

**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 1  
703.202 of the Revised Code to modify the law 2  
regarding village dissolution. 3

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

**Section 1.** That section 703.21 be amended and section 4  
703.202 of the Revised Code be enacted to read as follows: 5

**Sec. 703.202.** (A) Not later than the last day of the year 6  
that is immediately after the year the results of a federal 7  
decennial census are released, the county budget commission 8  
shall evaluate each village located within the county to 9  
determine if, over the approximate ten year period beginning the 10  
day the results of the preceding federal decennial census were 11  
released and ending the day the most recent federal decennial 12  
census results were released, both of the following are true: 13

(1) The village itself provided, or the village contracted 14  
with a private nongovernmental entity to provide, at least five 15  
of the following services: 16

(a) Police protection; 17

<u>(b) Fire-fighting services;</u>	18
<u>(c) Garbage collection;</u>	19
<u>(d) Water or sewer service;</u>	20
<u>(e) Emergency medical services;</u>	21
<u>(f) Road maintenance;</u>	22
<u>(g) Park services or other recreation services;</u>	23
<u>(h) Human services;</u>	24
<u>(i) A public library established and operated solely by the village.</u>	25 26
<u>(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.</u>	27 28 29
<u>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.</u>	30 31 32 33
<u>(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.</u>	34 35 36 37 38
<u>(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</u>	39 40 41 42 43 44

surrender its corporate powers?" for the approval or 45  
rejection of the electors of the village at the next general 46  
election, in any year, occurring after the period ending ninety 47  
days after the filing of the finding with the board. If the 48  
result of the election is in favor of the surrender, the board 49  
of elections shall certify the results to the secretary of 50  
state, the auditor of state, and the county recorder, who shall 51  
record it in their respective offices. The corporate powers of 52  
the village shall cease upon the recording of the certified 53  
election results in the county recorder's office. 54

**Sec. 703.21.** (A) The surrender of corporate powers by a 55  
village under section 703.20 ~~or~~, 703.201, or 703.202 of the 56  
Revised Code does not affect vested rights or accrued 57  
liabilities of the village, or the power to settle claims, 58  
dispose of property, or levy and collect taxes to pay existing 59  
obligations, or to operate its utilities, including collection 60  
of existing rates and charges for services rendered, until the 61  
ownership and operation of each utility is transferred to 62  
another entity. But, after the presentation of the petition 63  
mentioned in section 703.20 of the Revised Code ~~or~~, after 64  
receipt of the audit report and notice mentioned in section 65  
703.201 of the Revised Code, or after receipt of an 66  
unsatisfactory finding under division (B) of section 703.202 of 67  
the Revised Code, the legislative authority of the village shall 68  
not create any new liability until the result of the election 69  
under section 703.20 of the Revised Code is declared ~~or~~, until 70  
the decision of the court of common pleas under division (C) of 71  
section 703.201 of the Revised Code is declared, or until the 72  
result of the election is declared under section 703.202 of the 73  
Revised Code, or thereafter, if the result, in ~~either any~~ case, 74  
is for the surrender of the village's corporate powers, except 75

to the extent such liability is necessary in connection with the 76  
operations of the village's utilities consistent with prudent 77  
utility practice. If the auditor of state notifies the village 78  
that the attorney general may file a legal action under section 79  
703.201 of the Revised Code, but the attorney general does not 80  
file such an action, the village shall not create any new 81  
liability for thirty days after receipt of the auditor of 82  
state's notice, except to the extent such liability is necessary 83  
in connection with the operations of the village's utilities 84  
consistent with prudent utility practice. 85

(B) Due and unpaid taxes may be collected after the 86  
surrender of corporate powers, and all moneys or property 87  
remaining after the surrender belongs to the township or 88  
townships located wholly or partly within the village, subject 89  
to the agreements entered into as provided for in this section 90  
for the timely transfer of real and personal property and 91  
subject to the report of an audit or, at the discretion of the 92  
auditor of state, an agreed-upon procedure audit performed by 93  
the auditor of state under section 117.11 of the Revised Code. 94  
The auditor of state shall commence the audit or agreed-upon 95  
procedure audit within thirty days after receipt of the notice 96  
of dissolution as provided in division (E) of section 117.10 of 97  
the Revised Code. Cash balances shall be transferred at the 98  
completion of the audit or agreed-upon procedure audit performed 99  
by the auditor of state. Except as otherwise provided by 100  
agreement of the affected village and townships, if more than 101  
one township is to receive the remaining money or property, the 102  
money and property shall be divided among the townships in 103  
proportion to the amount of territory that each township has 104  
within the village boundaries as compared to the total territory 105  
within the village. 106

(C) (1) Village real and personal property, other than 107  
electric, water, and sewer utility property, shall be 108  
transferred in a timely manner in accordance with agreements 109  
between or among the affected village and township or townships. 110  
If no such agreements have been reached within sixty days after 111  
the certificate of dissolution is filed with the county 112  
recorder, title to real and personal property other than any 113  
electric, water, and sewer utility property vests by operation 114  
of law in the affected township or townships. If more than one 115  
township is affected, and agreements have not been reached 116  
within sixty days after the certificate of dissolution is filed, 117  
title vests by operation of law in proportion to the amount of 118  
territory that each township has within the village boundaries 119  
as compared to the total territory within the village. 120

