

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1121

Town of Grant-Valkaria, Brevard County

SPONSOR(S): Poppell

TIED BILLS:

IDEN./SIM. BILLS:

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Military & Local Affairs Policy Committee	10 Y, 3 N	Nelson	Hoagland
2)	Finance & Tax Council	12 Y, 0 N	Aldridge	Langston
3)	Economic Development & Community Affairs Policy Council		Nelson	Tinker
4)				
5)				

SUMMARY ANALYSIS

In 2006, the Florida Legislature authorized the creation of the Town of Grant-Valkaria in Brevard County. HB 1121 amends the special act that provides the charter for this municipality to specify additional revenue sources for qualification to receive funds under the state’s shared revenue programs.

According to the Economic Impact Statement, this bill would result in the Town of Grant-Valkaria receiving \$227,000 in municipal revenue sharing and one-half cent sales taxes in Fiscal Year 2010-2011, and \$215,000 in Fiscal Year 2011-2012.

The bill provides an effective date of upon becoming law.

Pursuant to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) appear to apply to this bill.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

On June 14, 2006, HB 1297,¹ providing for the creation of the Town of Grant-Valkaria in Brevard County, was signed by the Governor. The qualified electors of the area approved a referendum adopting the charter of the town on July 25 of the same year.

Subsection (9) of s. 10 of ch. 2006-348, L.O.F., states, in relevant part:

(9) STATE-SHARED REVENUES.—The town shall be entitled to participate in all shared revenue programs of the state, effective immediately on December 1, 2006. The provisions of section 218.23, Florida Statutes, shall be waived for the purpose of eligibility to receive revenue-sharing funds from December 1, 2006, through the end of state fiscal year 2008-2009.

Section 218.23(1), F.S., sets forth the criteria for eligibility to participate in revenue sharing.² In order to qualify, a local government must either levy ad valorem taxes to produce a millage rate of three mills or produce a revenue equivalent to that generated by a three-mill ad valorem tax by having:

- received a remittance from the county pursuant to s. 125.01(6)(a), F.S.,
- collected an occupational license tax,
- collected an utility tax,

¹ Chapter 2006-348, L.O.F.

² For Florida municipalities, the two major state-shared revenue programs are the Local Government Half-Cent Sales Tax Program, enacted in 1982, and the Municipal Revenue Sharing Trust Fund established by the Florida Revenue Sharing Act of 1972. The Local Government Half-Cent Sales Tax Program generates the largest amount of revenue among the state-shared revenue sources currently authorized by the Legislature and can be used for general government purposes. The Municipal Revenue Sharing Program, the second largest state revenue-sharing program for municipalities, was enacted to ensure a minimum level of revenue parity across units of local government with approximately 75 percent available for general government purposes and 25 percent for transportation-related purposes.

- levied an ad valorem tax, or
- received revenue from any combination of these four sources.

The general intent of these requirements is that a local government substantiate that a certain level of local effort has been expended before receiving a share of state-generated revenues. The three-mill figures are based on 1973 taxable property values, except for new municipalities, in which case the taxable values for the year of incorporation are used.

The 2008-2009 state fiscal year ended on June 30, 2009, and because the waiver received by the Town of Grant-Valkaria expired, it became ineligible to receive state-shared revenues. On August 31, 2009, the town's administrator e-mailed the Department of Revenue and asked if the ad valorem tax levied by Brevard County within the boundaries of the town for fire and police protection could be included in the three-mill equivalent calculation to satisfy the requirements of s. 218.23(1)(c), F.S.

The Department of Revenue responded that it has taken the consistent position for the past 15 years that special district and MSTU (municipal services taxing unit)³ levies within the incorporated area of a municipality do not qualify for inclusion in the three-mill equivalent calculation.⁴

The current millages that are charged for services provided to residents of the Town of Grant-Valkaria by all service providers are as follows:

Town of Grant-Valkaria Ad-Valorem	1.0
Fire Control MSTU	0.6187
Law Enforcement MSTU	1.0013
Brevard Library District	0.4421
Brevard Mosquito Control	0.1589
South Brevard Recreation District	<u>0.2098</u>
	3.4325 mills

Since incorporation, the ad valorem tax rates for the municipality have been as follows:

Fiscal Year 2006-2007:	0.0 mills
Fiscal Year 2007-2008:	0.4261 mills
Fiscal Year 2008-2009:	0.4976 mills
Fiscal Year 2009-2010:	1.0 mills

The loss of state-shared revenues for the Town of Grant-Valkaria is approximately \$240,000, while the town's total general fund budget is under \$1,000,000. The town indicates that it was not aware at the time of incorporation that special language had to be inserted in its charter in order to utilize the MSTUs levied by Brevard County for fire and police protection for the purpose of calculating the three-mill equivalency. These MSTUs are charged to the residents based on their taxable values and authorized by the town council as an ad-valorem assessment. The payments for these services would be eligible for inclusion in the equivalency formula were not Brevard County collecting the taxes directly from residents instead of the town charging the additional millage and paying the county. The MSTUs are charged to the residents through an interlocal agreement with the county.

