shall be consecutively
212 numbered, be signed by the chair and secretary or two individuals
213 designated by the board who are subject to the same fiduciary
214 standards as required for the board of trustees under this
215 subsection, and state upon their faces the purpose for which the
216 drafts are drawn. The treasurer or depository of each
217 municipality or special fire control district shall retain such
218 drafts when paid, as permanent vouchers for disbursements made,
219 and no money shall be otherwise drawn from the fund.

220 (d) Convert into cash any securities of the fund.

221 (e) Keep a complete record of all receipts and
222 disbursements and of the board's acts and proceedings.

223 Section 4. Subsection (1) of section 175.101, Florida
224 Statutes, is amended to read:

225 175.101 State excise tax on property insurance premiums
226 authorized; procedure.--For any municipality, special fire
227 control district, chapter plan, local law municipality, local law
228 special fire control district, or local law plan under this
229 chapter:

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

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233 municipal fund or special fire control district fund, by whatever
234 name known, providing pension benefits to firefighters as
235 provided under this chapter, may assess and impose on every
236 insurance company, corporation, or other insurer now engaged in
237 or carrying on, or who shall hereinafter engage in or carry on,
238 the business of property insurance as shown by the records of the
239 Office of Insurance Regulation of the Financial Services
240 Commission an excise tax in addition to any lawful license or
241 excise tax now levied by each of the municipalities or special
242 fire control districts, respectively, amounting to 1.85 percent
243 of the gross amount of receipts of premiums from policyholders on
244 all premiums collected on property insurance policies covering
245 property within the corporate limits of such municipalities or
246 within the legally defined boundaries of special fire control
247 districts, respectively. Whenever the boundaries of a special
248 fire control district that has lawfully established a
249 firefighters' pension trust fund encompass a portion of the
250 corporate territory of a municipality that has also lawfully
251 established a firefighters' pension trust fund, that portion of
252 the tax receipts attributable to insurance policies covering
253 property situated both within the municipality and the special
254 fire control district shall be given to the fire service
255 provider. For the purpose of this section, the boundaries of a
256 special fire control district shall be deemed to include an area
257 that has been annexed until the completion of the 4-year period
258 provided for in s. 171.093(4), or other agreed-upon extension, or
259 the termination of an interlocal agreement executed pursuant to
260 s. 171.093(3). The agent shall identify the fire service provider
261 on the property owner's application for insurance. Remaining

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262 revenues collected pursuant to this chapter shall be distributed
263 to the municipality or special fire control district according to
264 the location of the insured property.

265
266 This section also applies to any municipality consisting of a
267 single consolidated government which is made up of a former
268 county and one or more municipalities, consolidated pursuant to
269 the authority in s. 3 or s. 6(e), Art. VIII of the State
270 Constitution, and to property insurance policies covering
271 property within the boundaries of the consolidated government,
272 regardless of whether the properties are located within one or
273 more separately incorporated areas within the consolidated
274 government, provided the properties are being provided fire
275 protection services by the consolidated government. This section
276 also applies to any municipality, as provided in s.
277 175.041(3)(c), which has entered into an interlocal agreement to
278 receive fire protection services from another municipality
279 participating under this chapter. The excise tax may be levied on
280 all premiums collected on property insurance policies covering
281 property located within the corporate limits of the municipality
282 receiving the fire protection services, but will be available for
283 distribution to the municipality providing the fire protection
284 services.

285 Section 5. Subsection (2) of section 185.03, Florida
286 Statutes, is amended to read:

287 185.03 Municipal police officers' retirement trust funds;
288 creation; applicability of provisions; participation by public
289 safety officers.--For any municipality, chapter plan, local law
290 municipality, or local law plan under this chapter:

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291 (2) (a) The provisions of this chapter shall apply only to
292 municipalities organized and established pursuant to the laws of
293 the state, and said provisions shall not apply to the
294 unincorporated areas of any county or counties nor shall the
295 provisions hereof apply to any governmental entity whose police
296 officers are eligible to participate in the Florida Retirement
297 System.

298 (b) With respect to the distribution of premium taxes, a
299 single consolidated government consisting of a former county and
300 one or more municipalities, consolidated pursuant to s. 3 or s.
301 6(e), Art. VIII of the State Constitution, is also eligible to
302 participate under this chapter. The consolidated government shall
303 notify the division when it has entered into an interlocal
304 agreement to provide police services to a municipality within its
305 boundaries. The municipality may enact an ordinance levying the
306 tax as provided in s. 185.08. Upon being provided copies of the
307 interlocal agreement and the municipal ordinance levying the tax,
308 the division shall distribute any premium taxes reported for the
309 municipality to the consolidated government as long as the
310 interlocal agreement is in effect.

311 Section 6. Paragraph (a) of subsection (1) and subsection
312 (6) of section 185.05, Florida Statutes, are amended to read:

313 185.05 Board of trustees; members; terms of office;
314 meetings; legal entity; costs; attorney's fees.--For any
315 municipality, chapter plan, local law municipality, or local law
316 plan under this chapter:

317 (1) In each municipality described in s. 185.03 there is
318 hereby created a board of trustees of the municipal police
319 officers' retirement trust fund, which shall be solely

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320 responsible for administering the trust fund. Effective October
321 1, 1986, and thereafter:

322 (a) The membership of the board of trustees for chapter
323 plans shall consist of five members, two of whom, unless
324 otherwise prohibited by law, shall be legal residents of the
325 municipality, who shall be appointed by the legislative body of
326 the municipality, and two of whom shall be police officers as
327 defined in s. 185.02 who shall be elected by a majority of the
328 active police officers who are members of such plan. With respect
329 to any chapter plan or local law plan that, on January 1, 1997,
330 allowed retired police officers to vote in such elections,
331 retirees may continue to vote in such elections. The fifth member
332 shall be chosen by a majority of the previous four members, and
333 such person's name shall be submitted to the legislative body of
334 the municipality. Upon receipt of the fifth person's name, the
335 legislative body of the municipality shall, as a ministerial
336 duty, appoint such person to the board of trustees as its fifth
337 member. The fifth member shall have the same rights as each of
338 the other four members appointed or elected as herein provided,
339 shall serve as trustee for a period of 2 years, and may succeed
340 himself or herself in office. Each resident member shall serve as
341 trustee for a period of 2 years, unless sooner replaced by the
342 legislative body at whose pleasure the member shall serve, and
343 may succeed himself or herself as a trustee. Each police officer
344 member shall serve as trustee for a period of 2 years, unless he
345 or she sooner leaves the employment of the municipality as a
346 police officer, whereupon the legislative body of the
347 municipality shall choose a successor in the same manner as an
348 original appointment. Each police officer may succeed himself or

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349 herself in office. The terms of office of the appointed and
350 elected members of the board may be amended by municipal
351 ordinance or special act of the Legislature to extend the terms
352 of office from 2 years to 4 years. The length of the terms of
353 office shall be the same for all board members.

354 (6) The board of trustees may, upon written request by the
355 retiree of the plan, or by a dependent, when authorized by the
356 retiree or the retiree's beneficiary, authorize the plan
357 administrator to withhold from the monthly retirement payment
358 those funds that are necessary to pay for the benefits being
359 received through the governmental entity from which the employee
360 retired, to pay the certified bargaining agent of the
361 governmental entity, and to make any payments for child support
362 or alimony. Further, the board of trustees may, upon written
363 request of the retiree of the plan, authorize the plan
364 administrator to withhold from the retirement payment those funds
365 that are necessary to pay for premiums for accident, health, and
366 long-term care insurance for the retiree and the retiree's spouse
367 and dependents. A retirement plan does not incur any liability
368 for participation in this permissive program if its actions are
369 taken in good faith.

370 Section 7. Subsection (1) of section 185.06, Florida
371 Statutes, is amended to read:

372 185.06 General powers and duties of board of trustees.--For
373 any municipality, chapter plan, local law municipality, or local
374 law plan under this chapter:

375 (1) The board of trustees, subject to the fiduciary
376 standards in ss. 112.656, 112.661, and 518.11 and the Code of
377 Ethics in ss. 112.311-112.3187, may use the investment policy

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378 guidelines provided in s. 112.661(5) or:

379 (a) Invest and reinvest the assets of the retirement trust
380 fund in annuity and life insurance contracts of life insurance
381 companies in amounts sufficient to provide, in whole or in part,
382 the benefits to which all of the participants in the municipal
383 police officers' retirement trust fund shall be entitled under
384 the provisions of this chapter, and pay the initial and
385 subsequent premiums thereon.

386 (b) Invest and reinvest the assets of the retirement trust
387 fund in:

388 1. Time or savings accounts of a national bank, a state
389 bank insured by the Bank Insurance Fund, or a savings and loan
390 association insured by the Savings Association Insurance Fund
391 which is administered by the Federal Deposit Insurance
392 Corporation or a state or federal chartered credit union whose
393 share accounts are insured by the National Credit Union Share
394 Insurance Fund.

395 2. Obligations of the United States or obligations
396 guaranteed as to principal and interest by the United States.

397 3. Bonds issued by the State of Israel.

