



*New York State Assembly, Sheldon Silver, Speaker
Legislative Commission on State-Local Relations
Assemblymember Tim Gordon, Chair*

Dissolution of Local Governments

Statutory Authority

Villages, Fire Districts, Special Improvement Districts or other Improvement Districts, Library Districts and other districts created by law except School Districts, City Districts and County Districts

Effective March 21, 2020, new provisions for dissolving local governments are provided in General Municipal Law article 17-A, Consolidation and Dissolution of Local Government, as summarized below:

A local government entity other than a town may be dissolved:

(1) Upon resolution of the governing body endorsing a proposed dissolution plan. The governing body must conduct one or more public hearings with prior published notice on the proposed plan, approve the final dissolution plan, and, in the case of the dissolution of a Village, conduct a referendum; or

(2) Upon petition proposing dissolution by 10% of the electors or 5,000 electors, whichever is less, in the local government entity to be dissolved. The governing body must conduct a referendum, approve a proposed elector initiated dissolution plan, conduct one or more public hearings with prior published notice on the proposed plan, and approve the final elector initiated dissolution plan.

Counties – May not be dissolved (with possible exception of Hamilton County). [Constitution article III, § 5]

Alternative forms of county government may transfer functions of the county or of the cities, towns, villages, districts or other units of government wholly contained in the county to each other or, when authorized by the legislature, to the state, or may abolish one or more offices, departments, agencies or units of government upon voter approval in a referendum. [Constitution article IX, § 1(h)(1)]

The board of supervisors may, by local law subject to voter approval in a referendum, transfer functions of the county or of the cities, towns, villages, districts or other units of government in the county to each other or for the abolition of one or more units of government including offices, departments or agencies thereof, when the level and quality of ongoing services of all their functions or duties are transferred. [Municipal Home Rule Law § 33-a]

Cities – No procedure designated in Constitution or statutes; however, Legislature may have the power.

Towns – Any town having no bonded indebtedness may be dissolved and the territory annexed to one or more adjoining towns in the same county. Requires a majority vote in the town to be dissolved and the annexing town(s). [Town Law article 5-A, § 79(a)(1)] A county can dissolve towns. [County Law § 229]

Special Districts

School Districts – See *Guide to the Reorganization of School Districts in New York State*, available on the website of the NYS Education Department:

http://www.emsc.nysed.gov/mgtserv/sch_dist_org/GuideToReorganizationOfSchoolDistricts.htm

The Commissioner of Education may make orders dissolving and annexing a central school district or districts to another central school district. [Education Law § 1801.2]

District superintendent may organize a new school district out of territory of one or more school districts wholly within the geographic area served by BOCES, if the educational interests of community require it. [Education Law § 1504.1].

District superintendents of two or more adjoining supervisory districts, when public interests require it, may form a joint school district out of the adjoining portions of their respective districts. [Education Law § 1504.2]

A city, town or village situated wholly within one central or union free school district but whose boundaries are not coterminous with the boundaries of the school district may organize a new union free school district that will consist of entire territory of the municipality if the educational interests of the community require it. Enrollment levels and approval process, including voting by residents, are provided in statute. [Education Law § 1504.3]

A district superintendent by order may dissolve a school district and may from such territory form a new district or unite such territory or portion thereof to any adjoining school district. The superintendent needs to file “such order with the clerks of the school districts affected and also with the town clerks of the towns in which the districts are located, and a copy with the commissioner of education. [Education Law § 1505; § 1516]

County Districts – There are no provisions in County Law for the dissolution of county districts.

Town Improvement Districts – Districts created under Town Law article 12 and article 12-A may be dissolved under limited conditions. [Town Law § 202-c] The town board of a suburban class town may adopt a resolution to dissolve special improvement districts and manage the improvements as a town function. [Town Law § 57]

Business Improvement Districts (BID) – A BID with no outstanding indebtedness may be dissolved upon motion of the local legislative body or upon petition of property owners. [General Municipal Law § 980-o]

Special District Public Libraries – May be abolished by a majority vote at an election or at a meeting of the electors. [Education Law § 268]

Selected Court Cases

In the Matter of An application of the Dannemora Union Free School District, and Scott Kanaly, a Resident and voter of the Dannemora Union Free School District, v. Thomas Sobol personally and as Commissioner of Education of the State of New York, and William A. Fritz, personally and as District Superintendent, Clinton County, 1988, 140 Misc.2d 807, 531 N.Y.S.2d 498, 48 Ed. Law Rep. 612. Voters in school district that had approved district dissolution and annexation proposal brought Article 78 proceeding to challenge decision of Education Commissioner denying their petition seeking revote. The Supreme Court, Albany County held that provision of Education Law, which only allowed reconsideration of school district dissolution, and annexation proposal by voters in district, which had previously defeated dissolution, did not deprive voters of district who had approved proposal of due process. Petition dismissed.

Prudence J. Camardo et al., v. The Board of Education the City School District and the City of Rochester et al., 1975, 50 A.D.2d 1073, 376 N.Y.S.2d 344. Plaintiffs presented a constitutional challenge to a statute which abolished certain common and union free school districts in the Rochester area, added their territory to that of another district, provided for the assessment of school tax on real property within the abolished districts and limited the right of students in those districts to attend Rochester public schools without paying tuition. A preliminary injunction was granted and defendants appealed. The Supreme Court, Appellate Division, held that plaintiffs' constitutional challenge raised factual issues and failed to prove the likelihood of ultimate success on the merits, irreparable injury and balancing of equities in their favor. Order reversed, and preliminary injunction denied.

Opinions of the Comptroller and Attorney General

Attorney General Opinion [2005 - 9](#): Statutes §396; Village Law §§ 8-800, 9-900, 9-902, 23-2202; L.1972, Ch. 892; L. 1941, Ch. 431; L. 1936, Ch. 524; L. 1936, Ch. 479, §1; L.1935, Ch. 953, §1. Local law abolishing village police department was subject to mandatory referendum, pursuant to special legislation not repealed by enactment of Village Law § 8-800.

Comptroller Opinion [2002-8](#): Town Law §§195, 202-c. When a water district was established more than three years ago, no improvement has been constructed for the district or services provided by the district and no indebtedness is outstanding to accomplish the purposes of the district, the district may be dissolved, subject to public hearing requirements, if the town board determines it to be in the public interest. Certified copies of the board's determination must be recorded in the county clerk's office and filed with the State Comptroller within ten days of the board's determination.

Attorney General Opinion [2000-F5](#), Education Law art 5, §§ 216, 216-a, 219, 220, 253, 255, 260, 261, 266, 268; Not-for-Profit Corporation Law art 10. Although voter approval is required to abolish a public library under Education Law §268, a public library may be abolished or dissolved under sections 219 and 220 without voter approval. Furthermore, all the property of a public library may be transferred to a free association library under section 266 without voter approval.

Comptroller Opinion [95-29](#): Town Law, §§198(12), 202-c. The governing board of a town water district may, subject to a mandatory referendum, sell all the property and facilities of the water district to a public authority and dissolve the district. Moneys received from the sale of the property and facilities of the water district must be placed in a reserve fund for the purpose of retiring the outstanding debt on behalf of the district.