(2) Any agreements entered into under this section 121  
regarding the transfer of real property shall be recorded with 122  
the county recorder of the county in which the affected real 123  
property is situated, along with affidavits stating facts 124  
relating to title as provided for in section 5301.252 of the 125  
Revised Code. The county recorder shall make appropriate 126  
notations in the county records to reflect the conveyance of the 127  
village's interest in real property in accordance with the 128  
recorded agreements resulting from the surrender of corporate 129  
powers. The notations shall include a reference to the county's 130  
recorded certificate of dissolution. 131

In the absence of any agreements and upon the recording of 132  
affidavits relating to title, the county recorder shall make 133  
appropriate notations in the county records to reflect the 134  
conveyance of the village's interest in real property and to 135  
evidence that title vested by operation of law in the township 136  
or townships as otherwise provided for in this section and as a 137

result of the surrender of corporate powers. The recording of a 138  
certificate of dissolution or a certified copy of it, any 139  
agreements regarding the transfer of real property, and 140  
supporting affidavits serve as sufficient evidence of a transfer 141  
of title from the former village to a township or townships. 142  
These documents shall be recorded in the same manner as a deed 143  
of conveyance, except that the affected township or townships 144  
are exempt from any fees specified under section 317.32 of the 145  
Revised Code. 146

(3) Cash balances shall be transferred at the completion 147  
of the audit, or, at the discretion of the auditor of state, the 148  
agreed-upon procedure audit performed by the auditor of state. 149

(D) (1) Electric and water and sewer utility property shall 150  
be transferred by agreement entered into by the village and the 151  
entity that will be taking over the electric and water and sewer 152  
utility property and assets. Cash balances shall be transferred 153  
at the completion of the audit, or, at the discretion of the 154  
auditor of state, the agreed-upon procedure audit performed by 155  
the auditor of state. The provision of utility and other 156  
services shall be uninterrupted during the transition period 157  
following the surrender of corporate powers. 158

(a) Following the filing of the certificate of 159  
dissolution, if it is determined that a county, or a regional 160  
water and sewer district organized under Chapter 6119. of the 161  
Revised Code, is obligated to assume water and sewer utility 162  
property and assets by default, the board of county 163  
commissioners or board of trustees of the district, as 164  
appropriate, may petition the court of common pleas of the 165  
county in which the village was located, for an order to revise 166  
the current user fees, rates, and charges charged, or 167

assessments levied, by the utility. The board of county 168  
commissioners or board of trustees of the district shall file 169  
with the petition a systems audit of the utility. The systems 170  
audit shall address the financial solvency of the utility; the 171  
utility's debt service obligations and operating revenue stream, 172  
including user fees, rates, charges, and assessments; the 173  
utility's compliance with operating permit requirements; the 174  
necessary system maintenance, upgrades, and operational 175  
modifications and their associated costs for the utility; 176  
outstanding, pending, or potential enforcement actions against 177  
the utility; and any other relevant matters impacting the 178  
operational viability and financial solvency of the utility. 179

When considering whether to grant the order, the court 180  
shall review the systems audit and any other relevant evidence. 181  
The order of the court shall assure that the operational 182  
viability and financial solvency of the utility is maintained, 183  
and that an unreasonable financial burden is not placed upon the 184  
county or district due to the acquisition of the utility 185  
property and assets. 186

(b) In the case of a village electric utility, the village 187  
shall be required to take all necessary steps to transfer its 188  
ownership and operation, including continuing with normal 189  
operations and activities, fulfilling its contractual and other 190  
obligations, and transferring its contractual and other 191  
obligations to a successor entity in a timely manner following 192  
the filing of the certificate of dissolution. Such steps shall 193  
include hiring a third-party engineer knowledgeable about the 194  
operation of municipal electric systems to conduct a systems 195  
audit of the electric utility, addressing such items as set 196  
forth in division ~~(D) (2)~~ (D) (1) (a) of this section. The systems 197  
audit shall commence not later than sixty days after the filing 198

of the certificate of dissolution. Such systems audit is a 199  
proper expense of the village's electric utility fund. If the 200  
village's electric utility fund has a balance of zero or a 201  
negative fund balance, the absorbing entity shall pay for the 202  
systems audit. During this period, the village's electric 203  
utility shall continue with all normal operations and 204  
activities, shall continue fulfilling its contractual and other 205  
obligations, including with its customers and users and 206  
licensees of its poles, conduits, and rights-of-way, and shall 207  
collect charges for service at the rates in effect on the date 208  
the certificate of dissolution is filed. 209

(2) The systems audit required under division (D) (1) (a) or 210  
(b) of this section shall not prevent the auditor of state from 211  
conducting the audit, or, at the discretion of the auditor of 212  
state, the agreed-upon procedure audit, required by this 213  
section. 214

(E) As used in divisions (C) and (D) of this section, 215  
"certificate of dissolution" means the certified election 216  
results approving the surrender of corporate powers as recorded 217  
by the county recorder under section 703.20 or 703.202 of the 218  
Revised Code. 219

After the surrender of corporate powers, all resolutions 220  
of the township or townships into which the village's territory 221  
was dissolved shall apply throughout the township's newly 222  
included territory. 223

**Section 2.** That existing section 703.21 of the Revised 224  
Code is hereby repealed. 225