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## Bill Analysis

**Version:** As Introduced

**Primary Sponsors:** Reps. Bird and Schmidt

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### SUMMARY

- Modifies the process for winding up the affairs of a dissolved village by doing the following:
  - Requires a Transition Supervisory Board to be established and requires the Board to manage the various aspects of the transition including the collection of taxes, resolution of debts, distribution of property, continuity of utility services, handling of public records requests, and other matters.
  - Requires former village officials to assist the Board.
  - Requires the appointment of a receiver-trustee to assist the Board.

### DETAILED ANALYSIS

#### Village dissolution

The bill overhauls the process for winding up the affairs of a dissolved village. There are three pathways to a village dissolution: surrender of corporate powers by the electors, dissolution of a village in fiscal emergency, and dissolution of a village that meets population, size, and other factors.<sup>1</sup> The bill does not modify these pathways; dissolutions will continue to originate in the manner they do now. For more information about the pathways, please read LSC's Members Brief on Village Dissolution (PDF), available at [www.lsc.ohio.gov](http://www.lsc.ohio.gov). The Members Brief also provides an overview of the existing process utilized to wind up the affairs of a dissolved village; this analysis will note only the major differences between the existing process

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<sup>1</sup> R.C. 703.33 (formerly R.C. 703.20), 118.31, and 703.34 (formerly R.C. 703.201).

and the new process under the bill. Under the bill, no matter how a dissolution is initiated, all will utilize the same process to wind up the village's affairs.<sup>2</sup>

### **Dissolution in question**

While a dissolution is in question but not yet decided,<sup>3</sup> the bill prohibits the village from creating any new debts, obligations, or liabilities unless necessary to continue providing utilities. Once it is decided a dissolution will not occur, the village may resume its normal activities.<sup>4</sup>

Because a village will cease to exist quickly upon a decision being made (by the electors or by the court), the bill also requires a village – while the dissolution is in question – to select an official or employee of the village to act as a representative during a dissolution should one occur. The representative must be knowledgeable on village matters and, if a dissolution occurs, the individual will assist in winding up the village's affairs.<sup>5</sup> If the village did not select a representative before being dissolved, one will be selected after the dissolution.<sup>6</sup>

### **Dissolution is effective**

Once it is decided a dissolution will occur (the bill refers to this date as the “date the dissolution is effective”),<sup>7</sup> the following take effect:<sup>8</sup>

- The village ceases to exist and its officials cease to hold office.
- All laws of the village are extinguished; no new laws can take effect (except some tax laws; see “**Taxes**,” below).

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<sup>2</sup> R.C. 703.32. Currently, all proceed under the same process (former R.C. 703.21, repealed by the bill), but a receiver-trustee is appointed to assist when the dissolution is initiated due to a fiscal emergency. R.C. 118.31.

<sup>3</sup> Beginning when the electors file a petition to place the question of dissolution on the ballot and ending when the election result is certified. Alternatively, beginning when the Attorney General initiates a legal action and ending when the court makes its decision. R.C. 703.31.

<sup>4</sup> R.C. 703.35(A).

<sup>5</sup> R.C. 703.35(B).

<sup>6</sup> R.C. 703.361(F).

<sup>7</sup> The date an election result in favor of dissolution is certified or a court's order of dissolution is filed. R.C. 703.31.

<sup>8</sup> R.C. 703.36. Unrelated to the bill, a dissolution taking effect also terminates the existence of a financial planning and supervision commission that exists with respect to the dissolved village. See R.C. 118.27. See also R.C. 703.23, requiring courts to take judicial notice of a dissolution.

- A “Transition Supervisory Board” is created, consisting of the county auditor, county prosecutor, and county recorder (see “**Transition Supervisory Board**,” below).<sup>9</sup>
- The Auditor of State begins a final audit of the dissolved village.
- The territory of the village becomes part of the township or townships in which the village was located, along existing township boundaries.<sup>10</sup>
- All leases terminate as specified in the respective lease agreements.<sup>11</sup>

## **Transition period**

The “transition period” is when the work is done to wind up the affairs of the village. The period begins on the date the dissolution is effective and ends when the Auditor of State provides the final audit of the dissolved village.<sup>12</sup>

## **Transition Supervisory Board**

The Transition Supervisory Board is responsible for managing the transition of the dissolved village. The “village representative” (discussed above) and the individuals serving as fiscal officer and primary legal counsel before the village dissolved are required to provide consultation to the Board.<sup>13</sup> And, the Board appoints a receiver-trustee (from a list of options provided by the Auditor of State) to assist the Board with its duties.<sup>14</sup>

The Board has the following duties under the bill:<sup>15</sup>

- Resolve the outstanding debts, obligations, and liabilities of the dissolved village;
- Approve necessary operations and budgetary functions of the dissolved village;
- Settle or resolve any legal claims against the dissolved village (claimants have 90 days to bring a claim);<sup>16</sup>
- Administer and collect taxes and special assessments levied by the dissolved village;

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<sup>9</sup> If a village is located in more than one county, the auditor, prosecutor, and recorder from the county wherein a majority of the village was located serve on the Board. R.C. 703.361(A). In all cases, the county auditor is the chairperson. R.C. 703.361(B).

<sup>10</sup> The Transition Supervisory Board resolves any ambiguities regarding territory.

<sup>11</sup> The Transition Supervisory Board resolves any disputes regarding lease terminations.

<sup>12</sup> R.C. 703.31 and 703.37.

<sup>13</sup> R.C. 703.361(F).

<sup>14</sup> R.C. 703.361(E)(9). The receiver-trustee is subject to the Board’s supervision and may be replaced with approval of the Auditor of State. R.C. 703.362.

<sup>15</sup> R.C. 703.361(E).

<sup>16</sup> 90 days from the date the receiver-trustee is appointed. Any claim brought after that date is void. R.C. 703.39.

- Wind down the dissolved village's involvement in community improvement corporations, special improvement districts, and tax increment financing arrangements;
- Dispose of the dissolved village's real and personal property;
- Manage the dissolved village's utility services, then transfer them;
- Respond to requests for the dissolved village's public records and transfer custody of the records to the proper entity;
- Conduct all other necessary business to conclude the village's affairs.

The bill specifies the Board is subject to the Open Meetings Law<sup>17</sup> and that the Board is not liable for acting in accordance with the bill's requirements.<sup>18</sup> The Board exists until the Auditor of State completes the final audit of the dissolved village.<sup>19</sup>

### ***Taxes***

If the Board determines that the revenue from an existing municipal property or income tax or special assessment is needed to pay any outstanding debts, obligations, or liabilities of a dissolved village, those taxes or assessments can continue to be levied and collected after the dissolution is effective solely to pay those obligations. During the transition period, the Board administers and receives payments and settlements of the taxes. After the transition period, the payments are administered by the fiscal officer of the township that assumed most of the village's territory. Once those obligations are paid in full, the taxes may no longer be levied in subsequent tax years or taxable years. Within 30 days after the date on which the obligations are paid in full, the Board or township fiscal officer administering the tax must notify county auditor and other members of the appropriate county budget commission, in the case of property taxes, or the Tax Commissioner, in the case of income taxes, of which taxes will no longer be levied and the date on which the outstanding obligations were paid in full.<sup>20</sup>

If the revenue from an existing tax or special assessment is not needed to pay the dissolved village's outstanding obligations, it can no longer be levied after the tax year or taxable year which includes the date on which the dissolution is effective. Within 30 days after that date, the Board or township fiscal officer administering the tax must notify the county auditor and other members of the appropriate county budget commission, in the case of property taxes, or the Tax Commissioner, in the case of income taxes, of which taxes will no longer be levied and the dissolution's effective date.<sup>21</sup>

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<sup>17</sup> R.C. 121.22, not in the bill.

<sup>18</sup> R.C. 703.361(C) and (D).

<sup>19</sup> R.C. 703.361(H).

<sup>20</sup> R.C. 703.371(A), (C), and (E).

<sup>21</sup> R.C. 703.371(B) and (D).

Property taxes levied by the township(s) into which a village is dissolved on all property within the township begin to apply to property within the former boundaries of the village in the tax year after which the village's property taxes are no longer levied. Property taxes which are levied on a portion of a township's property must be amended to include property in the village's former territory.<sup>22</sup> Taxes levied by subdivisions other than such townships continue unimpeded by the dissolution of the village.<sup>23</sup>

Under the bill, refunds of illegal, erroneous, or excessive payments made by taxpayers to the dissolved village pursuant to a municipal income tax are considered outstanding debts of the dissolved village. During the transitional period, the Board must estimate the amount of refunds likely to be requested and approved from the date the dissolution is effective to the first day of the fourth year following the last year those taxes are levied. (Municipal income tax refunds must generally be requested within four years after an overpayment is made.) 110% of that estimate must be deposited into a separate fund, administered by the absorbing township's fiscal officer, to pay such refunds. After four years, the fund is extinguished and distributed among the townships into which the village dissolved in proportion to the amount of territory each township absorbed. The revenue must be used to benefit the territory of the dissolved village. No refund claims may be brought for the dissolved village's taxes after the fund is extinguished.<sup>24</sup>

The bill requires any revenue collected from municipal taxes and assessments that is not or cannot be used to pay off the dissolved village's outstanding obligations to be paid to the township or townships into which the village is dissolved, in proportion to the amount of former village territory in each. Townships must use this revenue to directly or indirectly benefit the territory of the dissolved village.<sup>25</sup>

### ***Debt***

In general, the township(s) into which the territory of a village is dissolved do not assume the voted debts, obligations, or liabilities of the village. There are exceptions for obligations imposed by Special Improvement Districts and Tax Increment Financing arrangements which such a township may be required to take on as discussed in those respective sections below.

