

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 that 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'

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29 retirement trust fund to be revised under certain
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
55 law special fire control district, or local law plan under this

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56 chapter, the following words and phrases have the following
57 meanings:

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

81 Section 2. Paragraph (a) of subsection (1) and subsection
82 (7) of section 175.061, Florida Statutes, are amended to read:
83 175.061 Board of trustees; members; terms of office;

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84 meetings; legal entity; costs; attorney's fees.--For any
85 municipality, special fire control district, chapter plan, local
86 law municipality, local law special fire control district, or
87 local law plan under this chapter:

88 (1) In each municipality and in each special fire control
89 district there is hereby created a board of trustees of the
90 firefighters' pension trust fund, which shall be solely
91 responsible for administering the trust fund. Effective October
92 1, 1986, and thereafter:

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

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

129 (7) The board of trustees may, upon written request by the
 130 retiree of the plan, or by a dependent, when authorized by the
 131 retiree or the retiree's beneficiary, authorize the plan
 132 administrator to withhold from the monthly retirement payment
 133 those funds that are necessary to pay for the benefits being
 134 received through the governmental entity from which the employee
 135 retired, to pay the certified bargaining agent of the
 136 governmental entity, and to make any payments for child support
 137 or alimony. Further, the board of trustees may, upon written
 138 request of the retiree of the plan, authorize the plan
 139 administrator to withhold from the retirement payment those

140 funds that are necessary to pay for premiums for accident,
 141 health, and long-term care insurance for the retiree and the
 142 retiree's spouse and dependents. A retirement plan does not
 143 incur any liability for participation in this permissive program
 144 if its actions are taken in good faith.

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

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

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

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

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

164 1. Time or savings accounts of a national bank, a state
 165 bank insured by the Bank Insurance Fund, or a savings, building,
 166 and loan association insured by the Savings Association
 167 Insurance Fund which is administered by the Federal Deposit

168 Insurance Corporation or a state or federal chartered credit
169 union whose share accounts are insured by the National Credit
170 Union Share Insurance Fund.

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

174 3. Bonds issued by the State of Israel.

175 4. Bonds, stocks, or other evidences of indebtedness
176 issued or guaranteed by a corporation organized under the laws
177 of the United States, any state or organized territory of the
178 United States, or the District of Columbia, provided:

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

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

191
192 This paragraph shall apply to all boards of trustees and
193 participants. However, in the event that a municipality or
194 special fire control district has a duly enacted pension plan
195 pursuant to, and in compliance with, s. 175.351, and the

196 trustees thereof desire to vary the investment procedures
197 herein, the trustees of such plan shall request a variance of
198 the investment procedures as outlined herein only through a
199 municipal ordinance, special act of the Legislature, or
200 resolution by the governing body of the special fire control
201 district; where a special act, or a municipality by ordinance
202 adopted prior to July 1, 1998, permits a greater than 50-percent
203 equity investment, such municipality shall not be required to
204 comply with the aggregate equity investment provisions of this
205 paragraph. Notwithstanding any other provision of law to the
206 contrary, nothing in this section may be construed to take away
207 any preexisting legal authority to make equity investments that
208 exceed the requirements of this paragraph. The board of trustees
209 may invest up to 20 ~~10~~ percent of plan assets in foreign
210 securities.

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

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

223 (e) Keep a complete record of all receipts and

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224 disbursements and of the board's acts and proceedings.

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

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

232 (1) Each municipality or special fire control district in
233 this state described and classified in s. 175.041, having a
234 lawfully established firefighters' pension trust fund or
235 municipal fund or special fire control district fund, by
236 whatever name known, providing pension benefits to firefighters
237 as provided under this chapter, may assess and impose on every
238 insurance company, corporation, or other insurer now engaged in
239 or carrying on, or who shall hereinafter engage in or carry on,
240 the business of property insurance as shown by the records of
241 the Office of Insurance Regulation of the Financial Services
242 Commission an excise tax in addition to any lawful license or
243 excise tax now levied by each of the municipalities or special
244 fire control districts, respectively, amounting to 1.85 percent
245 of the gross amount of receipts of premiums from policyholders
246 on all premiums collected on property insurance policies
247 covering property within the corporate limits of such
248 municipalities or within the legally defined boundaries of
249 special fire control districts, respectively. Whenever the
250 boundaries of a special fire control district that has lawfully
251 established a firefighters' pension trust fund encompass a