398 4. Bonds, stocks, or other evidences of indebtedness issued
399 or guaranteed by a corporation organized under the laws of the
400 United States, any state or organized territory of the United
401 States, or the District of Columbia, provided:

402 a. The corporation is listed on any one or more of the
403 recognized national stock exchanges or on the National Market
404 System of the NASDAQ Stock Market and, in the case of bonds only,
405 holds a rating in one of the three highest classifications by a
406 major rating service; and

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407 b. The board of trustees shall not invest more than 5
408 percent of its assets in the common stock or capital stock of any
409 one issuing company, nor shall the aggregate investment in any
410 one issuing company exceed 5 percent of the outstanding capital
411 stock of the company or the aggregate of its investments under
412 this subparagraph at cost exceed 50 percent of the fund's assets.

413
414 This paragraph shall apply to all boards of trustees and
415 participants. However, in the event that a municipality has a
416 duly enacted pension plan pursuant to, and in compliance with, s.
417 185.35 and the trustees thereof desire to vary the investment
418 procedures herein, the trustees of such plan shall request a
419 variance of the investment procedures as outlined herein only
420 through a municipal ordinance or special act of the Legislature;
421 where a special act, or a municipality by ordinance adopted prior
422 to July 1, 1998, permits a greater than 50-percent equity
423 investment, such municipality shall not be required to comply
424 with the aggregate equity investment provisions of this
425 paragraph. Notwithstanding any other provision of law to the
426 contrary, nothing in this section may be construed to take away
427 any preexisting legal authority to make equity investments that
428 exceed the requirements of this paragraph. The board of trustees
429 may invest up to 20 ~~10~~ percent of plan assets in foreign
430 securities.

431 (c) Issue drafts upon the municipal police officers'
432 retirement trust fund pursuant to this act and rules and
433 regulations prescribed by the board of trustees. All such drafts
434 shall be consecutively numbered, be signed by the chair and
435 secretary or two individuals designated by the board who are

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436 subject to the same fiduciary standards as required for the board
437 of trustees under this subsection, and state upon their faces the
438 purposes for which the drafts are drawn. The city treasurer or
439 other depository shall retain such drafts when paid, as permanent
440 vouchers for disbursements made, and no money shall otherwise be
441 drawn from the fund.

442 (d) Finally decide all claims to relief under the board's
443 rules and regulations and pursuant to the provisions of this act.

444 (e) Convert into cash any securities of the fund.

445 (f) Keep a complete record of all receipts and
446 disbursements and of the board's acts and proceedings.

447 Section 8. Section 185.08, Florida Statutes, is amended to
448 read:

449 185.08 State excise tax on casualty insurance premiums
450 authorized; procedure.--For any municipality, chapter plan, local
451 law municipality, or local law plan under this chapter:

452 (1) Each incorporated municipality in this state described
453 and classified in s. 185.03, as well as each other city or town
454 of this state which on July 31, 1953, had a lawfully established
455 municipal police officers' retirement trust fund or city fund, by
456 whatever name known, providing pension or relief benefits to
457 police officers as provided under this chapter, may assess and
458 impose on every insurance company, corporation, or other insurer
459 now engaged in or carrying on, or who shall hereafter engage in
460 or carry on, the business of casualty insurance as shown by
461 records of the Office of Insurance Regulation of the Financial
462 Services Commission, an excise tax in addition to any lawful
463 license or excise tax now levied by each of the ~~said~~
464 municipalities, respectively, amounting to .85 percent of the

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465 gross amount of receipts of premiums from policyholders on all
466 premiums collected on casualty insurance policies covering
467 property within the corporate limits of such municipalities,
468 respectively.

469 (2) In the case of multiple peril policies with a single
470 premium for both property and casualty coverages in such
471 policies, 30 percent of such premium shall be used as the basis
472 for the .85-percent tax above.

473 (3) The excise tax shall be payable annually March 1 of
474 each year after the passing of an ordinance assessing and
475 imposing the tax herein authorized. Installments of taxes shall
476 be paid according to ~~the provisions of~~ s. 624.5092(2) (a), (b),
477 and (c).

478
479 This section also applies to any municipality that has entered
480 into an interlocal agreement to receive police protection
481 services from another municipality under s. 185.03. The excise
482 tax may be levied on all premiums collected on casualty insurance
483 policies covering property located within the corporate limits of
484 the municipality receiving the police protection services but is
485 available for distribution to the municipality providing the
486 police protection services.

487 Section 9. If any provision of this act or its application
488 to any person or circumstance is held invalid, the invalidity
489 does not affect other provisions or applications of the act which
490 can be given effect without the invalid provision or application,
491 and to this end the provisions of this act are severable.

492 Section 10. This act shall take effect upon becoming a law.