

CONSOLIDATING LOCAL GOVERNMENT

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RATIONAL FOR THE STUDY

New York State continues to be faced with serious structural problems. Anemic economic growth, population losses and some of the highest taxes in the nation have been of serious concern for many years. Although the cost of New York State government threatens its effectiveness, the League has never studied, at a statewide level, whether it should encourage government consolidations/dissolutions or shared services in the interest of increasing efficiencies, and, if so, what criteria should be applied in evaluating various proposals.

The study of the question of increasing efficiency of local government through consolidation or dissolution of the entities themselves and/or of the services they provide is a complicated endeavor. The state is so diverse that the study committee believes it is unlikely that a consensus that proposes one course of action for the entire state can be reached.

Given the immediacy of these issues, the study committee has decided to devote the first portion of the study to exploration of consensus in the following areas: 1. Is there agreement on the standards that the League should apply in assessing changes to state law that would facilitate the consolidation/dissolution process and/or the expansion of shared services; 2. Is there agreement on standards that local Leagues should apply in assessing proposals for consolidation /dissolution/ shared services in their service areas.

Insofar as the Leagues wishes to extend the study to consider mandating specific types of consolidations/dissolutions or shared services, the second portion of the study will occur next year after the first portion has been completed.

OVERVIEW OF CURRENT GOVERNMENTAL STRUCTURE

New York has a complex layering of 1,607 general-purpose local governments made up of 57 counties, 932 towns, 62 cities, 556 villages, all of which have taxing power, can issue debt and are covered by home rule protections under the state constitution, and 14 Native American reservations. The cities and towns completely cover all of the territory of the counties, leaving no unincorporated areas. None of the cities or towns cross county borders and, with one exception, cities and towns do not overlap. With respect to the villages, all reside within towns and 76 of the villages cross town boundaries. New York City operates as both a city and a county (the five boroughs are technically counties but operate under city government).

This structure leads to a layering of local governments. Village residents have three layers of government- village, town and county. Town residents live within two layers- town and county. The state has only five co-terminus (same borders) town/villages. These residents would have two layers- town/village as one and county. City residents outside New York City also have two layers- city and county. New York City and Native American Reservation residents have one layer of government.

The vast majority of these general-purpose governments were established prior to 1920 when the state was primarily rural. Very little change has occurred since then. Only three cities have been formed since 1920, the last being the City of Rye in 1942. The number of towns is unchanged since 1900 although there have been some changes within this total. Villages, the only form of municipal government that can be incorporated or dissolved solely by local action, have seen more change, with 125 villages having been created since 1925 and 37 dissolved as of 2007, with more changes occurring even today.

The state has seen tremendous changes in population size, economic activity, transportation systems, communication technology, and settlement patterns since 1920, and yet municipal classifications, boundaries and the laws under which these entities operate do not reflect this change. Historically cities and villages were created within the surrounding rural towns to respond to the needs of denser populations that required services not provided town-wide, the most obvious being water and sewer. These services were paid for by those within the cities and villages receiving that benefit. Today, while there are areas in upstate and in small portions of downstate that continue to reflect these stark distinctions, for the most part the services provided by towns no longer differ from those provided by their villages and cities.

The terms city, town and village bring a picture to mind that no longer holds true. Cities were traditionally the more populous and urban, towns more rural and villages small and somewhere between urban and rural. Ten towns in the state have populations greater than 100,000 whereas among the state's cities only the "Big Five" are that populous. Four of these towns have populations exceeding the population of the City of Buffalo-making them the largest municipalities outside of New York City.

Most of the state's cities (35 out of 62) have populations under 25,000 while 60 towns and six villages have populations greater than that level. The Villages of Port Chester, Mamaroneck, Ossining, Harrison (town/village) and Scarsdale (town/village) all have larger populations than the City of Rye in Westchester County. The Town of Hempstead is the largest municipality outside New York City in the state in terms of population.

Why is this important? It is important because cities, towns and villages have very different governing structures, revenue structures, tax and debt limits, access to revenue sharing and other forms of state aid and access to county and state services, grants and programs. Despite the many differences under state law for cities, towns and villages, the functions and services provided by the different classes have been converging, and as we have seen old designations no longer apply. Cities tend to receive more in aid from the state, yet many towns and some villages are larger than our cities with the same problems that population brings. A discussion of the different treatment of municipal classes and the impact on local governments can be found in a comptroller report "Outdated Municipal Structures" at www.osc.state.ny.us/localgov/ under Research reports.

It is important to keep in mind that what a municipality is called is an artifact of the past and not a true reflection of how large, populous and urbanized an area actually is today. This uncertainty is one factor in recommending that initiatives to consolidate local government entities remember that "one-size-does-not-fit-all" and that the analysis should not be influenced by terminology but should be evaluated on the facts.

Of course, New York State government does not end with the general-purpose governments but also includes districts and other special government entities.

In addition to the general purpose governments discussed above, there are 1,811 special-purpose districts in New York with elected boards and the ability to impose taxes and/or issue debt directly or through the local government. These districts include school districts, fire districts, library districts, and other commissioner run districts, such as parks, water, sewer and solid waste districts.

The boundaries of these districts often cross town, village, city and even county borders creating issues of administration and taxing and coordination with multiple local governments. Many of these special districts operate outside of citizen and local press oversight and have election days outside of the General, Village or School District elections, resulting in low voter interest and turn out.

In addition to these districts, the state has 1,302 local government entities with independent boards that are able to impose costs and/or issue debt with little local control. These entities tend to have appointed boards, although some are elected by a select group of people. These entities include BOCES, community colleges,

consolidated health districts, joint activity districts, local development corporations, housing authorities, industrial development agencies, urban renewal agencies, water, sewer and utility authorities, parking and transportation authorities, among others. These entities range from local to regional in scope, and they vary in the degree to which they are independent of the local government's oversight.

Finally, in addition to the above, New York has thousands of other boards and councils without taxing authority, such as soil and water conservation districts, regional planning boards, stormwater-management districts, fire protection districts, health districts and vital records districts. Most of these operate within a town or county and are under the control of the local government.

Government in New York State is complicated, and the reasons for the lack of change in municipal boundaries – and/or classifications and rules – range from the lack of unincorporated land, which makes the expansion of cities extremely difficult; to state laws such as the “Selkirk Law” (1961), which requires: representatives of all affected areas (the city, the area to be annexed and the town as a whole) to agree to a city annexation of land, as well as a formal referendum of city and town residents and a special act of the legislature; extension of the Selkirk law to villages in 1963; home-rule protections for all local governments in the state constitution which limit the state legislature's ability to pass a law affecting a specific local government without a request from the local government itself; simple inertia; the sentimental attachment in local populations to existing government entities; the patterns of state aid to local governments based on traditional legal categories rather than more appropriate criteria; and the stake of local officials in the current structure. For those of you who are interested, you can find a summary of the local governmental entities in your county on the Attorney General's website, www.oag.ny.us.org.