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252 portion of the corporate territory of a municipality that has
253 also lawfully established a firefighters' pension trust fund,
254 that portion of the tax receipts attributable to insurance
255 policies covering property situated both within the municipality
256 and the special fire control district shall be given to the fire
257 service provider. For the purpose of this section, the
258 boundaries of a special fire control district shall be deemed to
259 include an area that has been annexed until the completion of
260 the 4-year period provided for in s. 171.093(4), or other
261 agreed-upon extension, or the termination of an interlocal
262 agreement executed pursuant to s. 171.093(3). The agent shall
263 identify the fire service provider on the property owner's
264 application for insurance. Remaining revenues collected pursuant
265 to this chapter shall be distributed to the municipality or
266 special fire control district according to the location of the
267 insured property.

268
269 This section also applies to any municipality consisting of a
270 single consolidated government which is made up of a former
271 county and one or more municipalities, consolidated pursuant to
272 the authority in s. 3 or s. 6(e), Art. VIII of the State
273 Constitution, and to property insurance policies covering
274 property within the boundaries of the consolidated government,
275 regardless of whether the properties are located within one or
276 more separately incorporated areas within the consolidated
277 government, provided the properties are being provided fire
278 protection services by the consolidated government. This section
279 also applies to any municipality, as provided in s.

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280 175.041(3)(c), which has entered into an interlocal agreement to
 281 receive fire protection services from another municipality
 282 participating under this chapter. The excise tax may be levied
 283 on all premiums collected on property insurance policies
 284 covering property located within the corporate limits of the
 285 municipality receiving the fire protection services, but will be
 286 available for distribution to the municipality providing the
 287 fire protection services.

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

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

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

301 (b) With respect to the distribution of premium taxes, a
 302 single consolidated government consisting of a former county and
 303 one or more municipalities, consolidated pursuant to s. 3 or s.
 304 6(e), Art. VIII of the State Constitution, is also eligible to
 305 participate under this chapter. The consolidated government
 306 shall notify the division when it has entered into an interlocal
 307 agreement to provide police services to a municipality within

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308 its boundaries. The municipality may enact an ordinance levying
309 the tax as provided in s. 185.08. Upon being provided copies of
310 the interlocal agreement and the municipal ordinance levying the
311 tax, the division shall distribute any premium taxes reported
312 for the municipality to the consolidated government as long as
313 the interlocal agreement is in effect.

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

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

320 (1) In each municipality described in s. 185.03 there is
321 hereby created a board of trustees of the municipal police
322 officers' retirement trust fund, which shall be solely
323 responsible for administering the trust fund. Effective October
324 1, 1986, and thereafter:

325 (a) The membership of the board of trustees for chapter
326 plans shall consist of five members, two of whom, unless
327 otherwise prohibited by law, shall be legal residents of the
328 municipality, who shall be appointed by the legislative body of
329 the municipality, and two of whom shall be police officers as
330 defined in s. 185.02 who shall be elected by a majority of the
331 active police officers who are members of such plan. With
332 respect to any chapter plan or local law plan that, on January
333 1, 1997, allowed retired police officers to vote in such
334 elections, retirees may continue to vote in such elections. The
335 fifth member shall be chosen by a majority of the previous four