Effect of Proposed Changes

³ An MSTU is a funding mechanism to make local improvements or provide additional services through a special taxing district.

⁴ September 11, 2009, correspondence from David H. Ansley, Department of Revenue, to Richard Hood, Town of Grant-Valkaria.

HB 1121 amends ss. (9) of s.10 of ch. 2006-348, L.O.F., to provide for additional revenue sources to be considered for the purpose of qualifying for state revenue sharing:

- fire control municipal services taxing unit;
- law enforcement municipal services taxing unit;
- library district revenues;
- mosquito control district revenues;
- South Brevard Recreational District 2001-2020 revenues;
- franchise fees; and
- communications services taxes, local business taxes, public utility services taxes, and ad valorem taxes.

There is limited precedent for the expansion of revenue sources to be extended to recently-incorporated municipalities by the Florida Legislature. In the special act creating the Town of Loxahatchee Groves in 2006, the Legislature provided that municipal service taxing units, fire municipal service taxing units, water control district revenues, occupational license taxes, ad valorem taxes, public utility service taxes, communications services taxes, and franchise fees be included to qualify for revenue sharing funds. In 1999, the Legislature allowed the millage levied by special districts to be used for an indefinite period of time for purposes of meeting the provisions of s. 213.23, F.S., in the City of Bonita Springs. In 1997, the same authority was granted to the City of Marco Island, and in 1995, to the Town of Ft. Myers Beach. In 1996, the Legislature authorized the inclusion of the property taxes (including benefit and maintenance taxes and assessments) levied by the Indian Trace Community Development District, the West Lauderdale Water Control District, and Broward County within the boundaries of the City of Weston, and all utility and service taxes levied by the Broward County Commission within the city boundaries.

Currently, there are 408 municipalities participating in state revenue sharing.⁵

As the Town of Grant-Valkaria has noted, if a municipality incorporated before 1973, it is rated at a taxable value as of 1973. If a municipality incorporated after 1973, it is valued at the time of incorporation. With the dramatic change in property values over the years, especially during the real estate boom, newer, smaller towns have been put at a disadvantage. The Town of Grant-Valkaria has a three-mill equivalency of \$1.4 million to be eligible for \$240,000 while its neighbor Palm Bay (incorporated in 1956) has an equivalency of \$208,000 and is eligible for nearly \$6 million in shared revenues. Palm Bay has a population exceeding 100,000 while Grant-Valkaria has a population of 3,907. Grant-Valkaria indicates that it has a higher equivalency test than all of the cities in south Brevard County combined.

The total millage from the combination of the Town of Grant-Valkaria Ad-Valorem, Fire Control MSTU, Law Enforcement MSTU, Brevard Library District, Brevard Mosquito Control, and South Brevard Recreation District equals 3.4325 mills, which is greater than the three mills required to participate in state-shared revenues. It is noted that the bill also allows for inclusion of the communications services taxes, local business taxes and public utility service taxes which are allowed under current law. Without this bill, to be eligible for revenue sharing, the town would have to raise their current millage rate by an additional 1.75 mills which, based on its existing assessed value, would cost the residents an additional \$798,157 in property taxes. Or, the city would need to raise their current millage to approximately 1.54 mills to replace the lost state-shared revenues.

The bill also contains a severability clause, and is effective upon becoming a law.

⁵ December 7, 2009, e-mail from Lisa Morgan, Department of Revenue, to Chuck Hungerford, Legislative Committee on Intergovernmental Relations.

B. SECTION DIRECTORY:

Section 1: Amends ss. (9) of s. 10 of ch. 2006-348, L.O.F., relating to the Town of Grant-Valkaria's participation in state-shared revenues.

Section 2: Provides a severability clause.

Section 3: Provides an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 14, 2010.

WHERE? *Florida Today*, a daily newspaper published in Brevard County.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

According to the Economic Impact Statement, this bill would result in the Town of Grant-Valkaria receiving \$227,000 in municipal revenue sharing and one-half cent sales taxes in Fiscal Year 2010-2011, and \$215,000 in Fiscal Year 2011-2012.

The town would have sufficient revenue to maintain its roadway system without having to raise the ad-valorem millage rate again. The town needs to raise the millage rate an additional 60 percent to garner an equivalent amount of revenues for roadway maintenance.

This revenue originally was earmarked for roadway maintenance and the construction of a new town hall. The portion going towards the construction of the town hall would later be available for additional roadway maintenance. This maintenance and construction work would provide an estimated additional \$200,000 plus per year to the local economy through the competitive bidding process.

The town increased its millage rate 100 percent in 2009-2010. Once the state-shared revenues were no longer available, the millage increase merely replaced the lost funding. The town has decreased its revenue projections by five percent each year based on overall economic conditions.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

None.

Other Comments

House Rule 5.5(b) states that a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. This bill appears to create an exemption to s. 218.23 (1), F.S., by providing for the expansion of the revenues that may be used to meet the three-mill equivalency.

Revenue gains to the town from municipal revenue sharing and one-half cent sales taxes will result in and equal total revenue loss spread across numerous other local governments.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES