**As Introduced**

**135th General Assembly**
**Regular Session**
**2023-2024**

**H. B. No. 331**

**Representatives Mathews, Young, T.**

**Cosponsors: Representatives Seitz, Dean**

# A BILL

To amend section 703.21 and to enact section 703.202 of the Revised Code to modify the law regarding village dissolution.

## BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

**Section 1.** That section 703.21 be amended and section 703.202 of the Revised Code be enacted to read as follows:

**Sec. 703.202.** (A) Not later than the last day of the year that is immediately after the year the results of a federal decennial census are released, the county budget commission shall evaluate each village located within the county to determine if, over the approximate ten year period beginning the day the results of the preceding federal decennial census were released and ending the day the most recent federal decennial census results were released, both of the following are true:

(1) The village itself provided, or the village contracted with a private nongovernmental entity to provide, at least five of the following services:

(a) Police protection;

(b) Fire-fighting services;

(c) Garbage collection;

(d) Water or sewer service;

(e) Emergency medical services;

(f) Road maintenance;

(g) Park services or other recreation services;

(h) Human services;

(i) A public library established and operated solely by the village.

(2) At each election at which an elected village position was voted upon, at least one candidate appeared on the ballot for each elected village position.

If a village is located in more than one county, the village shall be evaluated only by the county budget commission of the county wherein the largest portion of the population of the village resides.

(B) The county budget commission shall notify the legislative authority of the village of the county budget commission's finding not later than the last day of the year that is immediately after the year the results of a federal decennial census are released.

(C) If the county budget commission finds a village failed to provide services or field candidates as specified in division (A) of this section, the commission shall file the finding with the board of elections of the county in which the largest portion of the population of the village resides. The board of elections shall submit the question "Shall the village of

__________ surrender its corporate powers?" for the approval or rejection of the electors of the village at the next general election, in any year, occurring after the period ending ninety days after the filing of the finding with the board. If the result of the election is in favor of the surrender, the board of elections shall certify the results to the secretary of state, the auditor of state, and the county recorder, who shall record it in their respective offices. The corporate powers of the village shall cease upon the recording of the certified election results in the county recorder's office.

**Sec. 703.21.** (A) The surrender of corporate powers by a village under section 703.20 ~~or~~, 703.201, or 703.202 of the Revised Code does not affect vested rights or accrued liabilities of the village, or the power to settle claims, dispose of property, or levy and collect taxes to pay existing obligations, or to operate its utilities, including collection of existing rates and charges for services rendered, until the ownership and operation of each utility is transferred to another entity. But, after the presentation of the petition mentioned in section 703.20 of the Revised Code ~~or~~, after receipt of the audit report and notice mentioned in section 703.201 of the Revised Code, or after receipt of an unsatisfactory finding under division (B) of section 703.202 of the Revised Code, the legislative authority of the village shall not create any new liability until the result of the election under section 703.20 of the Revised Code is declared ~~or~~, until the decision of the court of common pleas under division (C) of section 703.201 of the Revised Code is declared, or until the result of the election is declared under section 703.202 of the Revised Code, or thereafter, if the result, in ~~either~~ any case, is for the surrender of the village's corporate powers, except to the extent such liability is necessary in connection with the operations of the village's utilities consistent with prudent utility practice. If the auditor of state notifies the village that the attorney general may file a legal action under section 703.201 of the Revised Code, but the attorney general does not file such an action, the village shall not create any new liability for thirty days after receipt of the auditor of state's notice, except to the extent such liability is necessary in connection with the operations of the village's utilities consistent with prudent utility practice.

(B) Due and unpaid taxes may be collected after the surrender of corporate powers, and all 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 or, at the discretion of the auditor of state, an agreed-upon procedure audit performed by the auditor of state under section 117.11 of the Revised Code. The auditor of state shall commence the audit or agreed-upon procedure audit within thirty days after receipt of the notice of dissolution as provided in division (E) of section 117.10 of the Revised Code. Cash balances shall be transferred at the completion of the audit or agreed-upon procedure audit performed by the auditor of state. Except as otherwise provided by agreement of the affected village and townships, if more than one township is to receive the remaining money or property, the money and property shall be divided among the townships in proportion to the amount of territory that each township has within the village boundaries as compared to the total territory within the village.

(C)(1) Village real and personal property, other than electric, water, and sewer utility property, shall be transferred in a timely manner in accordance with agreements between or among the affected village and township or townships. If no such agreements have been reached within sixty days after the certificate of dissolution is filed with the county recorder, title to real and personal property other than any electric, water, and sewer utility property vests by operation of law in the affected township or townships. If more than one township is affected, and agreements have not been reached within sixty days after the certificate of dissolution is filed, title vests by operation of law in proportion to the amount of territory that each township has within the village boundaries as compared to the total territory within the village.

(2) Any agreements entered into under this section regarding the transfer of real property shall be recorded with the county recorder of the county in which the affected real property is situated, along with affidavits stating facts relating to title as provided for in section 5301.252 of the Revised Code. The county recorder shall make appropriate notations in the county records to reflect the conveyance of the village's interest in real property in accordance with the recorded agreements resulting from the surrender of corporate powers. The notations shall include a reference to the county's recorded certificate of dissolution.

In the absence of any agreements and upon the recording of affidavits relating to title, the county recorder shall make appropriate notations in the county records to reflect the conveyance of the village's interest in real property and to evidence that title vested by operation of law in the township or townships as otherwise provided for in this section and as a result of the surrender of corporate powers. The recording of a certificate of dissolution or a certified copy of it, any agreements regarding the transfer of real property, and supporting affidavits serve as sufficient evidence of a transfer of title from the former village to a township or townships. These documents shall be recorded in the same manner as a deed of conveyance, except that the affected township or townships are exempt from any fees specified under section 317.32 of the Revised Code.

(3) Cash balances shall be transferred at the completion of the audit, or, at the discretion of the auditor of state, the agreed-upon procedure audit performed by the auditor of state.

(D)(1) Electric and water and sewer utility property shall be 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. Cash balances shall be transferred at the completion of the audit, or, at the discretion of the auditor of state, the agreed-upon procedure audit performed by the auditor of state. The provision of utility and other services shall be uninterrupted during the transition period following the surrender of corporate powers.

(a) Following the filing of the certificate of dissolution, if it is determined that a county, or a regional water and sewer district organized under Chapter 6119. of the Revised Code, is obligated to assume water and sewer utility property and assets by default, the board of county commissioners or board of trustees of the district, as appropriate, may petition the court of common pleas of the county in which the village was located, for an order to revise the current user fees, rates, and charges charged, or assessments levied, by the utility. The board of county commissioners or board of trustees of the district shall file with the petition a systems audit of the utility. The systems audit shall address the financial solvency of the utility; the utility's debt service obligations and operating revenue stream, including user fees, rates, charges, and assessments; the utility's compliance with operating permit requirements; the necessary system maintenance, upgrades, and operational modifications and their associated costs for the utility; outstanding, pending, or potential enforcement actions against the utility; and any other relevant matters impacting the operational viability and financial solvency of the utility.

When considering whether to grant the order, the court shall review the systems audit and any other relevant evidence. The order of the court shall assure that the operational viability and financial solvency of the utility is maintained, and that an unreasonable financial burden is not placed upon the county or district due to the acquisition of the utility property and assets.

(b) In the case of a village electric utility, the village shall be required 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. Such steps shall include hiring a third-party engineer knowledgeable about the operation of municipal electric systems to conduct a systems audit of the electric utility, addressing such items as set forth in division ~~(D)(2)~~ (D)(1)(a) of this section. The systems audit shall commence not later than sixty days after the filing of the certificate of dissolution. Such systems audit is a proper expense of the village's electric utility fund. If the village's electric utility fund has a balance of zero or a negative fund balance, the absorbing entity shall pay for the systems audit. During this period, the village's electric utility shall continue with all normal operations and activities, shall continue fulfilling its contractual and other obligations, including with its customers and users and licensees of its poles, conduits, and rights-of-way, and shall collect charges for service at the rates in effect on the date the certificate of dissolution is filed.

(2) The systems audit required under division (D)(1)(a) or (b) of this section shall not prevent the auditor of state from conducting the audit, or, at the discretion of the auditor of state, the agreed-upon procedure audit, required by this section.

(E) As used in divisions (C) and (D) of this section, "certificate of dissolution" means the certified election results approving the surrender of corporate powers as recorded by the county recorder under section 703.20 or 703.202 of the Revised Code.

After the surrender of corporate powers, all resolutions of the township or townships into which the village's territory was dissolved shall apply throughout the township's newly included territory.

**Section 2.** That existing section 703.21 of the Revised Code is hereby repealed.