336 members, and such person's name shall be submitted to the
337 legislative body of the municipality. Upon receipt of the fifth
338 person's name, the legislative body of the municipality shall,
339 as a ministerial duty, appoint such person to the board of
340 trustees as its fifth member. The fifth member shall have the
341 same rights as each of the other four members appointed or
342 elected as herein provided, shall serve as trustee for a period
343 of 2 years, and may succeed himself or herself in office. Each
344 resident member shall serve as trustee for a period of 2 years,
345 unless sooner replaced by the legislative body at whose pleasure
346 the member shall serve, and may succeed himself or herself as a
347 trustee. Each police officer member shall serve as trustee for a
348 period of 2 years, unless he or she sooner leaves the employment
349 of the municipality as a police officer, whereupon the
350 legislative body of the municipality shall choose a successor in
351 the same manner as an original appointment. Each police officer
352 may succeed himself or herself in office. The terms of office of
353 the appointed and elected members of the board may be amended by
354 municipal ordinance or special act of the Legislature to extend
355 the terms of office from 2 years to 4 years. The length of the
356 terms of office shall be the same for all board members.

357 (6) The board of trustees may, upon written request by the
358 retiree of the plan, or by a dependent, when authorized by the
359 retiree or the retiree's beneficiary, authorize the plan
360 administrator to withhold from the monthly retirement payment
361 those funds that are necessary to pay for the benefits being
362 received through the governmental entity from which the employee
363 retired, to pay the certified bargaining agent of the

364 governmental entity, and to make any payments for child support
 365 or alimony. Further, the board of trustees may, upon written
 366 request of the retiree of the plan, authorize the plan
 367 administrator to withhold from the retirement payment those
 368 funds that are necessary to pay for premiums for accident,
 369 health, and long-term care insurance for the retiree and the
 370 retiree's spouse and dependents. A retirement plan does not
 371 incur any liability for participation in this permissive program
 372 if its actions are taken in good faith.

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

375 185.06 General powers and duties of board of
 376 trustees.--For any municipality, chapter plan, local law
 377 municipality, or local law plan under this chapter:

378 (1) The board of trustees, subject to the fiduciary
 379 standards in ss. 112.656, 112.661, and 518.11 and the Code of
 380 Ethics in ss. 112.311-112.3187, may utilize the investment
 381 policy guidelines provided in s. 112.661(5) or:

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

389 (b) Invest and reinvest the assets of the retirement trust
 390 fund in:

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

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

400 3. Bonds issued by the State of Israel.

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

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

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

417

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

435 (c) Issue drafts upon the municipal police officers'
 436 retirement trust fund pursuant to this act and rules and
 437 regulations prescribed by the board of trustees. All such drafts
 438 shall be consecutively numbered, be signed by the chair and
 439 secretary or two individuals designated by the board who are
 440 subject to the same fiduciary standards as required for the
 441 board of trustees under this subsection, and state upon their
 442 faces the purposes for which the drafts are drawn. The city
 443 treasurer or other depository shall retain such drafts when
 444 paid, as permanent vouchers for disbursements made, and no money
 445 shall otherwise be drawn from the fund.

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

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

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

452 Section 8. Section 185.08, Florida Statutes, is amended to
 453 read:

454 185.08 State excise tax on casualty insurance premiums
 455 authorized; procedure.--For any municipality, chapter plan,
 456 local law municipality, or local law plan under this chapter:

457 (1) Each incorporated municipality in this state described
 458 and classified in s. 185.03, as well as each other city or town
 459 of this state which on July 31, 1953, had a lawfully established
 460 municipal police officers' retirement trust fund or city fund,
 461 by whatever name known, providing pension or relief benefits to
 462 police officers as provided under this chapter, may assess and
 463 impose on every insurance company, corporation, or other insurer
 464 now engaged in or carrying on, or who shall hereafter engage in
 465 or carry on, the business of casualty insurance as shown by
 466 records of the Office of Insurance Regulation of the Financial
 467 Services Commission, an excise tax in addition to any lawful
 468 license or excise tax now levied by each of the ~~said~~
 469 municipalities, respectively, amounting to .85 percent of the
 470 gross amount of receipts of premiums from policyholders on all
 471 premiums collected on casualty insurance policies covering
 472 property within the corporate limits of such municipalities,
 473 respectively.

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

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

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

492 Section 9. If any provision of this act or its application
493 to any person or circumstance is held invalid, the invalidity
494 does not affect other provisions or applications of the act
495 which can be given effect without the invalid provision or
496 application, and to this end the provisions of this act are
497 severable.

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