

# A Comparative Look at the Village Dissolution Movement in Ohio and New York

## *Assessing State-Level Policy Impacts*

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## **Executive Summary**

Since 2010, the residents in 18 villages in New York and 11 villages in Ohio have voted to dissolve their municipal incorporations. Incorporated villages in both states face many of the same antecedent pressures of depopulation, deindustrialization, municipal fiscal stress, and rising property tax burdens on local residents. While the village dissolution movement in Ohio has received media attention, it has not yet been the subject of significant academic study. This report thus lays the foundation for rigorous study of disincorporation in Ohio, reviewing the legal framework and building a dataset of village dissolution efforts in the Buckeye State.

We begin with a review of the local government structure in both states, the patterns of village incorporations, the criteria under which new villages can be formed, and the legal mechanisms by which villages may be dissolved (or consolidated). We then examine how New York and Ohio differ in terms of state-level efforts to encourage municipal reorganization. By contrasting village dissolution in Ohio with New York State, we can better understand the role of state-level policy choices in facilitating municipal restructuring. This comparative analysis suggests that, while the factors driving the increase in village dissolutions are similar, the varying success rates (in terms of approved dissolutions and the frequency of dissolution attempts) are attributable to the differences in the legal frameworks and the state-level policies adopted.

Among the key observations:

- New York has outpaced Ohio in dissolution activity and in the number of successful dissolutions having dissolved 6.7 percent of its incorporated villages since 1980, relative to Ohio’s 2.5 percent.
- New York has relied more heavily on state-level incentives in the form of grants and enhanced state aid to encourage local reorganization efforts.
- Ohio law authorizes forced dissolution of small and dysfunctional villages or villages suffering from prolonged fiscal stress, but these provisions are rarely used and appear to be an ineffective threat to motivate voluntary dissolution efforts.
- Dissolution in Ohio is more closely linked with fiscal stress as a motive for citizen-led efforts, yet forced dissolution resulting from fiscal emergency is viewed as a last resort option.
- Ohio provides more statutory guidance but lacks clarity in the dissolution and implementation process to the detriment of citizen-initiated dissolution efforts.
- New York provides greater state-level assistance and more policy learning opportunities to guide citizen-initiated dissolution efforts.

As state legislatures consider additional measures to encourage local government reorganization and streamlining of services, such comparative evaluation may guide them toward the adoption of state-level policies that will better facilitate the consolidation of local governments.

## Local Government Structure in New York and Ohio

TABLE 1. Comparison of Local Government in New York and Ohio

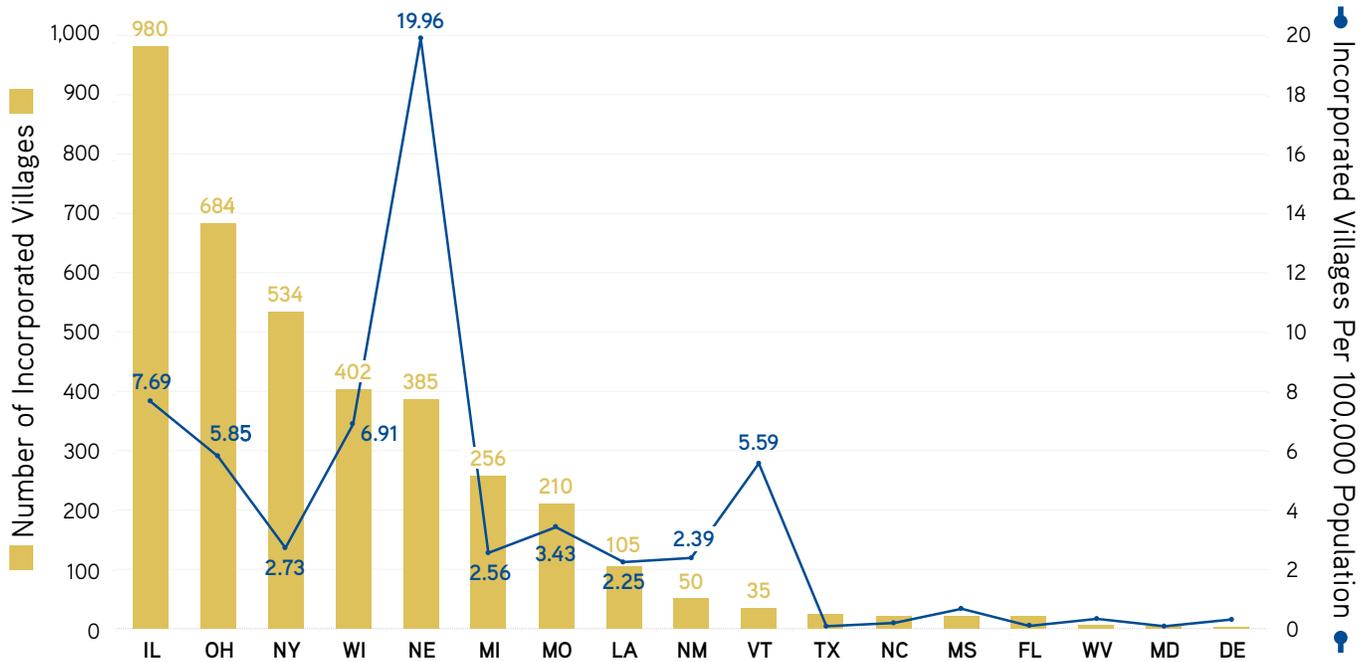
	New York	Ohio
Counties	57	88
Towns/Townships	932	1,308
Cities	62	247
Villages	534	684
Total Number of General-Purpose Governments	1,585	2,327
Incorporated Villages Per 100,000 Residents	2.73	5.85

NOTE: Excluding the counties comprising New York City (Bronx, Kings, Manhattan, Richmond and Queens).

In both the Empire and Buckeye States, an increasing number of communities have considered dissolution of their village incorporation. New York and Ohio are two of 17 states that have incorporated villages as one of four forms of general-purpose governments (along with counties, towns or townships, and cities). Ohio (with 684 villages) and New York (with 534) rank second and third, respectively, in the number of incorporated villages after Illinois (which has 980 incorporate villages). Per

100,000 residents, Ohio has 5.85 incorporated villages per 100,000 residents to New York’s 2.73, ranking 4th and 7th, respectively, among states with incorporated villages (Figure 1).

FIGURE 1. Incorporated Villages Per 100,000 Population in States with Incorporated Villages, 2019



Per 100,000 residents, Ohio has 46 percent more village governments than New York and more general-purpose governments overall (Figure 1). Ohio villages are, by definition, small municipalities of 5,000 or less in population. In New York, municipal classification is not related to population size. Thus, some of New York’s villages are larger than cities. New York’s largest, the village of Hempstead in Nassau County, has a population of over 54,000. By contrast, Ohio law requires that any village over 5,000 in population (as determined by the most recent decennial census) be reincorporated as a city (ORC §703.011).

### Village Incorporation Patterns and Procedures: New York and Ohio

The pattern of new village incorporations per decade in New York and Ohio track closely (Figure 2), reflecting regional historical commonalities in municipal development and growth. Indeed, Ohio resembles upstate New York in multiple ways, including a large number of moderately sized cities and similar demographic trends. The number of new village incorporations in both states has declined sharply in the last six decades, evidence that the growth of general-governing powers of other municipal forms and the rise of special districts has obviated the need to create new villages. In other words, services may be provided to populated areas without their need to incorporate as a village (or city). Once incorporated, however, village governments tend to persist.

FIGURE 2. New Village Incorporations by Decade (1790-2019): New York and Ohio

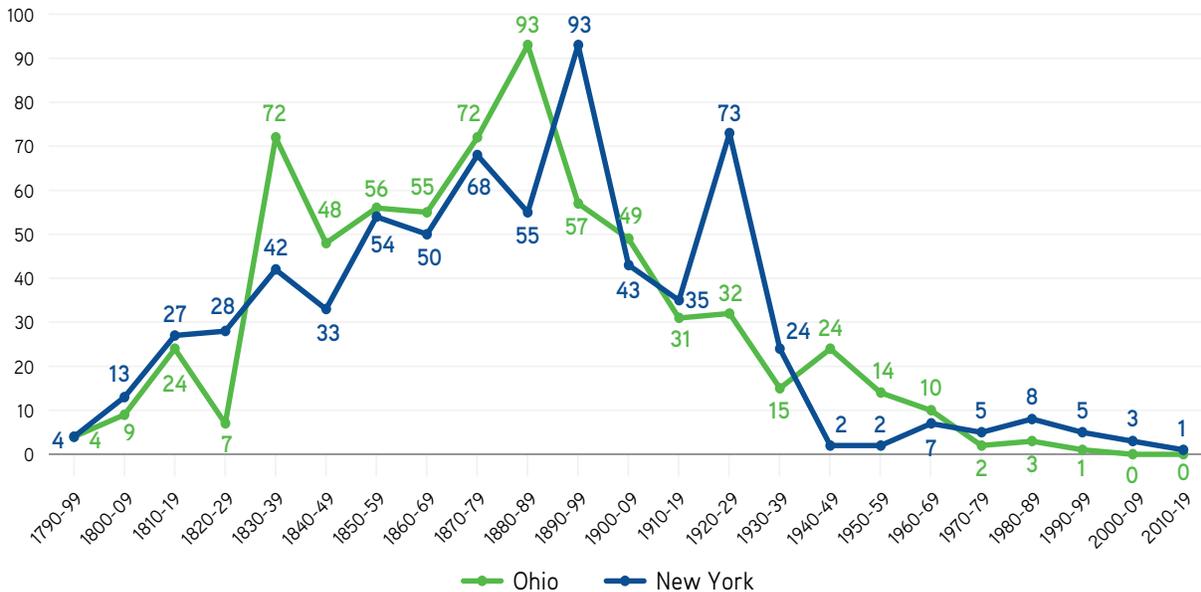
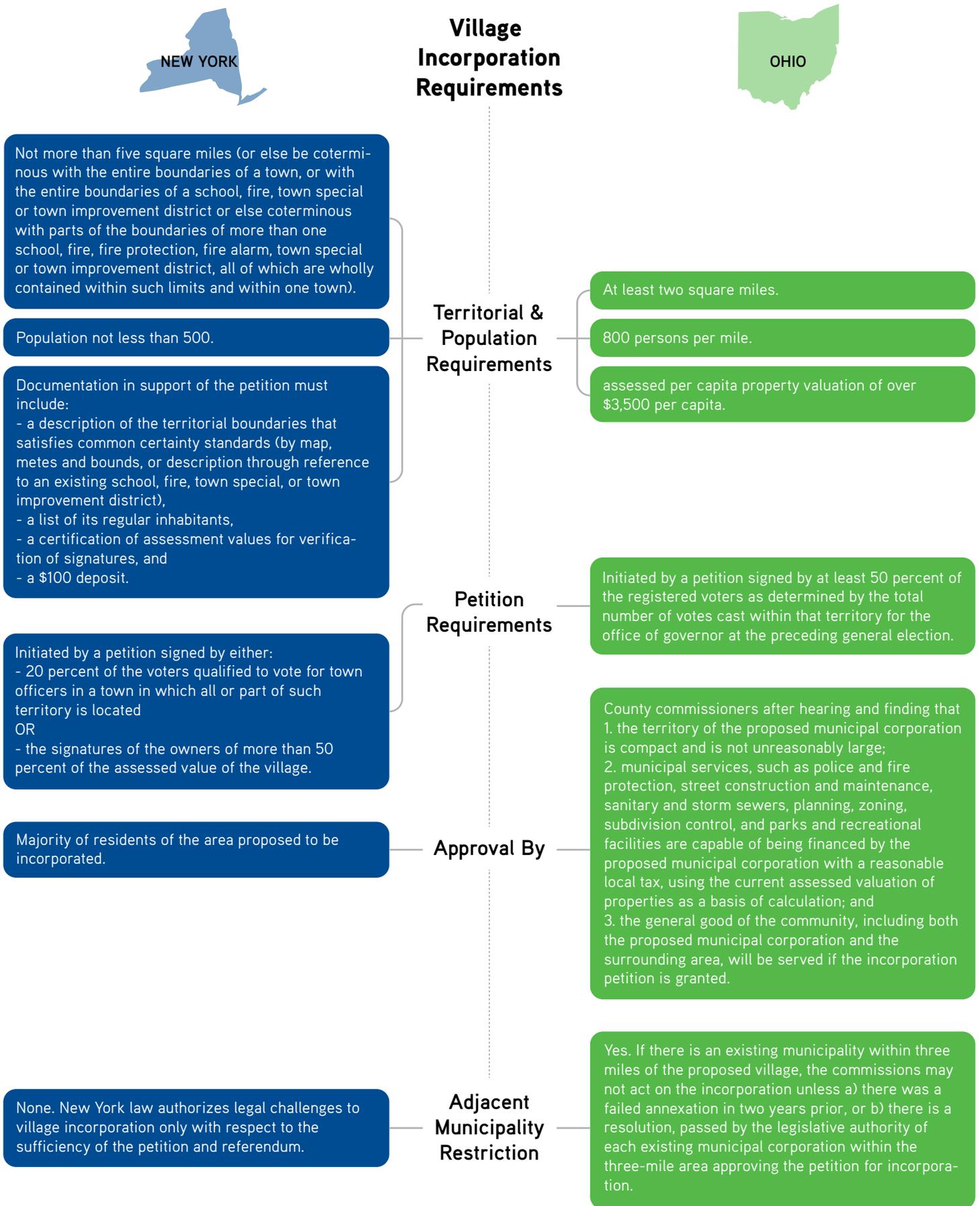


Table 2 compares the current village incorporation provisions in New York and Ohio. There are important differences beyond the population and territorial requirements. In New York, the decision to incorporate or dissolve a village is entirely up to the residents of a village, provided that statutory requirements are met and there is compliance with the elements of the petition as spelled out in the incorporation statute. In Ohio, the creation of a new village is not subject to a public vote but requires the approval of the county commissioners after a hearing. Ohio law prohibits commissioners from approving any new incorporation when there is an existing municipality within three miles of the proposed village, unless specific conditions apply. Moreover, to approve the incorporation, the county commissioners must determine 1) that the proposed village is compact and not unreasonably large; 2) that municipal services can be financed with a reasonable local tax on property as currently assessed; and 3) that the village incorporation serves the “general good” of the municipality *and* surrounding area. New York’s incorporation laws require no such analysis of fiscal viability or general good.<sup>1</sup> In both states, dissolution of a village transfers property, administration, and governance of the former village to the surrounding town(s) or township(s), reverting the former village to an unincorporated territory within the town or township.<sup>2</sup>

Ohio’s townships are similar to New York’s town government system. It is important to note that in Ohio, the term “town” is often and popularly used interchangeably with “village” to refer to incorporated villages. In New York, “towns” are a different municipal form, the equivalent of a township in Ohio. In New York, town governments are comprised of a town supervisor and a town board, which range between three and six members.<sup>3</sup> In Ohio, three trustees and a fiscal officer govern townships; their duties are defined by the Ohio Revised Code and the individual township. Some townships have an appointed administrator (and are required to do so if the village maintains water and sewer services). As in New York, the powers of Ohio’s townships have expanded to the provision of most general services, including police and fire protection, emergency medical services, road and cemetery management, solid waste disposal, and zoning.

TABLE 2. Comparison of Village Incorporation Requirements in New York and Ohio



Ohio is unique in that its townships can legally exist as a governmental unit in more than one county. Another difference worth noting is that New York law allows for the creation of coterminous towns and villages. Coterminous entities may operate a single (combined) government (operating principally as either a town or village, or as a town with some village powers), or may operate as two entities (i.e., separate governing boards with the same territorial authority). There are six coterminous entities in New York State. Although uncommon, coterminous status provides additional options for local reorganization. By contrast, in Ohio, if the entire territory of a township is incorporated as a village or city, the township dissolves (or ceases to exist).<sup>4</sup>

## Consolidation and Dissolution Procedures: New York and Ohio

A merger of a village and town may be effectively accomplished through the legal processes of municipal consolidation (the restructuring of two or more governing entities into a surviving governmental unit) or dissolution (the unilateral disincorporation or dissolving of a governing entity that typically transfers its functions or authority to the embracing jurisdiction). As such, we review both the consolidation and dissolution procedures of New York and Ohio. As we explain, consolidations are more procedurally difficult insofar as they require the acquiescence of all affected municipal units (and their voters). For this reason, in both states, the dissolution is the more frequent and convenient route to local government restructuring.

The signature effort to reduce the number of local municipal units in New York State has been the New NY Reorganization and Citizen's Empowerment Act (General Municipal Law (GML) 17-A), which went into effect March 21, 2010. Referred to as the "Empowerment Act," GML 17-A revised the processes for the consolidation and dissolution of municipal entities similarly. Consolidation (applicable to towns, villages, and special districts under the law) or dissolution (which is applicable to villages and special districts) may be triggered by either 1) a citizen petition or 2) through a resolution of the governing municipal board (or boards). [Table 3](#) summarizes the difference between a consolidation and dissolution and provides an overview of the distinction between citizen- and board-initiated pathways.

In citizen-initiated proceedings, the verification of a petition (requiring signatures of 10 percent of the registered voters of the affected municipalities or 5,000 signatures, whichever is less; or 20 percent of the registered voters of the affected municipality, or municipalities in cases of consolidation, where the population is less than 500), a public referendum is held. If the consolidation/dissolution is approved by the voters, the law establishes a timeline for the development of a formal consolidation or dissolution plan. Upon finalization of the plan, residents have 45 days to file a petition for a permissive referendum (which requires signatures equal to 25 percent of the number of voters). If no petition to force a permissive referendum is successfully filed, or if the plan is approved at the permissive referendum, implementation moves forward. If a permissive referendum is forced by a successful petition, and the measure fails, there is a four-year moratorium on subsequent attempts.

TABLE 3. New York' Empowerment Act (General Municipal Law 17-A)

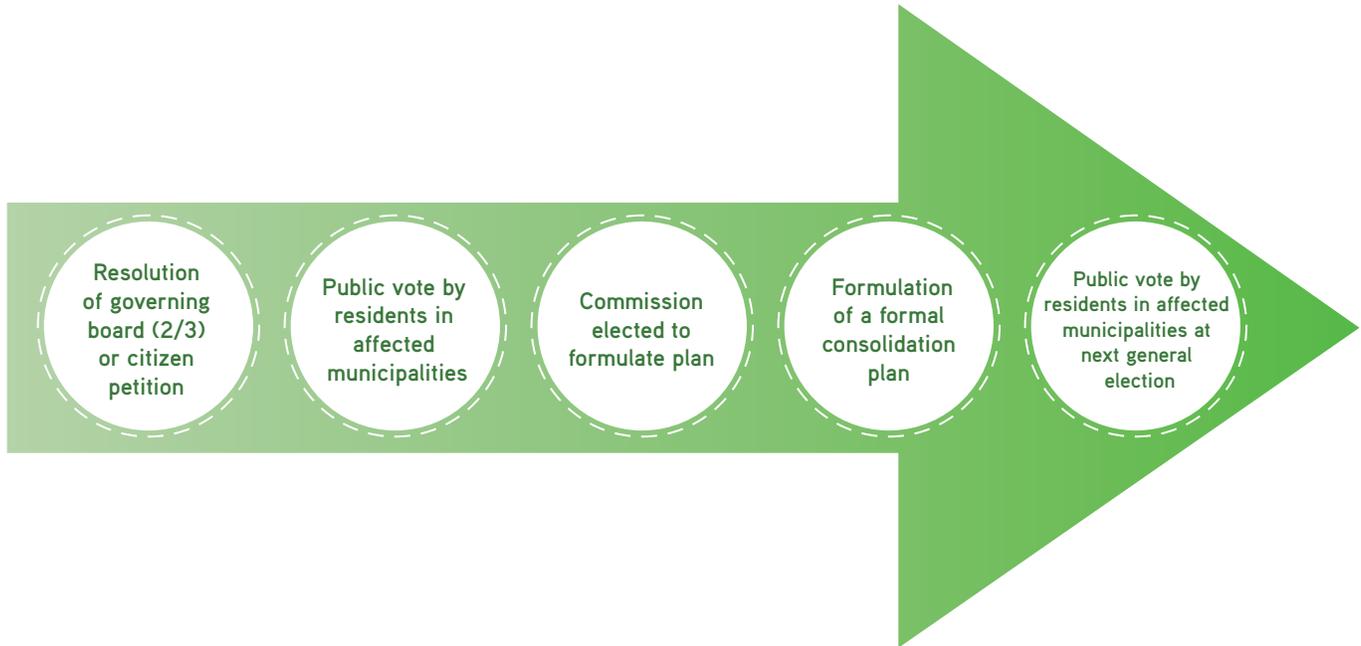
Legal Mechanism	General Description	Applies to	Process Synopsis	Citizen Petition Requirements
D I S S O L U T I O N	The unilateral dissolution of a government entity.	Villages	Board-initiated: board resolution to initiate and endorse a dissolution plan; approval in a public referendum.	10 percent of voters or 5,000 signatures, (whichever is less). In villages less than 500 in population, 20 percent is required. For permissive referenda, within 45 days of approved plan, 25 percent or 15,000 (whichever is less) of the governmental entity.
	Requires approval of voters of the entity to be dissolved.	Special districts	Citizen-initiated process: citizen petition, public referendum; development of a dissolution plan; final board approval; plan is implemented unless petition forces a permissive referendum.	
C O N S O L I D A T I O N	The consolidation of two or more entities into a new municipal government (successor) or a surviving (absorbing) municipality. Requires approval by voters of the entities being consolidated in simultaneous referenda.	Towns	Board-initiated: concurrent board resolutions to initiate and endorse a consolidation study and plan; public hearings and simultaneous referenda.	10 percent of voters or 5,000 signatures, (whichever is less). In villages less than 500 in population, 20 percent is required. For permissive referenda, within 45 days of approved plan, 25 percent or 15,000 (whichever is less).
		Villages	Citizen-initiated: citizen petitions in each affected municipality; public referenda; development of consolidation plan; final board approvals; plan is implemented unless a petition forces permissive referendum.	
		Special districts	Rejection of dissolution at referendum (whether board or citizeninitiated) triggers a four-year moratorium.	
			Rejection of consolidation at referendum by voters of anyone of the municipal units to be consolidated triggers a four-year moratorium.	

In board-initiated proceedings, a resolution of the governing board (or boards in the case of consolidation) triggers the formation of a consolidation/dissolution study and formal plan. Once finalized and approved by the respective board(s), the plan is voted on by the residents of the affected municipalities. If approved the plan will be implemented; if rejected by the public, there is a four-year moratorium on subsequent attempts. The major difference in citizen-initiated versus board-initiated consolidations (and dissolutions) in New York then, is that in the former, a public vote precedes the formulation of a final plan with the opportunity for residents to force permissive referendum. In board-initiated proceedings, on the other hand, the development and finalization of a plan takes place before that plan is put to a public vote. In revising its consolidation and dissolution procedures, New York reversed the sequence (putting the vote before the plan) for citizen-initiated efforts to prevent local elected officials from stalling or delaying the study and creation of a consolidation/dissolution plan. By requiring the vote first, citizens were empowered to compel their local elected officials to develop a plan to merge municipal units in a way that would preserve satisfactory levels of services in a more cost-efficient way.

Ohio's consolidation provisions are more complex than New York's, requiring public approval to formulate a formal plan, and again after the plan has been finalized ([Figure 3](#)). Consolidation in Ohio may be triggered by a citizen petition (§709.45) or through the resolution of the governing boards of the municipalities to be consolidated. Such resolutions require a two-thirds vote of the legislative authorities and the development of a merger plan (§709.451). Consolidation requires the approval of a majority of the voters of each municipality at a public referendum (§709.452). Rejection of the consolidation triggers a three-year moratorium on subsequent attempts. If approved, a commission shall be elected (709.46) to collaboratively formulate a merger plan that is submitted to the voters at the next general election (709.462).<sup>5</sup> Ohio's dissolution procedures are explained in greater detail below, providing both a pathway for voluntary (citizen-initiated efforts) and state-compelled dissolutions of village governments.

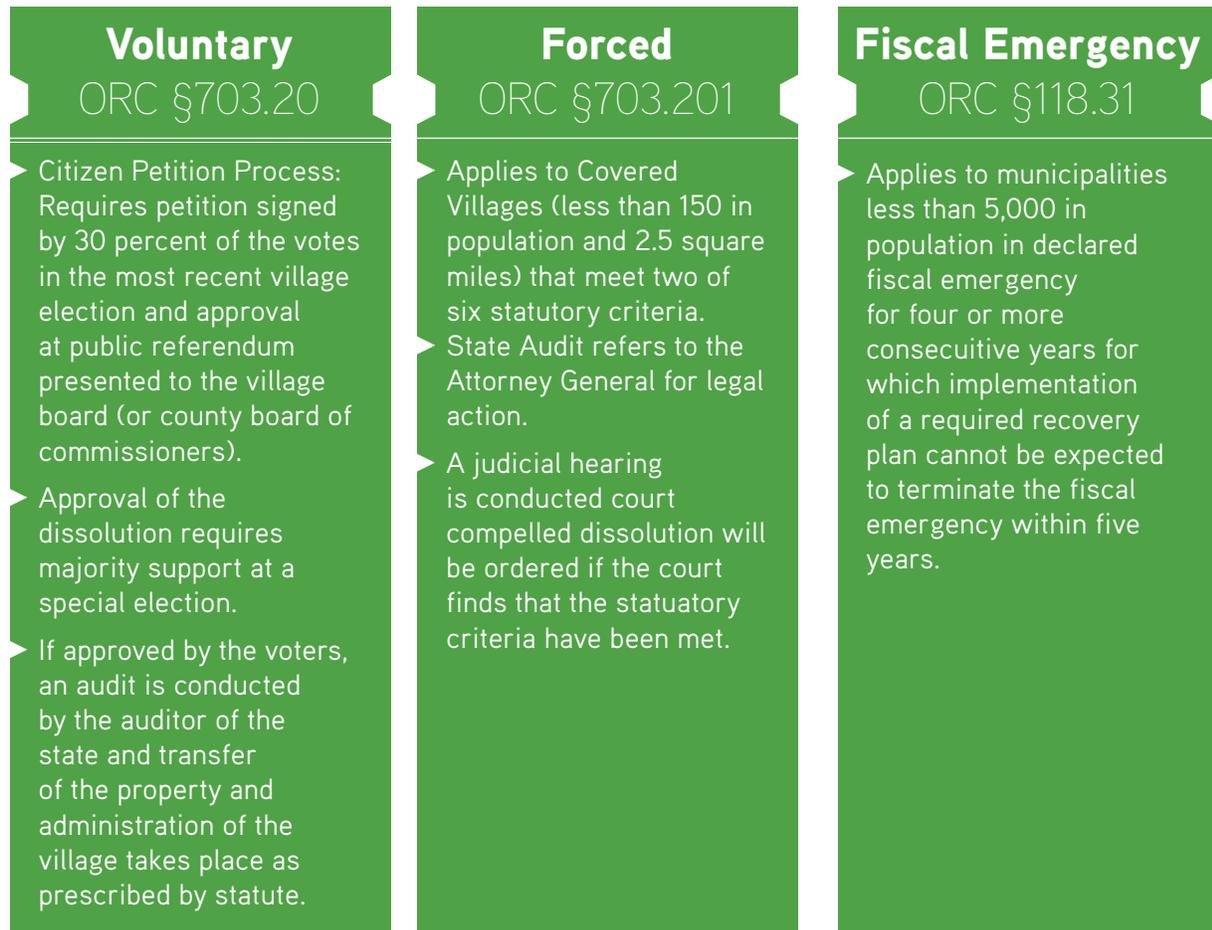
In both states, consolidations are procedurally more difficult than dissolutions—whereas, citizen-initiated dissolution can be accomplished by a vote of just village residents, consolidations require concurrent approval of two or more legislative authorities (boards) and approval of the voters in concurrent referenda. Thus, although similar in final effect, dissolutions are contingent only on the approval of residents of the village (town or township residents do not vote on dissolutions). There have been a handful of successful consolidations in New York<sup>6</sup> and Ohio.<sup>7</sup>

FIGURE 3. Basic Steps in a Municipal Consolidation: Ohio



Village dissolution in Ohio may proceed in one of three ways: either residents may petition to voluntarily dissolve their village government or village dissolution may be compelled by under one of two legislative provisions. Each of these pathways is spelled out under provisions of the Ohio Revised Code identified and summarized in [Figure 4](#).

FIGURE 4. Ohio's Three Pathways for Village Dissolution



### Voluntary Dissolution via a Citizen-Initiated Petition

Dissolution may be triggered by a citizen's petition signed by 30 percent of those who voted in the most recent village election.<sup>8</sup> That petition is presented to the village council which has 30 days to act, failure to do so allows petitioners to submit their petition to the county board of elections to be validated and scheduled for a public referendum.<sup>9</sup> If approved by the voters, the certification of the vote will be filed with the Ohio secretary of state. The corporate powers of the village cease upon certification of the results. Changes to the law enacted in 2017 further require that, upon notification of an approved dissolution, the auditor of state (the equivalent of the New York State comptroller) will conduct an audit of the village to verify assets, debts, and cash balances. The law requires that the transfer of property and village administration be negotiated by the village and town boards, providing that if no agreement can be reached, that transfer of assets and property to the town takes place automatically. Village-owned utilities are transferred to either the county or to regional water or electric authorities. Unlike New York, in Ohio there is no moratorium period after a failed dissolution vote.

## Forced Dissolution: The “New Rome” Law

Since 2003, village dissolution in Ohio may also be compelled by state law in any “covered village,” defined as having a population of less than 150 and a territory of less than two square miles. The impetus behind the law compelling dissolution was the case of the village of New Rome (Franklin County). The tiny village had developed a notorious reputation as a “speed trap.” With just 60 residents, New Rome had a village police force of 14 officers and derived 90 percent of its revenue from traffic citations issued along a 1,000-foot stretch of US 40. Several of its officials had also been convicted for malfeasance in office, including the embezzlement of village funds.<sup>10</sup> New Rome was dubbed by the auditor of state as the “per-capita corruption capital of Ohio.”<sup>11</sup> After a 2003 citizen-petition effort to dissolve New Rome failed by a vote of 21-11, the Ohio attorney general championed state legislative changes to compel New Rome’s dissolution with bipartisan support in the legislature.<sup>12</sup>

Under the “New Rome” law (H.B. 24), the attorney general can commence dissolution proceedings if the Ohio auditor of state finds that at least two of the statutory conditions have been met:

- The village has been declared to be in a fiscal emergency (as defined by law) for at least three consecutive years with little or no improvement on the conditions which caused the emergency declaration.
- The village has failed to follow applicable election laws for at least two consecutive election cycles for any one elected village office.
- The village has been declared unauditible for at least two consecutive audits.<sup>13</sup>
- The village does not provide at least two services typically provided by municipal governments (such as police, fire, garbage, water or sewage, emergency medical services, road maintenance, etc.).<sup>14</sup>
- The village has failed to adopt a tax budget as required under the Ohio Tax Levy Law.
- A village elected official(s) has or have been convicted of theft in office or an equivalent federal offense at least two times in a 10-year period.<sup>15</sup>

Upon finding at least two of the six criteria have been met, the auditor of state must submit notification to the attorney general, who may file legal action in the court of common pleas. When legal action is commenced, the court holds hearings to determine whether the statutory criteria have been met. If the court makes such findings, it must order the dissolution of the village and provide for the surrender of its corporate powers in the same manner as if it had been citizen initiated. If the auditor of state issues an audit report and reference to the attorney general for legal action, the village council may not create any new liability until the court’s final determination. If dissolution is ordered by the court, a village may no longer incur debt and any property remaining after the surrender of corporate powers and the settlement of debts belongs to the township or townships located in the village (§703.201).<sup>16</sup>

The village of New Rome was flagged on all six statutory criteria, including more than 23 violations of Ohio election law, dating back to 1987.<sup>17</sup> Village officials did not challenge the conclusions of the audit, but did bring a claim against the authority of the auditor of state and the provisions of 703.21. Specifically, they argued that the statute violated Article 1, Section 2 (the self-governance clause)<sup>18</sup> and Article XIII, Section 3 (the home-rule provisions)<sup>19</sup> of the Ohio State Constitution. In their interpretation, while the state legislature may reorganize or reclassify municipal corporations (Article XVIII, Section 5), the legislature “cannot unilaterally dissolve them or legislate them out of constitutional existence.”<sup>20</sup>

The Franklin County Common Pleas court rejected the argument, holding that Article XIII, Section 6 grants the state legislature the power to “provide for the organization of cities, and incorporated villages, by general laws; and restrict their powers of taxation, assessment, borrowing money, contracting debt and loaning their credit, so as to prevent the abuse of such power.” Thus, the court determined that the legislature could compel the dissolution of a village that consistently violated state law regulating municipal fiscal obligations, agreeing with the attorney general that a village that has “proven itself incapable of self-government can be dissolved” by the state. While Article XIII, Section 3 grants the authority of home-rule consistent with the general laws, it “does not promise eternal life.”<sup>21</sup> Indeed, the court concluded that municipalities are subdivisions of the state and retains authority to abolish units of substate government not in compliance with state law. The state of affairs in New Rome were akin to the citizens having abandoned their corporation and any right to continue to operate as a village. Its “corporate powers have already been surrendered. The body is already dead. The statute merely provides a decent burial.”<sup>22</sup>

The covering requirements of the “New Rome” law are so restrictive as to be inapplicable in most cases, even where the potential criteria are otherwise met. Many villages meet the criteria of being in a fiscal crisis for more than three years, but few are small enough to qualify for forced dissolution under §703.201. For example, a 2021 report of the auditor of state indicates that of the seven villages currently in fiscal emergency, five meet the three-year qualification but all have populations greater than 150. Of the 43 villages that have been terminated from the fiscal emergency list, 35 were in fiscal emergency for more than three years but did not have populations less than 150; another six met neither covering criteria. Only two villages, New Bavaria in Henry County and Patterson in Hardin County, met both covering requirements (populations less than 150 and in fiscal emergency for more than three years). At the time of passage, supporters anticipated that other small villages might be next. “Petro, a former auditor of state, said there were several villages throughout the state that could qualify for dissolution under the legislative terms introduced. He cited Yankee Lake in Northeast Ohio, where all tax revenue pays the village clerk’s salary.”<sup>23</sup> To date, despite the occasional threat by the auditor of state, no other village has been dissolved under the New Rome law (§703.201).

## Forced Dissolution: Fiscal Emergency

Ohio has used a highly structured fiscal stress monitoring system for over 30 years. Ohio uses three gradations of fiscal stress designations that mimic weather notifications—the fiscal equivalent of an advisory, watch, and warning (Figure 5). Audits of municipalities in Ohio may be done at the request of the locality or may be initiated by the auditor of state on an annual or biennially basis. When municipalities are placed under fiscal caution, watch, or emergency, the assistance of the auditor of state is free. Municipalities which request an audit and assistance may otherwise be charged by the auditor of state.<sup>24</sup>

FIGURE 5. Ohio's Fiscal Stress System

### Fiscal Emergency

Severe Conditions Observed

A declaration of fiscal emergency places a municipality under the oversight of a Financial Planning and Supervision Commission (FPSC) and requires the development of a fiscal recovery plan.

### Fiscal Watch

Unfavorable Conditions Detected

A fiscal watch will be placed on a municipality if the conditions that placed a municipality under fiscal caution have worsened and begun to interfere with community services. As with fiscal caution, a municipality may be removed from from fiscal watch if the unfavorable conditions have been resolved.

### Fiscal Caution

Advisory

Fiscal caution is an advisory to a municipality that an audit has shown factors/conditions that can cause mounting fiscal stress. Corrective action that shows that the unfavorable fiscal condition(s) no longer exist must be taken for fiscal caution to be removed.

When an audit of a municipality indicates that unfavorable factors/conditions exist that make the municipality susceptible to mounting stress, the auditor of state may issue a declaration of fiscal caution. A caution is tantamount to an advisory of potential future risk to fiscal stability. The criteria for fiscal caution are statutorily prescribed and only one such condition must be present for the auditor of state to declare a fiscal caution.<sup>25</sup> “An entity cannot be released from fiscal caution until the auditor of state has determined that the corrective actions have been or are being implemented and that the fiscal caution conditions no longer exist.”<sup>26</sup>

When the conditions of caution have escalated to the point of interfering with the community’s ability to fund service delivery needs, a municipality may be placed under fiscal watch.<sup>27</sup> A watch suggests that unfavorable conditions have been detected and may escalate to an emergency or inability of a municipality to meet its future financial obligations. As with the declaration of fiscal caution, the purpose of the fiscal watch is to prevent these unfavorable conditions or factors from worsening to the point of a fiscal emergency. The auditor of state will declare municipalities to be in a state of fiscal emergency when the local entity is no longer able to meet serious financial obligations as defined by any one of the following criteria established in state law (§118.03):

- Default on a debt obligation for more than 30 days.
- Inability to meet payroll for more than 30 days and a period of agreed-upon extension that cannot last more than 90 days.
- An increase in the inside millage<sup>28</sup> by action of the County Budget Commission that results in a reduction for any of the overlapping subdivisions or taxing districts.
- Persistent overdue accounts payable that exceeded one-sixth of the budget for the year.
- Persistent deficit funds that exceed one-sixth of the total General Fund budget for that year.
- A treasury deficit in that exceeds one-sixth of the total amount received into the unsegregated treasury during the preceding fiscal year.

Upon one of the above findings, the auditor of state will issue a written declaration of the existence of fiscal emergency. Only the auditor of state can declare a fiscal emergency (not the entity itself), although requests for such a declaration can be made by the governor, the county budget commission, a mayor, or by a majority of the legislative board.

Municipalities that are declared in fiscal emergency are placed under the oversight of a Financial Planning and Supervision Commission (FPSC).<sup>29</sup> The auditor of state serves as the “financial supervisor” to the commission and for villages less than 1,000 in population, the auditor of state is the sole financial supervisor in lieu of a commission. The FPSC (or financial supervisor) is responsible for approving a recovery plan for the municipality (prepared by the executive and legislative authority of the local government). The recovery plan must address the conditions leading to the emergency

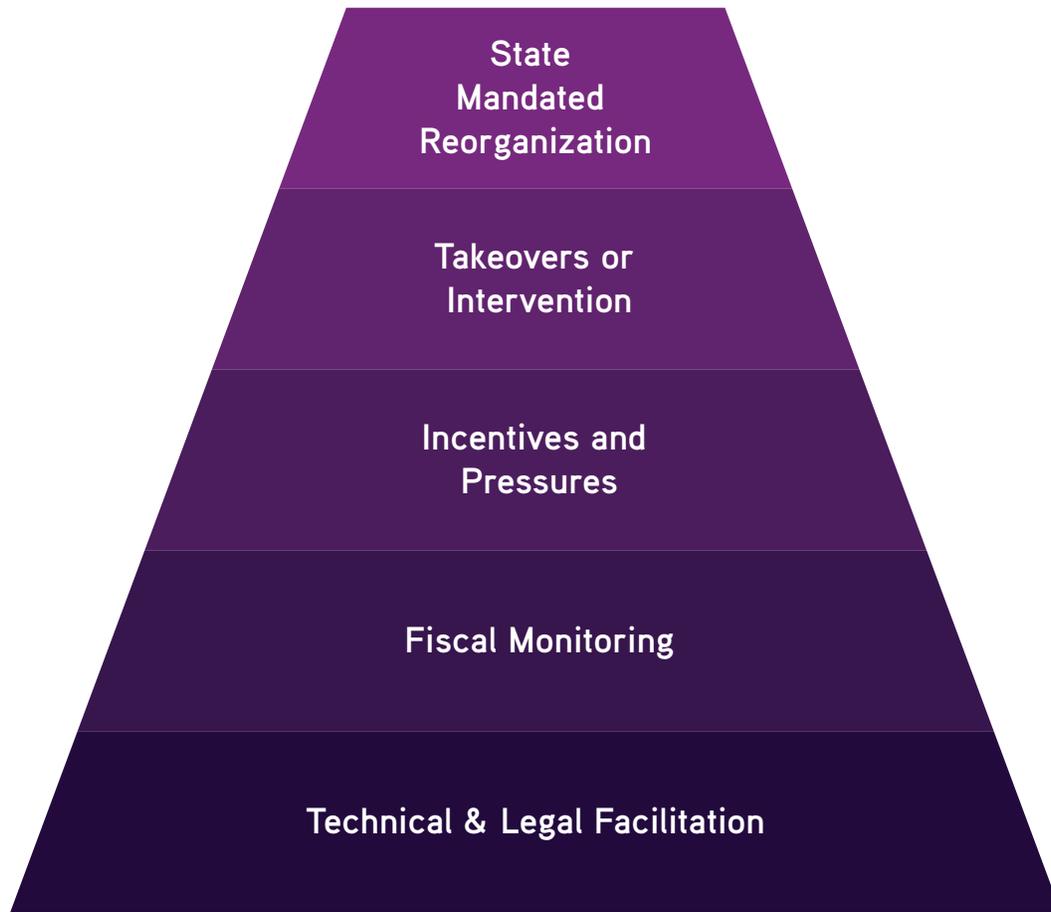
declaration, satisfy outstanding debts and obligations of the municipality, eliminate deficits, and restore any transferred funds not used for their specified purposes. The plan must also include a five-year financial forecast to be updated annually. A fiscal emergency declaration will be terminated only when specific conditions are met, including the implementation of an effective financial accounting and reporting system, the elimination of fiscal emergency conditions, fulfillment of the objectives of the financial recovery plan, or a five-year financial forecast determined by the auditor of state to be “nonadverse.”

Under §118.31, the FPSC and financial supervisor may petition the attorney general to file legal action in the court of common pleas having jurisdiction over the municipality in question. The attorney general may seek court-ordered dissolution for any municipality with a population of 5,000 or less according to the most recent census, provided that the village or township has been under a fiscal emergency for at least four consecutive years and cannot “reasonably be expected to correct and eliminate all fiscal emergency conditions within 5 years” (§118.31). Within 90 days of the filing of such action, the court of common pleas is required to hold a hearing on the matter. If the court finds that the statutory conditions have been met, the court must appoint a receiver who will work with municipal officers to dissolve the village, conclude its affairs, and transfer administration and property to the township (or townships). As in New York, dissolution does not relieve residents of the former village of village debts and obligations that were incurred while the village was incorporated but does provide efficiencies that lessen the “financial burden on the community.”<sup>30</sup>

## Differing State Approaches to Encouraging Municipal Reorganization

States may adopt different approaches to facilitating municipal reorganization, ranging in the degree of state intervention and control ([Figure 6](#)). At the least-intrusive end of the scale is technical assistance and legal facilitation—state resources to assist citizen-initiated efforts and to guide local elected officials on the opportunities and options for greater operational efficiency. A step-up approach includes monitoring of municipal conditions, particularly the fiscal conditions of local governments usually with a goal of identifying key stress indicators so that the municipality may take preemptive (or corrective) measures before conditions deteriorate. Some states go beyond simply monitoring and reporting the data, enacting state-level inducements to encourage local action. These inducements may be positive, such as providing state incentives in the form of grants or enhanced aid for studying or implementing shared service or municipal restructuring options. A state may also opt for negative inducements, through reductions in state support, the enactment of taxation or expenditure limitations (TEs), which pressure localities toward reorganizing. At the more-intrusive end of the spectrum are state takeovers or interventions in which the state imposes a control board or places the municipality under the control of an emergency financial manager. Finally, states may mandate local government reorganization or restructuring through constitutional or legislative mechanisms, which grant the state the authority to force consolidation, merger, or dissolution of functions or governing units.

FIGURE 6. State-Level Responses to Municipal Fiscal Stress



State-level policy in New York has relied on a combination of legal facilitation, monitoring, and fiscal pressure. The eased pathway provided by the Empowerment Act has made it easier for citizens to compel dissolution through the ballot box. Since 2010, 46 of New York’s villages have voted on the dissolution question, 18 of which voted to dissolve. The increase in dissolution efforts and successful dissolution in New York State is attributed to multiple state-level efforts to encourage municipal reorganization that includes a combination of pressures and incentives, fiscal monitoring, assistance, and review.

Since 2005, New York’s primary program for revenue sharing with its local governments has been the Aid and Incentives to Municipalities Program (or AIM). The Citizens Reorganization and Empowerment Grant (CREG) program was added to the state’s local government efficiency program, providing noncompetitive awards for the study and implementation of dissolutions and consolidations under the Empowerment Act. That program was followed by the Citizens Empowerment Tax Credit (CETC), which provides additional AIM funding to municipalities in the amount of 15 percent of the combined tax levy (up to \$1 million dollars, 70 percent of which must be used for property tax relief). These programs were accompanied by the introduction of a property tax cap in 2011 (made permanent in 2019), which limits annual increases in local levies to 2 percent or the rate of inflation (whichever is less) and which is subject to override by the local governing board. The combination of flat AIM funding and the property tax cap have placed increased pressure on New York’s local governments to reduce services or find efficiencies.<sup>31</sup>

In 2016, a Municipal Restructuring Fund (MRF) was created to provide up to \$25 million in funding for programs that produced permanent property tax savings. Managed by the Department of State, the multiphased review process could be utilized for new project development (venture track) or implementation of projects underway (fast track) that were not previously funded by other state programs. The Municipal Consolidation and Efficiency Competition allowed local government consortiums to compete for a \$20 million award by demonstrating how government consolidations and innovative restructuring initiatives would yield reductions in property taxes. The recipient of this award was the town of Brookhaven, made eligible by the dissolution of the village of Mastic Beach in 2016. The County-Wide Shared Services Initiative (CWSSI) (L 2017, Ch. 59, Part BBB), requires the chief executive office of the 57 counties outside of New York City to create a countywide shared services panel to identify, propose, and implement shared, coordinated, and more efficient services to reduce property taxes. Plans that create savings are eligible for an equal match of state funding. New York also created a Financial Restructuring Board (FRM), a 10-member board that can assist fiscally distressed local government entities. Local governments are automatically eligible to request review if they have either an average full-value property tax rate that is greater than the average full-value property tax rate of 75 percent of other municipalities, or if they have an average fund balance that falls below 5 percent. The municipal Financial Restructuring Board may, based on other indicators, include municipalities not automatically on the eligibility list on a case-by-case basis. Additionally, nonautomatically eligible localities can request to be reviewed.

The focus of New York State's fiscal warning system, developed by the Office of the State Comptroller (OSC) in 2012, is on preventing local governments from falling into fiscal crisis by providing early and adequate warning based on a numeric scoring system in which municipal performance on key financial indicators earns a municipality points/percentage.<sup>32</sup> Municipalities that fall below a composite score of 0 to 44.9 are given "No Designation." Those which score between 45 and 54.9 are designated as "Susceptible to Fiscal Stress." Municipalities that earn between 55 and 64.9 designated as "Moderate Fiscal Stress," and those above 65 are designated at "Significant Fiscal Stress."<sup>33</sup> The OSC, additionally and similarly, calculates environmental stress scores that, unlike the financial indicators, are outside the direct control of local leaders.

New York does not, however, authorize intervention by the OSC even in cases where a municipality has earned a severe stress designation. Under New York law, municipalities may file for bankruptcy, but New York practice has been to prevent municipalities from bankruptcy by *legislatively* placing distressed municipalities under the supervision of a fiscal control board.<sup>34</sup> Legislative intervention is rare in New York and typically reserved for larger municipalities. Of the seven villages to undergo review by the municipal Financial Restructuring Board thus far, dissolution was recommended as an option in every case albeit it in a somewhat default, perfunctory manner lacking the detailed analysis of a full-blown dissolution study. Village dissolution is routinely suggested as an option for New York's villages but *is not mandated at any point*—even in cases of fiscal emergency or prolonged stress.<sup>35</sup>

FIGURE 7. New York State-Level Policies Impacting Local Government Restructuring



When viewed in totality, New York’s various policies and programs (listed in [Figure 7](#)) have been collectively designed to facilitate, incentivize, and pressure local government efforts to streamline the local service delivery and dissolve duplicative governing units. Villages have been the primary target of the dissolution effort both because they are the lowest level of general service government and the only municipal form that can be readily created and dissolved through local action.

*The interest in village government dissolution in Ohio has been less directly state-policy driven. Ohio has long utilized its fiscal monitoring system to authorize state intervention in cases involving governing dysfunction or prolonged fiscal stress (something which New York does not do). Unlike New York, Ohio has enacted statutory provisions that authorize the forced dissolution of municipalities that are either in a state of prolonged fiscal emergency or else are deemed dysfunctional. Ohio further revised its dissolution procedures in 2003 and in 2017, largely in responses to specific dissolution cases, to expand state authority to force dissolution. Ohio’s laws are thus more aggressive than New York’s, but most of the pressure on municipal government to reorganize has been leveraged through state budget cuts to local government funding.*

## Evaluating the Impact of State Policy in Encouraging Successful Village Dissolutions

The pattern of village dissolutions by decade is similar in New York and Ohio. In both states, the number of successful dissolutions has increased in the past two decades ([Figure 8](#)). The list of successful and rejected dissolutions for both states can be found in the [Appendix](#). Because the data for Ohio is less well reported and is not published by the Ohio secretary of state, the current dataset of successful dissolutions for Ohio extends only back to 1986. Similarly, the dataset of failed dissolutions (built from a combination of media reports, secretary of state election results, and searches of newspaper databases) extends only back to the 1980s. Because the research conducted for Ohio is still in progress, we are unable to make reliable comparisons of dissolution activity or cases in which dissolution efforts were considered but did not proceed to a vote. Still, the data from the last four decades paints a clear picture. In both states, *more villages* are voting on dissolution and the number of successful dissolutions has risen.

New York outpaced Ohio in dissolution activity and in both the number of failed and successful dissolutions. Since 1980, New York has successfully dissolved 6.7 percent of its village governments, relative to Ohio’s, which dissolved only 2.5 percent of its villages in that same period ([Figure 9](#)). Simply put, village dissolution reaches the ballot much more frequently in New York than in Ohio. While only 40 percent of New York villages that have voted on dissolution under the Empowerment Act have approved dissolution (18 out of 46), the eased but voluntary pathway has nevertheless resulted in more villages and a greater percentage of the state’s overall number of villages dissolved in New York than in Ohio. This comparative analysis further allows for a number of observations in the comparison of village dissolution in New York and Ohio.

FIGURE 8. Village Dissolutions by Decade: 1980-2021

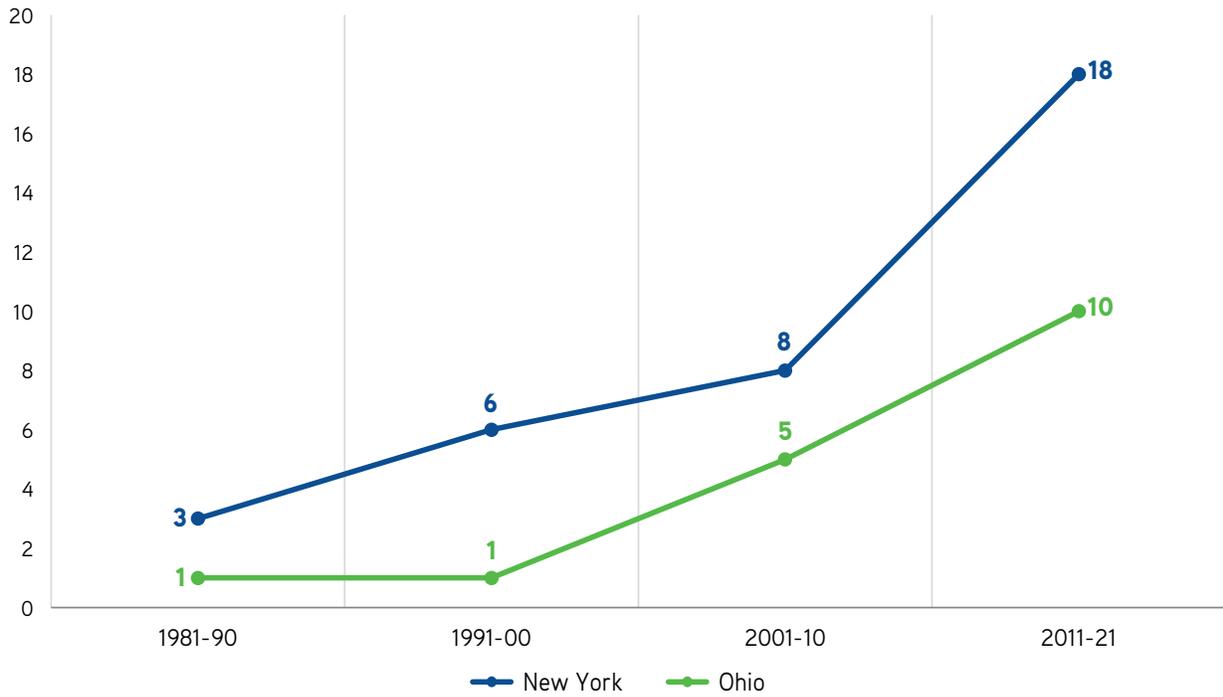
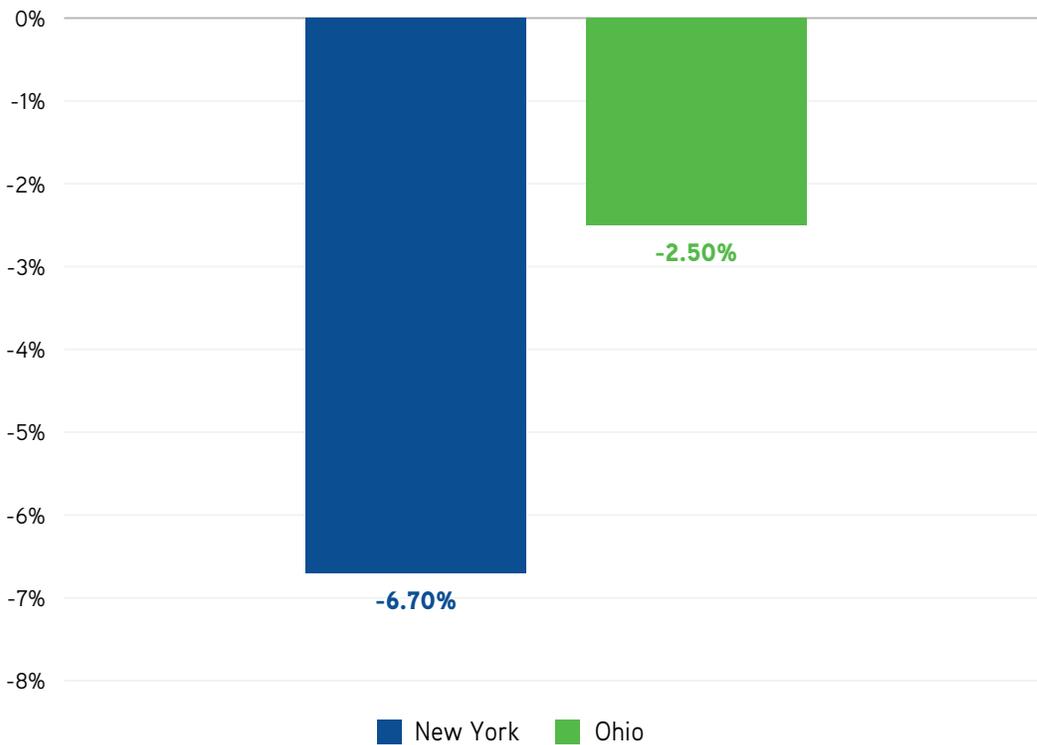


FIGURE 9. Village Incorporations Dissolved Since 1980: New York and Ohio



## New York Has Relied More Heavily on State-Level Incentives

Ohio has offered fewer state-level incentives to encourage municipal reorganization. In 2011, the state created the Local Government Innovation Fund (LGIP), which provided competitive grants and loans to promote local efficiencies, including consolidations and shared services. *LGIP loans had to be repaid to the state from the resulting savings and required a local match.* Overall, the program awarded \$38 million in grants and loans to nearly 400 projects. The program was eliminated in 2017 as part of state budget cuts.<sup>36</sup> Between 2005 and 2019, New York spent nearly \$87 million on efficiency grants, of which \$24.5 million was aimed at village dissolution or consolidation study and implementation. Additionally, New York pays \$4.3 million annually to approximately 21 villages (as of 2018)—a form of enhanced local government assistance.

