

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Governmental Oversight and Accountability Committee

BILL: CS/SB 698

INTRODUCER: Committee on Community Affairs and Senators Wise and Gibson

SUBJECT: Public Retirement Plans

DATE: February 10, 2012 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson	Yeatman	CA	Fav/CS
2.	McKay	Roberts	GO	Pre-meeting
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

This bill provides that a consolidated government that has entered into an interlocal agreement to provide police protection services to another incorporated municipality, in its entirety, is eligible to receive the premium taxes reported for the other municipality under certain circumstances. The bill also authorizes the municipality receiving the police protection services to enact an ordinance levying the premium tax as provided by law.

This bill substantially amends ss. 185.03 and 185.08 of the Florida Statutes.

II. Present Situation:

State Excise Tax on Casualty Insurance Premiums

Chapter 185, F.S., provides funding for municipal police officers' pension plans. It provides for a "uniform retirement system" with defined benefit retirement plans for municipal police officers and sets standards for the operation and funding of these pension systems.¹ Each municipality with a municipal police officers' retirement trust fund is authorized to assess an excise tax of

¹ Section 185.01, F.S.

.85 percent of the gross amount of receipts of premiums from policyholders on casualty insurance policies covering property within its corporate limits.² Revenues from this excise tax are one of the funding sources for police officers' pension plans. Currently, a municipality is eligible to receive state premium taxes (or excise taxes) only on those premiums for casualty insurance policies covering property within its municipal limits even if providing police protection services outside of its municipal limits.³

In order to qualify for the premium taxes, a police officers' pension plan must meet certain requirements in ch. 185, F.S.⁴ The Department of Management Services (DMS) oversees and monitors these pension plans; however, day-to-day operational control rests with local boards of trustees.⁵ Any premium taxes collected by and distributed to a municipality for funding police officers' pension plans have a negative impact on the General Revenue Fund because those premium taxes paid by an insurance company under ch. 185, F.S., to a municipality are allowed as a credit against premium taxes the insurance company must pay to the state under s. 624.509, F.S.

Under current law, a municipality may receive another municipality's premium tax revenues when there is an interlocal agreement in place to provide fire protection services.⁶ The municipality receiving fire services must levy the tax authorized by ch. 175, F.S., and copies of the interlocal agreement and the municipal ordinance levying the tax must be provided to the Division of Retirement within DMS.

Consolidation

Consolidation involves combining city and county governments so that the boundaries of the county and an affected city or cities become the same. Consolidation can be total or partial. Total consolidation occurs when all independent governmental units within a county are assimilated into the consolidated government. When some of the governments remain independent, the consolidation is partial. Nationally, few successful city-county consolidations exist. According to the National Association of Counties, only 31 of the 3,066 county governments in the United States are combined city/county governments.

Section 3, Article VIII, of the Florida Constitution, reads as follows:

Consolidation. —The government of a county and the government of one or more municipalities located therein may be consolidated into a single government which may exercise any and all powers of the county and the several municipalities. The consolidation plan may be proposed only by special law, which shall become effective if approved by vote of the electors of the county, or of the county and municipalities affected. Consolidation shall not extend the territorial scope of taxation for the payment of pre-existing debt except to areas whose residents receive a benefit from the facility or service for which the indebtedness was incurred.

² Section 185.08, F.S.

³ *Id.*

⁴ *See* ss. 185.10, 185.085, F.S.

⁵ Section 185.05, F.S.

⁶ Section 175.041, F.S.

Prior to 1933, the Florida Constitution of 1885 was silent on the subject of consolidation. The 1933 Legislature passed a constitutional amendment specifically declaring its own power to establish a municipal corporation consolidating the governments of Duval County and any of the municipalities within its boundaries, subject to referendum approval of the affected voters. The electorate of Florida adopted this amendment in 1934.

The voters of the City of Jacksonville and Duval County did not adopt a municipal charter pursuant to this constitutional provision until 1967, and to date, only Duval County and the City of Jacksonville have taken advantage of the specific constitutional authority to consolidate. Section 9, of Article VIII, of the Constitution of 1885, establishes the Jacksonville/Duval County consolidated charter.

III. Effect of Proposed Changes:

Section 1 adds subsection (4) to section 185.03, F.S., which provides that a single consolidated government consisting of a former county and one or more municipalities, consolidated pursuant to s. 3 or s. 6(e), Art. VIII of the State Constitution, would be eligible to participate with respect to the distribution of premium taxes. The consolidated government must notify the Division of Retirement of the Department of Management Services (division) when it has entered into an interlocal agreement to provide police services to a municipality within its boundaries. The municipality may enact an ordinance levying the tax as provided in s. 185.08, F.S. Upon being provided copies of the interlocal agreement and the municipal ordinance levying the tax, the division may distribute any premium taxes reported for the municipality to the consolidated government as long as the interlocal agreement is in effect.

This chapter applies only to municipalities organized and established pursuant to the laws of the state, and does not apply to the unincorporated areas of any county or counties or to any governmental entity whose police officers are eligible to participate in the Florida Retirement System.

Section 2 adds subsection (b) to section 185.08(1), F.S., which provides that a single consolidated government consisting of a former county and one or more municipalities, consolidated pursuant to s. 3 or s. 6(e), Art. VIII of the State Constitution, would be eligible to participate with respect to the distribution of premium taxes. The consolidated government must notify the Division of Retirement of the Department of Management Services (division) when it has entered into an interlocal agreement to provide police services to a municipality within its boundaries. The municipality may enact an ordinance levying the tax as provided in s. 185.08, F.S. Upon being provided copies of the interlocal agreement and the municipal ordinance levying the tax, the division may distribute any premium taxes reported for the municipality to the consolidated government as long as the interlocal agreement is in effect.

Section 3 provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Department of Revenue (DOR) would be notified by the Division of Retirement (within the Department of Management Services) of additional taxing jurisdiction as a result of the language of this bill. DOR would need to add those jurisdictions to the insurance premium tax form in the annual form process. The form would be adopted in a rule in the annual form adoption process. Additionally, this would require changes to the Insurance Premium Database to provide situs of premiums for allocation purposes.⁷

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill will have a negative impact on the General Revenue Funds because state premium taxes paid by a casualty insurer to fund a municipal police officers' retirement plan are counted as a credit against the premium taxes paid to the state by the insurance company. The fiscal impact is indeterminate, but likely minimal.⁸

Under this bill, an eligible police officers' pension plan sponsored by a municipality providing police protection services pursuant to an interlocal agreement may benefit from the receipt of premium tax revenues collected by the municipality receiving police protection services.

Duval County is the only consolidated government in the State of Florida at this time. This may change in the future and this bill would therefore have a larger cumulative effect.

⁷ Department of Revenue, Senate Bill 698 Fiscal Analysis (November 8, 2011) (on file with the Senate Committee on Community Affairs).

⁸ *Id.*

VI. Technical Deficiencies:

None.

VII. Related Issues:

In 2005, the Legislature made similar changes to ch. 175, F.S., relating to the Firefighters' Pension Trust Fund. Sections 175.041 and 175.101, F.S., allow a municipality to receive excise tax monies for firefighter pension plans from another municipality if there is an interlocal agreement in place to provide fire protection services.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Community Affairs on January 12, 2012:

The CS states the intent of the legislation, not only in s. 185.03, F.S., but also in s. 185.08, F.S. There is little substantive difference between the language changes; the CS reaffirms the intent of the bill in both sections as deemed necessary.

- B. **Amendments:**

None.