Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	SB 388
INTRODUCER:	Senator Bean
SUBJECT:	Public Retirement Plans
DATE:	April 21, 2014 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE		ACTION
1.	McVaney	McVaney	GO		**Favorable**
2.	White	Yeatman	CA		**Favorable**
3.	Fournier	Diez-Arguelles	AFT		**Favorable**
4.	Fournier	Kynoch	AP		**Pre-meeting**

I.   Summary:

SB 388 provides that a consolidated government that has entered into an interlocal agreement to provide police protection services to an incorporated municipality is eligible to receive the premium taxes reported for the municipality under certain circumstances. The bill authorizes the municipality receiving the police protection services to enact an ordinance levying the premium tax as provided by law and authorizes distribution of the premium tax revenues to the consolidated government as long as the interlocal agreement is in effect.

The Revenue Estimating Conference has estimated that this legislation will have an insignificant, negative fiscal impact on the state General Revenue Fund and a corresponding insignificant, positive fiscal impact on local government revenues by shifting these tax revenues from the state to the local governments.

II.   Present Situation:

Municipal Police Pensions

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 .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

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[1] Section 185.01, F.S.
[2] Section 185.08, F.S.

insurance policies covering property within its municipal limits. A municipality that provides police protection services outside of its municipal limits through an interlocal agreement is not eligible to receive premium tax revenue for casualty policies covering the property where the service is being provided.[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 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.

Chapter 185, F.S., 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.

Firefighter Pensions

Under current law, a municipality may receive another municipality's premium tax revenues (associated with the tax on property insurance premiums) 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 combines 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, provides:

> 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

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[3] *Id.*
[4] *See* ss. 185.10, 185.085, F.S.
[5] Section 185.05, F.S.
[6] Section 175.041, F.S.

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.

Prior to 1933, the Florida Constitution of 1885 was silent on the subject of consolidation. The 1933 Legislature proposed 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, Art. VIII of the Constitution of 1885 establishes the Jacksonville/Duval County consolidated charter. Section 6(e), Art. VIII of the State Constitution provides that s. 9, Art. VIII of the Constitution of 1885 remains in full force and effect after the adoption of the 1968 revision. The municipalities of Atlantic Beach, Baldwin, Jacksonville Beach, and Neptune Beach are not consolidated with Duval County.

III.   Effect of Proposed Changes:

Sections 1 and 2 amend ss. 185.03 and 185.08, F.S., respectively, to allow 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, (Jacksonville/Duval County) to receive the distribution of premium tax revenues related to casualty insurance premiums covering property within a non-consolidated municipality with the county's boundaries. The consolidated government must notify the Division of Retirement of the DMS 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, DMS 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, 2014.

IV.   Constitutional Issues:

A.   Municipality/County Mandates Restrictions:

This bill does not appear to: require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

B.   Public Records/Open Meetings Issues:

None.

C.   Trust Funds Restrictions:

None.

V.   Fiscal Impact Statement:

A.   Tax/Fee Issues:

The Revenue Estimating Conference has estimated that SB 388 has a negative, insignificant fiscal impact on the state General Revenue Fund and a corresponding positive, insignificant fiscal impact on local government revenues by shifting these tax revenues from the state to the local governments.

B.   Private Sector Impact:

The bill does not have a private sector impact. Although the bill authorizes a municipality to enact a tax on insurance premiums, the municipal taxes are fully credited against the state taxes on insurance premiums.

C.   Government Sector Impact:

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

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.   Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 185.03 and 185.08.

IX. Additional Information:

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

None.

B. **Amendments:**

None.