## Ohio Law Authorizes the State To Force Dissolution, But These Provisions Are Rarely Utilized

New York does not authorize forced dissolution. Rather, the decision to terminate the corporate existence of a village is left to the residents of the village. Instead, the state has relied on a combination of incentives and pressures to encourage residents and local boards to explore dissolution as a cost-savings option. Ohio law, on the other hand, compels villages to dissolve under certain circumstances. But Ohio's forced dissolution provisions are largely "paper tigers"—designed to be only rarely invoked or otherwise narrowly targeted to eliminate particularly problematic villages. Ohio's forced dissolution provisions apply only to villages that are 1) very small and dysfunctional or 2) have been in a prolonged state of fiscal emergency with no reasonable plan for recovery. These mechanisms are rarely used because of the intentionally narrow eligibility and the overall focus *on recovery*.

*While on the surface, Ohio law gives greater authority for the state to compel dissolutions, it is important to note that these mechanisms are rarely used and appear to be an ineffective threat to motivate voluntary dissolution efforts.* For example, the village of Neville (Washington Township) reportedly was given a choice by the auditor of state: the village could either voluntarily dissolve or face a court order.<sup>37</sup> Dissolution was placed on the ballot in 2016, but voters rejected it by a vote of 19-11. Predictions were that, if dissolution failed, the village was not likely to financially survive the year.<sup>38</sup> Despite its ongoing fiscal problems and the threat of a court-ordered dissolution, Neville remains an incorporated village. Similarly, a 1999 audit of the village of Corwin (Wayne Township) revealed significant financial problems. Corwin was placed in fiscal emergency and put under the control of a FPSC. Yet, despite rumors of forced dissolution, no state action was taken. Moreover, Wayne Township had little interest in assuming control: "We don't want their problems."<sup>39</sup> For the village of Portage, the threat of state action was also insufficient to trigger dissolution support. Residents there were confronted with the choice between an increase in the local income tax or potential forced dissolution.<sup>40</sup> In Fultonham (Newton Township), a forced dissolution was avoided by the appointment of village council members.<sup>41</sup>

Between 1980 and 2016, 46 villages had fiscal emergencies (30 of which were smaller than 1,000 in population).<sup>42</sup> According to the Ohio auditor of state, the median time for a municipality to remain in a fiscal emergency is 4.7 years.<sup>43</sup> Thus, under §118.31, multiple villages are eligible for forced dissolution. Yet, forced dissolution resulting from of a fiscal emergency is reserved *only as a last resort option*. The goal of Ohio's fiscal stress system is on restoring fiscal solvency and stability and is designed to allow municipalities to course correct before reaching crisis stage. Its provisions establish a lengthy period before dissolution may be forced and mandate progress on a recovery plan so as to avoid dissolution entirely.

## In Ohio, the Successful Dissolution of Villages is More Closely Linked to Fiscal Stress

In Ohio, the successful dissolution of village governments is more closely linked with fiscal stress for several reasons. First, in Ohio, villages are, by definition, smaller municipalities. Smaller communities often struggle to stay fiscally solvent, to provide or maintain services without increasing taxes on residents, or to recruit village officers and personnel in part due to their small size. Of the 15 Ohio villages to dissolve since 2000, 13 have been under 500 in population and all experienced fiscal distress, dysfunction, or issues with their governing capacity. In several cases, dissolution resulted as a protest, or taxpayer revolt, against proposed increases in the local tax levy. Such was the case for Amelia and Newtonville, two Clermont County villages that voted to dissolve in 2019 after proposed increases in local taxes.<sup>44</sup> The major sources of revenue for local governments in Ohio are real and personal property taxes, municipal income taxes, and county sales taxes. Up to 1 percent of the municipal income tax can be levied without voter approval. The local tax rates range from .5 percent to 3.0 percent and, in many cases, municipal taxes exceed state income taxes.<sup>45</sup>

Yet, of the 46 villages that have entered into and have been terminated from fiscal emergency, only four took the step of dissolving per citizen approval.<sup>46</sup> The village of Lawrenceville (Clark County) was in fiscal emergency from December 1999–August 2005 and dissolved in 2005; Fort Shawnee (Allen County) was in fiscal emergency from September 2010–December 2013 and voted to dissolve in 2012; Newtonville (Clermont County) was in fiscal emergency from June 2019–March 2021, it voted to dissolve in 2019; and Smithfield (Jefferson County) was in fiscal emergency from February 2015–November 2020 and also voted to dissolve in 2019.<sup>47</sup> As in New York then, there are numerous examples of small, struggling villages in Ohio that do not pursue dissolution. In other words, *fiscal stress alone is not a satisfactory explanation for why some villages dissolve and others do not*. But in Ohio, fiscal pressures appear to be a larger part of the story than in New York. An analyst at the Ohio Buckeye Institute argues that there is a need to rethink Ohio's local government structure and the "deep financial problems created by layers of redundant, overpriced, and inefficient government services."<sup>48</sup> But, "rather than reform, consolidate, or even dissolve redundant layers of government, many of Ohio's municipalities look to prolong their existence through tax hikes and accounting gimmicks—even when core services can and would be provided by other government entities."<sup>49</sup>

The depopulation of small, rural places in Ohio is linked to decades of deindustrialization and economic decline. Ohio was also particularly hard hit by the Great Recession of 2009. Examining the cases of successful dissolution illustrates that fiscal woes are a frequent factor motivating Ohio residents to eventually surrender their corporate status. For example, the village of Brilliant initially rejected dissolution in 1992 but voted to dissolve in 1993. The effort resulted from escalating resident frustration over rising taxes and dwindling population.<sup>50</sup> The village of Smithfield (dissolution rejected in 2006 and 2016 and approved in 2019) had a long record of fiscal troubles as its residents repeatedly voted down the levies necessary for the village to operate. There was also history with the misappropriation of funds by village officers and mounting debt. Fort Shawnee's choice to dissolve was similarly attributed to a combination of "bad bookkeeping, a bad economy, and endless bad news from the state." The choice was either to raise taxes or "closing the door for good."<sup>51</sup> The village of Uniopolis (dissolution rejected in 2012 and approved in 2013) confronted similar circumstances of financial struggles and taxpayer fatigue. Ongoing budget cuts had led to the elimination of most services and voters refused to approve the levies necessary to restore them. The village "had to slash the budget by more than half since last year, thanks largely to a 25 percent reduction in local government funds through the state."<sup>52</sup> In Somerville (dissolution approved in 2016), citizen apathy meant that the community could not regularly elect a village mayor or council members. Limaville (Ohio's oldest village) similarly disincorporated after it was unable to fill required elected positions. Dissolution was initially rejected in 2013 but was approved by voters in 2018.<sup>53</sup> Several of the Ohio villages that opted to dissolve were effectively moribund—either financially or functionally<sup>54</sup>—leaving residents to reluctantly surrender their corporate powers.<sup>55</sup>

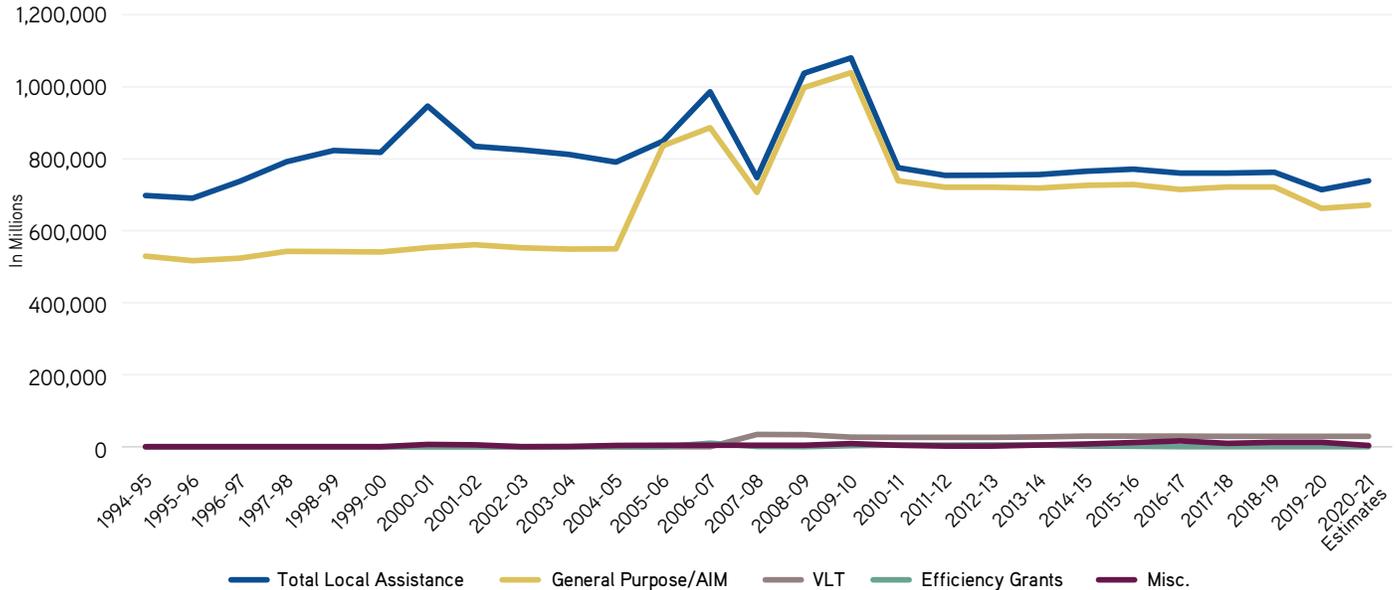
Ohio residents, like their New York counterparts, have also demonstrated psychological resistance to the idea of dissolving, resulting in its frequent rejection at the polls.<sup>56</sup> The village of Cheshire managed to avoid dissolving by annexing additional territory after 90 percent of village properties were bought by American Electric Power. The corporate buyout of properties threatened to leave the community with just a handful of residents, prompting officials to consider the surrender of its corporate status. When put to a public vote, however, residents rejected dissolution by a vote of 60–5. Village leaders then devised a plan to annex additional territory, thereby increasing the population by 120–170 additional residents.<sup>57</sup> The village of North Bend flirted with dissolution in the 1990s, putting it to a vote in 1999 and 2003, due to a combination of struggling finances and internal disputes over development and zoning decisions.<sup>58</sup> In Holmesville, the effort resulted from a combination of factors, including dissatisfaction over costs of a new sewer system and a lack of citizens interested in running for office.<sup>59</sup> The village of Hartford (which rejected dissolution in 2014) had been crippled by state cuts in local government funding. The dissolution effort and failed vote put village affairs on hold pending the result—a disruption that prevented the village from pursuing efficiency grant (loan) opportunities as villages undergoing dissolution efforts are restricted in assuming additional liabilities.<sup>60</sup> Uncertainties over transfer of the village owned wastewater treatment plant and potential loss of related project grants complicated the efforts.<sup>61</sup>

*The situation for Ohio's villages has been made worse by drastic state-level reductions in local government funding—cuts that have been likened to municipal disinvestment on the part of the state.* Since 1934, Ohio has provided some form of general revenue sharing with its local governments. The primary program, the Local Government Fund (LGF) directs a portion of state revenues to certain municipalities and to Ohio's 88 counties for redistribution to local governments through the County Undivided Local Government Fund (CULGF). The CULGF funds are allocated by County Budgeting Commissions (CBS), either following a statutory (used by eight counties) or alternative formula (used by 80 counties).<sup>62</sup> When the LGF was established, the state shared nearly 40 percent of its sales tax revenues with its localities, later adding intangible taxes as shared revenue sources. In the 1970s and 1980s, the state rolled back local property taxes and replaced them with income taxes, the revenue from which was to be shared with localities.

Between 2001 and 2006, the Ohio legislature instituted multiple freezes on the Local Government Fund. State-level budget cuts enacted in 2011–14 reduced the LGF by 50 percent. The reduction in shared revenue in 2015 alone was \$450 million. “Between 2006 and 2018, local governments lost \$1.4 billion a year, adjusted for inflation, through cuts in state aid and loss of local tax revenues reduced or eliminated by the state.”<sup>63</sup> By 2015, almost one-third of Ohio's towns and villages were in fiscal distress, which, in combination with reduced governmental capacity, made villages less resilient.<sup>64</sup> For many of Ohio's smallest villages, state aid is their primary source of revenue and so reductions have forced them to limit services.

In New York, local government assistance has been stagnant for decades. New York's general revenue sharing program, renamed Aid and Incentives to Municipalities (AIM) in 2005, has been frequently faulted by municipal leaders and organizations for out-of-date formulas and flat funding. More recently, the state has eliminated direct AIM to most towns and villages and draws the funding from the county's share of the sales tax (referred to as AIM-related payments). Moreover, since 2005, enhanced aid has been increasingly linked to the search for greater local efficiencies. In other words, New York has redirected state assistance to local governments and temporarily reduced local government spending by 20 percent to balance the budget during the COVID-19 crisis, but New York has not adopted the same degree of local government austerity measures as has Ohio. Even during the height of the pandemic, the various grant and incentives programs (although reduced) remained in the executive budget as a policy priority.

FIGURE 10. New York State Local Government Assistance Spending, 1994-2021



## Ohio Lacks Clarity in the Dissolution and Implementation Process

Ambiguity in Ohio’s process has also arguably made citizen-led efforts to dissolve their village much more time consuming and costly. As of 2017, the number of signatures required for a citizen petition was reduced from 40 percent to 30 percent of those who voted in the most recent village election. Ohio does not, however, explicate the form or elements of the petition in its dissolution provisions, adding an additional challenge for interested citizens trying to navigate the process. Petitions have been rejected for technical violation of the state’s petitioning rules for placing issues on the ballot, including confusion over the proper form and missing circulator statements that must accompany signature sheets.<sup>65</sup> The dissolution of the village of Orient, for example, required three petitioning attempts after village board members refused to verify the petition or to provide detailed information as to how to correct the deficiencies. The village president reportedly explained, “It’s their job to figure it out.”<sup>66</sup> Residents may also be discouraged by village officials who emphasize the costs of conducting the special election—a significant concern for already cash-strapped localities. As explained in an editorial by a township trustee, because there are so few examples of successful dissolution in Ohio, citizens are forced to seek expensive legal assistance. Moreover, gaps in Ohio’s laws means that “you better have the funds, or a GoFundMe account, if you want to ensure the process be legitimate.”<sup>67</sup>

New York’s process requires the adoption of a village-specific dissolution plan, developed prior to the public vote in board-initiated proceedings and following the public vote in citizen-initiated proceedings. In the latter, even though a plan is finalized after the vote, it is common for there to be some form of preliminary study to inform the citizens’ decision at the ballot box. CREG grants are available from the state to reimburse municipalities for both the study and implementation of a dissolution (up

to \$50,000 each or for a total of \$100,000). The Office of Local Government Services (OLGS) is available for technical assistance. Dissolution studies conducted prior to the vote and the formal dissolution plans (developed prior to the vote in board-initiated proceedings and after the vote in citizen-initiated efforts) address the specifics of each dissolution in terms of the transfer of property and functions, setting a final dissolution date (typically the end of a calendar or fiscal year). These studies and plans serve as learning devices for communities that follow. Of course, there remain some “grey areas” in the transfer of affairs. Most importantly, in New York, the dissolution planning does not require participation by town elected officials, nor are final plans technically binding on the town. Thus, dissolution opponents frequently voice concern that the town may not adhere to the plan as approved. When disputes or uncertainty do arise in the implementation of a dissolution, they are resolved on a case-by-case basis with the potential intervention of the courts through Article 78 proceedings (a mechanism of judicial review under New York’s civil practice law and rules).

Ohio provides greater specific statutory guidance on implementing a dissolution. Under §703.21, cash balances are transferred upon completion of the audit or agreed-upon procedure. Real and personal property of the village (other than electric, water, and sewer utility property) is to be transferred “in a timely manner in accordance with agreements between or among the affected village and township or townships.” If no agreements have been reached within 60 days after the certification of the dissolution, title is vested by law to the affected township or townships. Electric and water and sewer utility property are transferred by agreement entered into by the village and the entity that will be taking over the electric and water and sewer utility property and assets. Entities obligated to assume responsibility for water and sewer utilities may petition the court of common pleas for authority to revise rates, fees, charges, and assessments. Villages that operate electric utilities are obligated to “take all necessary steps to transfer its ownership and operation, including continuing with normal operations and activities, fulfilling its contractual and other obligations, and transferring its contractual and other obligations to a successor entity in a timely manner following the filing of the certificate of dissolution” (§703.21). Following the surrender of corporate powers, the resolutions of the township or townships into which the village’s territory was dissolved shall apply throughout the township’s newly included territory (§703.21).

*Nevertheless, this statutory guidance has not provided the necessary clarity. Dissolution in Ohio frequently raises significant questions and legal uncertainties that are attributed to multiple gaps in the statutory provisions.* For example, when the village of Elmwood Place contemplated dissolution in 2013, there was no township into which it could dissolve. The township of Mill Creek ceased operation when its territory was incorporated into the city of Cincinnati, the city (now village) of St. Bernard and the village of Elmwood Place. The presumption was that, if dissolved, a neighboring city of Cincinnati or St. Bernard would annex the area of the former village—but there was no certainty that either municipality was interested in doing so. The other option was for the former village to have to establish itself as a town.<sup>68</sup> The dissolution of Kimbolton in 2004 was delayed by a pending lawsuit.<sup>69</sup> Residents of Lawrenceville voted to dissolve on August 25, 2005. The paperwork certifying the dissolution was filed September 1.

The following day, the Ohio Environmental Protection Agency issued orders declaring an emergency in the former village—inspectors had found its water treatment plant locked and unattended, left in a condition that constituted a threat to public health.<sup>70</sup> In Orient, the auditor of state took over 18 months to complete the required audit, leaving dissolution in limbo and the former village awaiting the township to assume governing responsibility.<sup>71</sup> At that time, there was no timeline for the transfer, which could take up to two years. Difficulties in the dissolution of Orient prompted state-level changes in 2017 lowering the threshold for petition signatures from 40 percent to 30 percent of the voters of the last municipal election and requiring an audit following a vote to dissolve to better facilitate the transfer of property, assets, and services to the township.<sup>72</sup>

The 2019 dissolution of Amelia (the largest Ohio village to dissolve to date) was complicated by the fact that it was the first dissolution of a village that was located in two townships.<sup>73</sup> Almost a year after the date of dissolution had passed (November 25, 2019), uncertainties remained as to who was in charge. Because the village of Amelia was dissolved the same day as new officials were elected, the new mayor and council members were not sworn in, meaning that no one was officially “in charge” of the dissolution or had the authority to sign paperwork or make decisions on behalf of the village.<sup>74</sup> The auditor of state reportedly declined to assume control over the dissolution. Meanwhile, the former mayor continued to draw a salary.<sup>75</sup> There were at least two lawsuits filed, including claims against the village by former village employees over benefits and severance packages.<sup>76</sup> Ohio law does not address the settlement of pending claims particularly in the period of transition.<sup>77</sup> Yet, in other respects, the dissolution reportedly has been smooth, where “both Pierce and Batavia townships are maintaining the roads and providing fire and emergency medical services.”<sup>78</sup>

Ohio state legislators have argued for additional legislation to revise and clarify the implementation of a dissolution. A draft bill under development by Adam Bird (R-New Richmond) and Jean Schmidt (R-Loveland) would limit attempts on dissolution. Both had dissolutions (Amelia and Newtonville) in their districts and characterized the experience as “traumatic.” Their draft would explicate the authority of the village and township(s) in the transition period, creating receiver trustees to manage the discharge of the outstanding debt, liabilities, and obligations of the former village and the transfer of assets, services, title, and liabilities, the liquidation of village assets, and the maintenance of water and sewer and electric services during the period of transfer. The ostensible purpose, according to the drafters, is not to make the process any easier or harder, but to bring clarity on questions of implementation that have plagued recent dissolution cases.

## New York Provides More Assistance and More Policy Learning Opportunities

The higher rate of success in New York can be attributed to legal changes, which have eased the pathway for citizen-initiated efforts, enhanced state-level incentives combined with constraints on local revenue raising capacity through the property tax cap. For Ohio, the increased interest appears to be driven primarily by fiscal distress and by state-level budget austerity that has exacerbated financial issues of many of Ohio's smaller communities, rather than state-mandated dissolution provisions that exist on the books but are rarely used. Residents in both states exhibit concern with the rising property tax burdens, making the potential savings from village dissolution an increasingly attractive option. But for citizens in New York, that pathway is better paved than it is for the residents of Ohio. The Empowerment Act, along with incentives for the study and implementation of dissolution, have combined to provide residents interested in dissolving more state-level supports than in Ohio. Indeed, New York State appears to have devoted greater state-level resources to encouraging municipal reorganization, including the creation of citizen-petition guidelines, access to studies, and technical assistance through state web resources (including the Department of State, Office of the State Comptroller, and the Office of Local Government Services). In contrast, information on dissolution law, procedures, or assistance is not readily available on the web pages of Ohio's equivalent agencies.

Ohio's dissolution interest appears to be much more grassroots, driven by citizen interest in tax savings or dissatisfaction with defunct or dysfunctional local governments. There is less evidence of policy learning between the Ohio cases. Several villages that had unsuccessful dissolution efforts were successfully dissolved a few years later, suggesting *within* case study learning (recall that Ohio does not have a moratorium on subsequent attempts after a dissolution vote). But there is less evidence of policy learning between communities as there has been in New York, where the prodissolution coalition members pattern deliberately their efforts on recent cases of success elsewhere in the state. The availability of study and implementation grants in New York has also produced multiple dissolution studies that may be used as exemplars by other interested communities.

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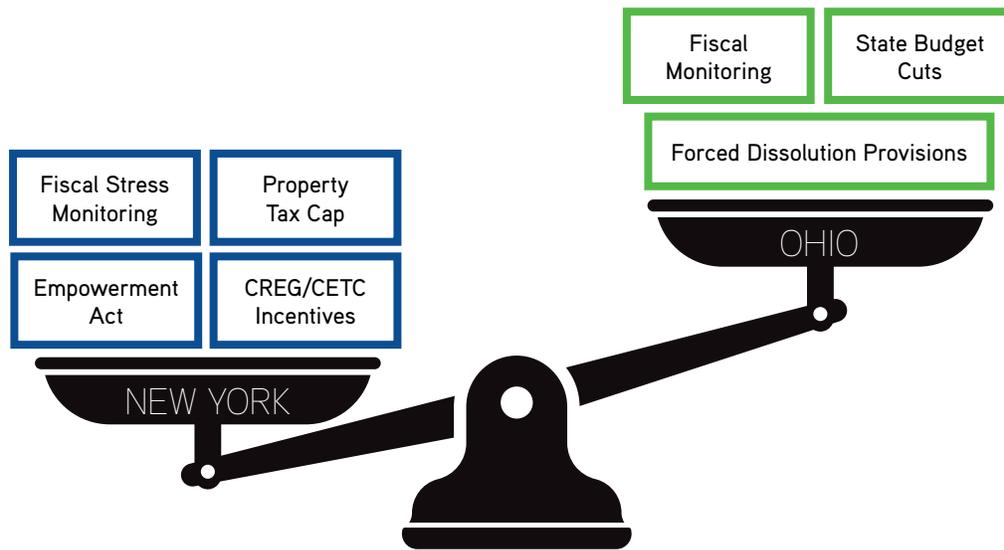
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There are, of course, limitations in that the circumstances of current service delivery and potential service delivery options varies from community to community, making the comparison of village dissolution from one community to the next analogous to the proverbial comparison of apples and oranges. Moreover, dissolution studies are performed by different entities (either self-study committees appointed by the local board or comprised of a combination of local elected officials and residents) or else contracted to one of several consulting agencies that are routinely hired by municipal governments to perform preliminary dissolution studies (i.e., before the vote takes place) as well as to assist in the development or implementation of final dissolution plan (after the vote). The abundance of these studies and consulting firms provides another level of assistance for residents and communities in New York as they explore or undertake a dissolution effort.

Most significantly perhaps, Ohio lacks a state-level policy entrepreneur, the equivalent of former Attorney General/Governor Andrew Cuomo, to champion municipal reorganization efforts. The exception to that was the state-actor (attorney general and auditor of state) interest in decommissioning New Rome—an interest that was peculiar to its particularly egregious level of corruption and external attention. Following the success of Amelia and Newtonville in 2019, a local activist pledged the dissolution of six more Clermont County villages but, as of yet, the effort has not progressed to a successful petition or vote.

As in New York, Ohio's municipalities and municipal organizations have resisted the calls to consolidate smaller units of local government. The Ohio Municipal League requested a veto of the lowered threshold and has advocated for increasing the requisite number of signatures to 35 percent.<sup>79</sup> The role of municipal organizations in Ohio, at least upon initial investigation, seems less robust than that played by the New York Conference of Mayors' (NYCOM) active presence in ongoing dissolution efforts, aiding local elected officials and giving presentations to local residents that tend to highlight the uncertainties of dissolving. There is also a dearth of information on what happens post-dissolution in both states—are former residents of the village generally satisfied with their decision to surrender corporate powers of a village?<sup>80</sup> What are the fiscal impacts for former village and town (township) residents in the decades following a village dissolution?

FIGURE 10. Evaluating the Impact of State-Level Policies



## Conclusions

In their multistate analysis, Morse and Stenberg argue that fiscal pressures on local governments increase the potentiality for overcoming local resistance to municipal reform. They conclude that state-level approaches that are collaborative, focusing on partnerships, appear more promising than top-down approaches that mandate reform.<sup>81</sup> Standing alone, the recent increase in village dissolution in Ohio might suggest that the combination of state-level austerity (local government funding cuts) and forced dissolution procedures has been effective in convincing more village residents to voluntarily surrender their corporate powers and with the surrounding township. A closer and comparative examination suggests that, despite Ohio's forced dissolution provisions, the approach of neighboring New York State (relying more heavily on incentives in combination with restrictions on local revenue raising capacity) has, on balance, been more effective in terms of the number of dissolved villages (Figure 10). New York may offer lessons for Ohio, including the need for enhanced state-level incentives for dissolving, a more prominent role for state actors in promoting dissolution as a potential cost-savings measure, and more community-tailored dissolution study and planning. Conversely, New York might consider adopting some of the elements of mandated restructuring in place in Ohio, including basing municipal reform on population size, requiring an "in the general good" standard for the incorporation of new villages, and authoring state intervention or compelled dissolution for villages that are in prolonged fiscal distress and/or are effectively dysfunctional to the point of having forfeited their claim to self-governance.

# Appendix: Village Dissolution in New York and Ohio

## New York Dissolutions Since 2000

### New York Villages Dissolved Since 2000

Village (Town)	County	Year of Vote	Village Law Provision	Initiated by	Population
Andes (Andes)	Delaware	2003	Article 19	Citizen (81-63)	289 (2000)
Pike (Pike)	Wyoming	2008	Article 19	Board (31-5)	382 (2000)
Limestone (Carrollton)	Cattaraugus	2009	Article 19	Citizen (71-26)	411 (2000)
Randolph (Randolph)	Cattaraugus	2010	Article 19	Board (125-13)	1,316 (2010)
East Randolph (Randolph)	Cattaraugus	2010	Article 19	Board (57-13)	630 (2010)
Perrysburg (Randolph)	Cattaraugus	2010	Article 19	Board (60-9)	408 (2010)
Seneca Falls (Seneca Falls)	Seneca	2010	Article 19	Board (1,198-1,112)	6,806 (2010)
Altmar (Albion)	Oswego	2010	Empowerment Act	Citizen (80-74)	351 (2010)
Altmar** (Albion)		2011		Permissive Referendum (54-50)	
Edwards (Edwards)	St. Lawrence	2011	Article 19	Board (55-9)	465 (2010)
Lyons (Lyons)	Wayne	2012	Empowerment Act	Citizen (569-524)	3,619 (2010)
Lyons** (Lyons)		2014		Permissive Referendum (519-353)	
Keeseville (Ausable/Chesterfield)	Clinton/Essex	2013	Empowerment Act	Citizen (268-176)	1,815 (2010)
Keeseville** (Ausable/Chesterfield)		2013		Permissive Referendum (288-200)	
Bridgewater (Bridgewater)	Oneida	2013	Empowerment Act	Board (40-8)	1,522 (2010)
Salem (Salem)	Washington	2014	Empowerment Act	Citizen (192-49)	946 (2010)
Prospect (Trenton)	Oneida	2015	Empowerment Act	Board (91-7)	291 (2010)
Macedon (Macedon)	Wayne	2015	Empowerment Act	Citizen (300-246)	1,496 (2010)
Macedon** (Macedon)		2016		Permissive Referendum (324-181)	
Hermon (Hermon)	St. Lawrence	2015	Empowerment Act	Board (95-15)	422 (2010)
Port Henry (Moriah)	Essex	2015	Empowerment Act	Citizen (190-71)	1,152 (2010)

**New York Villages Dissolved Since 2000, *continued***

Village (Town)	County	Year of Vote	Village Law Provision	Initiated by	Population
Port Henry** (Moriah)		2016		Permissive Referendum (208-188)	
Forrestville (Hanover)	Chautauqua	2015	Empowerment Act	Citizen (137-97)	697 (2010)
Forrestville** (Hanover)		2016		Permissive Referendum (195-125)	
Herrings (Wilna)	Jefferson	2015	Empowerment Act	Citizen (19-9)	90 (2010)
Mastic Beach (Brookhaven)	Suffolk	2016	Empowerment Act	Citizen (1,922-1,215)	14,849 (2010)
Cherry Creek (Cherry Creek)	Chautauqua	2017	Empowerment Act	Citizen (70-32)	461 (2010)
Barneveld (Trenton)	Oneida	2017	Empowerment Act	Citizen (54-12)	
Van Etten (Van Etten)	Chemung	2017	Empowerment Act	Citizen (103-76)	284 (2010)
Morristown (Morristown)	St. Lawrence	2018	Empowerment Act	Board (130-47)	395 (2010)
Harrisville (Diana/Ogendsburg)	Lewis	2019	Empowerment Act	Board (112-70)	628 (2010)
South Nyack (Orangetown)	Rockland	2020	Empowerment Act	Citizen (508-292)	3,510 (2010)
Highland Falls (Highlands)	Orange	2021	Empowerment Act	Upcoming	3,900 (2010)

\*Village successfully dissolved in a later referendum.

## New York Dissolutions Rejected Since 2000

Village (Town)	County	Year of Vote	Village Law Provision	Initiated by	Population
Naples (Naples)	Ontario	2005	Article 19	Citizen (144-128)	1,072 (2010)
Wellsville (Wellsville)	Allegany	2006	Article 19	Board (1,115-96)	5,171 (2010)
Macedon (Macedon)	Wayne	2008	Article 19	Citizen (257-228)	1,496 (2010)
Speculator (Lake Pleasant)	Hamilton	2008	Article 19	Board (132-46)	348 (2010)
Johnson City (Union)	Broome	2009	Article 19	Citizen (2,256-2,216)	15,535 (2010)
Port Henry (Moriah)	Essex	2010	Article 19	Board (146-186)	1,152 (2010)
Brockport (Sweden)	Monroe	2010	Empowerment Act	Citizen (652-959)	8,103 (2010)
Williamsville (Amherst)	Erie	2010	Empowerment Act	Citizen (309-1,546)	5,573 (2010)
Sloan (Cheektowaga)	Erie	2010	Empowerment Act	Citizen (236-1,331)	3,775 (2010)
Lakewood (Busti)	Chautauqua	2010	Empowerment Act	Citizen (353-848)	3,258 (2010)
Farnham (Brant)	Erie	2010	Empowerment Act	Citizen (37-130)	322 (2010)
Cuba (Cuba)	Allegany	2010	Empowerment Act	Citizen (43-402)	1,633 (2010)
Macedon (Macedon)	Wayne	2010	Empowerment Act	Citizen (199-294)	1,496 (2010)
Odessa (Catharine)	Schuyler	2010	Empowerment Act	Citizen (74-154)	591 (2010)
Whitesboro (Whitestown)	Oneida	2011	Empowerment Act	Citizen (366-709)	3,722 (2010)
Candor (Candor)	Tioga	2011	Article 19	Citizen (70-165)	851 (2010)
Schuylerville (Saratoga)	Saratoga	2011	Article 19	Citizen (73-321)	1,386 (2010)
Potsdam (Potsdam)	St. Lawrence	2011	Article 19	Board (334-687)	9,428 (2010)
Camillus (Camillus)	Onadaga	2011	Empowerment Act	Citizen (158-229)	1,213 (2010)
Leicester (Leicester)	Livingston	2011	Empowerment Act	Citizen (48-135)	468 (2010)
Corinth (Corinth)	Saratoga	2012	Article 19	Citizen (209-338)	2,559 (2010)
Malone (Malone)	Franklin	2012	Empowerment Act	Board (562-1,117)	5,991 (2010)
Chaumont (Lyme)	Jefferson	2012	Article 19	Board (102-145)	2,559 (2010)
Victory /Victory Mills (Saratoga)	Saratoga	2013	Article 19	Citizen (82-143)	60 (2010)
Painted Post (Erwin)	Steuben	2013	Empowerment Act	Citizen (291-376)	1,809 (2010)

New York Dissolutions Rejected Since 2000, *continued*

Village (Town)	County	Year of Vote	Village Law Provision	Initiated by	Population
Middleburgh (Middleburgh)	Schoharie	2013	Empowerment Act	Citizen (71-344)	1,500 (2010)
Champlain (Champlain)	Clinton	2013	Empowerment Act	Citizen (59-199)	1,101 (2010)
Mannsville (Ellisburg)	Jefferson	2013	Empowerment Act	Board (17-106)	354 (2010)
Richfield Springs (Richfield)	Otsego	2013	Empowerment Act	Citizen (48-288)	1,264 (2010)
Greenwich (Greenwich/Easton)	Washington	2014	Empowerment Act	Citizen (203-281)	1,777 (2010)
Wilson (Wilson)	Niagara	2014	Empowerment Act	Citizen (209-222)	1,264 (2010)
Bloomingsburg (Makating)	Sullivan	2014	Empowerment Act	Citizen (85-107)	420 (2010)
Medina (Ridgeway/Shelby)	Orleans	2015	Article 19	Citizen (527-949)	6,065 (2010)
Brockport (Sweden)	Monroe	2016	Empowerment Act	Citizen (632-817)	8,366 (2010)
Sherman (Sherman)	Chautauqua	2016	Empowerment Act	Citizen (115-117)	1,653 (2010)
Depew (Lancaster/Cheektowaga)	Erie	2017	Empowerment Act	Citizen (1,165-3,006)	15,303 (2017)
Rushville (Potter/Gorham)	Yates/Ontario	2017	Empowerment Act	Citizen (96-179)	677 (2017)
Sinclairville (Charlotte/Gerry)	Chautauqua	2019	Empowerment Act	Citizen (94-128)	586 (2017)
Fleischmanns (Middletown)	Delaware	2019	Empowerment Act	Citizen (46-70)	351 (2017)
Spencer (Spencer)	Tioga	2020	Empowerment Act	Board (21-198)	759 (2017)
Chaumont (Lyme)	Jefferson	2020	Empowerment Act	Board (119-136)	624 (2017)
Highland Falls (Highlands)	Orange	2021	Empowerment Act	Citizen (779-450)	3,900 (2010)

\*Village successfully dissolved in a later referendum.

## Ohio Dissolutions Since 1986

### Ohio Villages Dissolved Since 1986

Village (Township)	County	Year of Vote	Method of Dissolution Approval	Population (Census)
Darbydale (Pleasant)	Franklin	1986	Voter (no data)	793 (2010)
Brilliant (Wells)	Jefferson	1993	Voter (no data)	1,482 (2010)
Kimbolton (Liberty)	Guernsey	2004	Voter (33-20)	190 (2000)
New Rome (Prairie)	Franklin	2004	Franklin County Common	60 (2000)
Lawrenceville (German)	Clark	2005	Voter (39-37)	302 (2000)
Alvordton (Mill Creek)	Williams	2007	Voter (52-21)	305 (2000)
St. Martins (Perry)	Brown	2007	Voter (43-14)	129 (2010)
Fort Shawnee (Shawnee)	Allen	2012	Voter (1,058-858)	3,726 (2010)
Uniopolis (Union)	Auglaize	2013	Voter (49-23)	222 (2010)
Orient (Scioto)	Pickaway	2013	Voter (38-30)	270 (2010)
Cherry Fork (Wayne)	Adams	2014	Voter (22-5)	155 (2010)
Salesville (Millwood)	Guernsey	2015	Voter (22-11)	129 (2010)
Somerville (Millford)	Butler	2016	Voter (25-24)	281 (2010)
Brady Lake (Franklin)	Portage	2017	Voter (107-89)	464 (2010)
Limaville (Lexington)	Stark	2018	Voter (30-12)	151 (2010)
Amelia (Pierce and Batavia)	Clermont	2019	Voter (909-438)	4,801 (2010)
Newtonville (Wayne)	Clermont	2019	Voter (56-48)	392 (2010)
Smithfield (Smithfield)	Jefferson	2019	Voter (99-86)	869 (2010)

\*Village successfully dissolved in a later referendum.

### Ohio Dissolutions Rejected Since 1986

Village (Township)	County	Year of Vote	Method of Dissolution Approval	Population (Census)
Brilliant* (Wells)	Jefferson	1992	Voter (356–385)	1,482 (2010)
Cleves (Miami)	Hamilton	1998	Voter (466–654)	3,234 (2010)
North Bend (Miami)	Hamilton	1999	Voter (no data)	857 (2010)
North Bend (Miami)	Hamilton	2003	Voter (88–309)	857 (2010)
Cheshire (Cheshire)	Gallia	2003	Voter (5–60)	221 (2000)
New Rome* (Prairie)	Franklin	2003	Voter (11–21)	60 (2000)
Holmesville (Prairie)	Holmes	2004	Voter (43–136)	386 (2000)
Martinsburg (Clay)	Knox	2004	Voter (11–77)	237 (2010)
Cumberland (Spencer)	Guernsey	2007	Voter (54–129)	367 (2010)
Brady Lake* (Franklin)	Portage	2013	Voter (64–137)	464 (2010)
Hartford (Hartford)	Licking	2014	Voter (19–135)	397 (2010)
Limaville* (Lexington)	Stark	2015	Voter (23–29)	151 (2010)
Alexandria (St. Albans)	Licking	2018	Voter (17–209)	517 (2010)
Smithfield* (Smithfield)	Jefferson	2016	Voter (35–128)	869 (2010)
Uniopolis* (Union)	Auglaize	2012	Voter (57–60)	222 (2010)
Amelia* (Pierce and Batavia)	Clermont	2009	Voter (401–865)	4,801 (2010)
Elmwood Place (Mill Creek)	Hamilton	2013	Voter (Not in Sec of state results?)	2,188 (2010)
Neville (Washington)	Clermont	2016	Voter* (11–19)	100 (2010)
Owensville (Stonelick)	Clermont	2021	Voter* (139–64)	794 (2010)

\*Village successfully dissolved in a later referendum.

SOURCE: Ohio Secretary of State election results 2003-Present; miscellaneous newspaper sources (1980s-2002), US Census Boundary Change Files (Ohio).

*"Brilliant is an unincorporated community in eastern Wells Township, Jefferson County, Ohio, United States. This welcome sign is on Third Street as you enter Brilliant from the south."<sup>82</sup>*



# ENDNOTES

## Endnotes

- 1 Lisa K. Parshall, *Is it Time for New York State to Revise its Village Incorporation Laws: A Background Report on Village Incorporation in New York State* (Albany, NY: Rockefeller Institute of Government, January 2020), <https://rockinst.org/wp-content/uploads/2020/02/1-28-20-Village-Incorporation-Report.pdf>.
- 2 Dissolved or unincorporated places in New York are sometimes referred to as hamlets, although there is no such formal, legal designation. In both states, the clusters of populations are also identified in signage as “unincorporated” and may meet the US Census Bureau’s definition of a Census Designated Place (CDP): “Census designated places (CDPs) are statistical geographic entities representing closely settled, unincorporated communities that are locally recognized and identified by name. They are the statistical equivalents of incorporated places, with the primary differences being the lack of a legally defined boundary and an active, functioning governmental structure, chartered by the state and administered by elected officials.” New York has 572 CDPs, Ohio has 266, according to the US Census Bureau’s 2010 statistics.
- 3 New York towns are divided into two classes based on population although functionally their powers and home rule authority are similar. First class towns are all those in Westchester County and those with more than 10,000 in population (with exceptions in certain counties); second class towns are those below 10,000 (with exceptions above). Additionally, towns with 25,000 or more in population and within 15 miles of a city with at least 100,000 in population may be classified as suburban towns. Most towns have town councils comprised of four members as prescribed by town law; first class towns may increase this number to six, subject to permissive referendum and towns may, upon petition and vote of residents, reduce the size of the board to less than four. For more detail and the relevant town law provisions, see *Information for Town Officials* (Albany: Office of the New York State Comptroller, January 2022), <https://www.osc.state.ny.us/files/local-government/publications/2020/pdf/information-for-town-officials.pdf>.
- 4 When the limits of a municipal corporation become identical with those of a township, all township offices shall be abolished, and the duties thereof shall be performed by the corresponding officers of the municipal corporation (§703.22).
- 5 §709.48 places limits on the filing of a petition for annexation after a consolidation is defeated.
- 6 In 1975, the villages of Pelham and North Pelham (Westchester County) consolidated. The villages of East Bloomfield and Holcomb (Ontario County) consolidated in 1990. In 2019, residents in the town of Tuxedo (Orange County) simultaneously incorporated and consolidated a village of Tuxedo—the first successful consolidation under the Empowerment Act albeit of a “paper” and not a preexisting village government. See Parshall, *Is it Time for New York State to Revise its Village Incorporation Laws: A Background Report on Village Incorporation in New York State*.
- 7 In 1990, Warrensville township merged with the city of Warrensville Heights (Cuyahoga County). Green Village merged with Green Township in 1991 (Hamilton County). Lima Township merged with Pataskala City in 1996 (Licking County). In 1998, the villages of Briarwood Beach and Chippewa on the Lake consolidated (Medina County). The village of Clayton and Randolph Township merged into the city of Clayton in 1998 (Montgomery County). New Franklin Village consolidated with Franklin Township to become New Franklin City in 2005 (Summit County).
- 8 This was lowered from 40 percent in 2017 as part of a budget bill (HB 49).
- 9 The provision to petition the board of elections was also added in 2017 in response to the common technique of village councils in stalling or delaying a public vote. Ohio courts have held that village officials had a legal duty to canvas the petition and, upon its validation, to schedule a special election on the question of surrendering the village’s corporate powers. See *State ex. rel. Christopher v. Gaia* (2000, 138 Ohio App.3d 527) and *State v. ex. rel. Morgan v. Hodge* (1948, 52 Ohio Law Abs. 575).
- 10 Kathy Lecker, “Law to allow dissolution of towns,” *The Blade*, May 31, 2003, <https://www.toledoblade.com/frontpage/2003/05/31/Law-to-allow-dissolution-of-towns.html>.

- 11 Geoffrey Gagnon, "The Fall of New Rome," *Legal Affairs*, January/February 2005, [https://www.legalaffairs.org/issues/January-February-2005/scene\\_gagnon\\_janfeb05.msp](https://www.legalaffairs.org/issues/January-February-2005/scene_gagnon_janfeb05.msp). Multiple news stories documented the controversies over New Rome, including a lengthy piece by *Car and Driver* (Steve Spence, "A Town Without Pity," *Car and Driver*, April 1, 2003, <https://www.caranddriver.com/features/a15134952/town-without-pity/>). See also, "No More New Rome? Officials Collaborate to Dissolve Corrupt, Central Ohio Village." *Columbus Dispatch*, December 2010 (editorial); Gaylon Vickers and Bob Beasley, "Lawmakers Still Aim at New Rome," *This Week Community*, February 13, 2003; Steve Stephens, "New Rome's Days Might be Numbered," *Columbus Dispatch*, December 2, 2--3; and Leigh Allan, "Town's Traffic Also It's Backbone," *Dayton Daily News*, June 1, 2004.
- 12 The turnout in New Rome was so dismal that only six residents had voted in the prior municipal election meaning that only three signatures were required for a valid petition. Michael Sangiacomo and Julie Carr Smyth, "Auditor Calls for Fall of New Rome," *Cleveland Plain Dealer*, May 9, 2002.
- 13 Under Ohio Law (§117.11), the auditor of state conducts biennial audits of each public office and may determine it unauditible if its accounts, records, files, or reports have been improperly maintained.
- 14 Administrative and legislative actions do not count.
- 15 This may be the same or different persons.
- 16 "Final Analysis: Sub. H.B. 24, 125th General Assembly," Ohio Legislative Service Commission, August 29, 2003, <https://www.lsc.ohio.gov/documents/gaDocuments/analyses125/03-hb24-revised-125.pdf>.
- 17 *Village of New Rome, Franklin County: Report on Procedures Performed Sub. HB. No. 24* (Columbus, OH: Office of the Ohio Auditor of State, 2003), [https://ohioauditor.gov/auditsearch/Reports/2003/village\\_of\\_new\\_rome-03-franklin\\_hb24.pdf](https://ohioauditor.gov/auditsearch/Reports/2003/village_of_new_rome-03-franklin_hb24.pdf).
- 18 Article I, Section 2 states that "all political power is inherent in the people," who have the "right to alter, reform or abolish the same."
- 19 Article XVIII, Section 3 provides that "Municipalities shall have the authority to exercise all powers of local self-government and to adopt and enforce within their limits such local police, sanitary, and other similar regulations not in conflict with the general laws."
- 20 *Petro v. New Rome*, Case No. 03CVH12-1314, 4-5, Court of Common Pleas, Franklin County, Ohio, Civil Division (David E. Cain, Judge).
- 21 Ibid.
- 22 Ibid.
- 23 Jeremy Holden, "Testimony, Substitute Bill Presented on Dissolution." *Columbus Dispatch*, March 13, 2003.
- 24 *The State Role in Local Government Financial Distress* (Washington, DC: The Pew Charitable Trusts, July 2013), [https://www.pewtrusts.org/-/media/assets/2016/04/pew\\_state\\_role\\_in\\_local\\_government\\_financial\\_distress.pdf](https://www.pewtrusts.org/-/media/assets/2016/04/pew_state_role_in_local_government_financial_distress.pdf).
- 25 The Ohio auditor of state may issue a declaration of fiscal caution anytime a municipality meets one of the following criteria upon a finding that: 1) the municipality is unauditible; 2) there are significant deficiencies in accounting and financial reporting functions; 3) or direct and material noncompliance with applicable laws and regulations that adversely impact the municipality's fiscal condition; 4) there is a is an end-of-year fund balance that is greater than 2 percent of that fund's revenue for the year and insufficient available for transfer; 5) the end-of-year carryover balance is insufficient to fund one month (1/12th of prior year expenditures); or 6) there is failure to reconcile balance ledgers with the bank or treasury for three months.
- 26 See "Fiscal Distress – Local Governments," Office of the Ohio Auditor of State, accessed January 10, 2022, <https://ohioauditor.gov/fiscal/local.html>.

- 27 Any one factor is needed for the auditor of state to declare fiscal watch: 1) all accounts that were due and payable from the General Fund for more than 30 days, less the year-end balance of the General Fund, exceeded one-twelfth of the General Fund budget for the year; 2) All accounts that were due and payable from all funds for more than 30 days, less the year-end balance in these funds, exceeds one-twelfth of the available revenue for the preceding fiscal year from these funds; 3) Total deficit funds, less the total of any balances in the General Fund and in any special fund that may be transferred to meet such deficits, exceeds one-twelfth of the total General Fund budget for that year and the receipts to those deficit funds during that year (other than transfers from the General Fund); 4) Money and marketable investments, less outstanding checks, less total positive fund balances of General Fund and Special Funds, exceeds one-twelfth of the total amount received during the preceding fiscal year; or 5) Based on an examination of a financial forecast approved by the legislative authority, the auditor of state certifies that the General Fund deficit at the end of the current fiscal year will exceed one-twelfth of the General Fund revenue from the preceding fiscal year.
- 28 A millage rate is the rate at which property taxes are levied on property. A mill is 1/1000 of a dollar. Property taxes are computed by multiplying the taxable value of the property by the number of mills levied. Inside millage is “inside the law” and not subject to public referendum for approval. Outside millage would be subject to voter approval.
- 29 The FPSC is comprised of seven voting members: 1) a representative of the treasurer of state; 2) a representative of the director of the Office of Budget and Management (who typically chairs of the commission); 3) the mayor of the municipal corporation or president of the board of county commissioners or their designee; 4) the president of council of the municipal corporation or the county auditor or their designee; 5) Three members of the community appointed by the governor. For villages or townships with a population under 1,000, the auditor of state will serve as the sole financial supervisor (in lieu of a Commission).
- 30 See, for example, the summary of Darbydale, Ohio, which dissolved in 1986 due to an eroded tax base. Originally an incorporated seasonal resort, it became a year-round commuter municipality as Columbus expanded. This shift strained the capacity of the community’s infrastructure, as sewers and roads were not built to accommodate expanded levels of continuous use. With a population of 825, major infrastructure upgrades were not feasible. Reverting to unincorporated territory facilitated county provision of some services, promoting efficiency, and easing the financial burden on the community.
- Reclaiming Hope: Voluntary Disincorporation in Allegheny County* (County of Allegheny, PA: Allegheny County Controller’s Office, 1994), <http://www.briem.com/files/LucchinoDisincorporate1.pdf>.
- 31 In 2019, a permanent change in New York law eliminated direct AIM payments to 1,326 towns and villages, where AIM funding represented less than 2 percent of their budget revenue, replacing it with AIM-related funding by redirecting monies from the county share of the sales tax to close the gap for eliminated towns and villages (L. 2019, Ch. 59). Counties, the class most dependent on sales tax revenue, have protested the state’s interception of sales tax to replace state AIM payments, as well as to fund distressed hospitals and nursing homes. Cities thus remain the primary recipients of traditional state-funded AIM (receiving about 99 percent); only 137 towns and villages continue to receive direct AIM payments, which generally accounts for between 2-5 percent of their budget. Whereas AIM-related payments will remain funded at the statutorily set amount (unless amended), the direct AIM program remains contingent on annual appropriations and is subject to change in funding levels.
- 32 These financial indicators include fund balance levels, operating deficits, liquidity or cash-on-hand, short-term cash-flow borrowing, and fixed costs—the major operating funds of each entity, depending on municipal classification (i.e., town, village, city).
- 33 For a fuller explanation of New York’s Fiscal Stress Monitoring System, see *Fiscal Stress Monitoring System Manual* (Albany: Office of the New York State Comptroller, November 2017), <https://www.osc.state.ny.us/files/local-government/fiscal-monitoring/pdf/system-manual.pdf>.
- 34 Such measures were taken for New York City in the 1975, the city of Troy in 1995 and the city of Buffalo in 2003. The Erie County Fiscal Stability Authority was created in 2005 and the Nassau County Interim Finance Authority was established in 2000.

- 35 While New York’s comptroller tracks municipalities that fail to timely file required financial reporting and reports a list of persistent “nonfilers,” failure to file does not trigger review or a finding. The Ohio auditor of state, on the other hand, deems municipalities that fail to comply with required reporting as “unauditable”—a negative finding under Ohio’s forced dissolution laws.
- 36 *What Illinois Can Learn From Other States About Supporting Careful Local Government Consolidation* (Chicago, IL: Chicago Metropolitan Agency for Planning (CMAP), April 17, 2019), [https://www.cmap.illinois.gov/documents/10180/980016/PU20-0005\\_Consolidation\\_PU.pdf/3ba6cf23-8282-e956-d256-1d02a7d96fd1](https://www.cmap.illinois.gov/documents/10180/980016/PU20-0005_Consolidation_PU.pdf/3ba6cf23-8282-e956-d256-1d02a7d96fd1).
- 37 Jeremy Fugleberg, “Hit By Floods And Budget Cuts, Village To Vote On Disappearing,” *Cincinnati Enquirer*, February 26, 2016.
- 38 Ibid.
- 39 Joann Rouse, “Corwin Talk of Nearby Towns. Waynesville, Wayne Twp. Residents Voice Concern,” *Dayton Daily News*, January 28, 1999.
- 40 Debbie Rogers, “Portage Future Looks Bleak if Income Tax Effort Fails,” *Sentinel-Tribune*, March 17, 2010.
- 41 Erin Couch, “Solicitor: Fultonham government back on track after feared village dissolution,” *Times Recorder*, January 5, 2022, <https://news.yahoo.com/solicitor-fultonham-government-back-track-163222138.html>; Erin Couch, “Solicitor: Fultonham to rebuild government, opts out of dissolving village,” *Times Recorder*, October 18, 2021, <https://www.zanesvilletimesrecorder.com/story/news/local/2021/10/18/muskingum-county-village-rebuild-its-council-government/8465548002/>.
- 42 *Ohio Village Officers Handbook* (Columbus: Office of the Ohio Auditor of State, March 2017), <https://ohioauditor.gov/trainings/lgoc/2017/VillageOfficerHandbook.pdf>.
- 43 Glen Sheller, “The Path Out of Fiscal Emergency in Ohio” (PowerPoint presentation, Office of Ohio Auditor of State, 2018), <https://ohioauditor.gov/trainings/lgoc/2018/The%20Path%20Out%20of%20Fiscal%20Emergency%20in%20Ohio.pdf>.
- 44 A petition to dissolve Amelia was introduced in 2009, prompted by a proposed tax increase. Residents rejected dissolution by a vote of 865-401. Rick Bird, “Taxing Matters—Amelia’s Rock & Roll Mayor Fights to Keep his Village Alive,” *CityBeat*, April 22, 2009.
- 45 See “Chapter 2: Taxes and Revenue Structure,” in *Follow the Money: State Budgeting and Policy in Ohio*, 4th ed., co-authored Terry M. Thomas, (Cleveland, OH: The Center for Community Solutions, 2018), <https://www.communitysolutions.com/resources/follow-the-money/>.
- 46 See “Chapter 118 3-5-21.xlsx,” Office of the Ohio Auditor of State, March 2021, <https://ohioauditor.gov/fiscal/LocalGovernmentFiscalDistress.pdf>. Townships do not have the authority to collect income taxes, though under §703.21(B) “due and unpaid taxes may be collected after the surrender of corporate powers and moneys or property remaining after the surrender belongs to the township or townships located wholly or partly within the village, subject to the agreements entered into as provided for in this section for the timely transfer of real and personal property and subject to the report of an audit...” Taxes may be collected by the Regional Income Tax Agency (RITA).
- 47 Dates of fiscal emergency were derived from the Ohio Auditor of State report (“Chapter 118 3-5-21.xlsx”). A village may remain on the fiscal emergency list after the decision to dissolve has been approved by the voters at the polls and until dissolution is officially complete.
- 48 Greg Lawson, “Amelia and Newtonville: More reasons to reform local government in Ohio,” *The Clermont Sun*, October 25, 2019, <https://www.clermontsun.com/2019/10/25/greg-lawson-amelia-and-newtonville-more-reasons-to-reform-local-government-in-ohio>.
- 49 Ibid.
- 50 Jim Massie, “Village’s Decline Leaves Residents Looking for Answers,” *Columbus Dispatch*, August 9, 1992.
- 51 Bart Mills, “Can Fort Shawnee Survive?,” *The Lima News*, April 10, 2011.
- 52 Bart Mills, “Uniopolis considering dissolution,” *The Lima News*, February 15, 2012.

- 53 Stephanie Ujhely, "Uncertain Future: Without Resident Serving as Clerk-Treasurer, Limaville May be Forced to Dissolve," *The Review*, December 3, 2014; Malcolm Hall, "Officials consider dissolving village," *The Alliance Review*, June 22, 2017, <https://amp.theintell.com/amp/19154631007>.
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