Unvoted debt serviced by property taxes levied by the village within the ten-mill limitation, however, must be assumed by the township(s) into which the village is dissolved, apportioned based on the total assessed valuation of territory that each township absorbs in the tax year in which the dissolution is effective.<sup>26</sup>

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<sup>22</sup> R.C. 703.371(H).

<sup>23</sup> R.C. 703.371(I).

<sup>24</sup> R.C. 703.371(F).

<sup>25</sup> R.C. 703.371(G).

<sup>26</sup> R.C. 703.372.

## ***Property***

The Board must transfer the dissolved village's utility property to the entity that takes over the utility services. And, the Board must sell the dissolved village's liquidable assets and use the proceeds to pay the outstanding debts, obligations, and liabilities as necessary. The remaining property is transferred to the township into which the village dissolved.

If multiple townships are involved, the Board directs the townships to agree on a distribution of the remaining property;<sup>27</sup> the Board helps the townships evaluate the remaining property as necessary. If the townships cannot reach an agreement within 60 days of the date the dissolution is effective, the Board decides how the property should be distributed. Current law specifies that if an agreement cannot be reached, the property vests by operation of law in proportion to the amount of territory each township has within the dissolved village, which leads to ambiguity.<sup>28</sup>

The Board provides all relevant documentation to the county recorder in the applicable county or counties where transferred property is located. The county recorder must make appropriate notations in the county records to reflect the transfer(s) and must include a reference to the dissolution.<sup>29</sup>

## ***Utilities***

The bill requires the dissolved village's utilities to continue uninterrupted. The Board is responsible for providing that continued service until the Board is able to transfer each utility to an appropriate entity. Any relevant real or personal property is also transferred to the entity taking over the utility.<sup>30</sup>

## ***Public records***

The Board must review the dissolved village's records to determine which should be disposed of, transferred to an entity taking over a utility service, or transferred to the township or townships into which the village dissolved. The Board has 90 days to complete its review and is assisted by the county records commission of the county where most of the village was located.

Before records are transferred, requests for the dissolved village's public records are submitted to the Board and the Board is responsible for responding to those requests. Continuing law requires each village to have a records retention schedule depicting how long each classification of records is retained by the village before disposal.<sup>31</sup> The bill requires the Board to evaluate the dissolved village's records retention schedule to determine if it is viable

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<sup>27</sup> Current law requires the dissolving village to be involved in the agreement. R.C. 703.21, repealed.

<sup>28</sup> R.C. 703.21, repealed.

<sup>29</sup> R.C. 703.373.

<sup>30</sup> R.C. 703.374.

<sup>31</sup> R.C. 149.39.

for future responses to public records requests. If viable, the Board follows the schedule. But if not viable, the Board and the county records commission must create a schedule. If a request is submitted for a record the Board already transferred to another entity, the Board must tell the requestor that the record may be available from the entity to which it was transferred.<sup>32</sup> The entities take over all responsibilities related to public records when the transition period is over.<sup>33</sup>

### ***Community improvement corporations***

If a dissolved village designated a community improvement corporation (CIC) as its economic development agency, and the village is the only subdivision to have so designated the CIC, the bill dissolves the CIC upon the village's dissolution. If other subdivisions also designated the CIC, then the CIC either dissolves and apportions its remaining assets to all of those subdivisions or it liquidates the dissolved village's share of its assets only and amends its articles of incorporation to reflect that it is no longer the agency of the village. The assets apportioned to the dissolved village are disposed of by the Transition Supervisory Board.<sup>34</sup>

### ***Special Improvement Districts***

If a dissolving village is a participating subdivision in a Special Improvement District (SID), the bill prohibits the SID from creating new debts, obligations, or liabilities during the dissolution period, except where necessary to continue the provision of utilities. During the transition period, the Transition Supervisory Board must call a meeting to consider winding down or transitioning the affairs of the SID to the township(s) that will assume the SID territory. There, the Board, affected legislative authorities, and member of the SID who collectively own more than half the real property in the SID, may vote to amend the SID plan to replace the dissolving village with the township(s) that will assume the SID territory and all rights and responsibilities of the dissolved village. Alternatively, the SID will be dissolved and any special assessments imposed will continue until all bonds, notes, and other SID obligations are paid. Any assets or rights, after such obligations are paid, are to be distributed to each subdivision based on the value of real property located in the subdivision compared to the SID as a whole. Assets or rights apportioned to the dissolved village are to be disposed of by the Transition Supervisory Board or dispersed to the townships that assumed the SID territory.<sup>35</sup>

### ***Tax Increment Financing***

If a dissolved village is receiving service payments in lieu of taxes for a property tax exemption granted pursuant to a Tax Increment Financing arrangement (TIF), the township(s)

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<sup>32</sup> R.C. 703.375.

<sup>33</sup> R.C. 703.38(C).

<sup>34</sup> R.C. 703.376 and 1724.07.

<sup>35</sup> R.C. 703.377.

into which the subject property is dissolved under the bill must assume all rights and responsibilities of the village related to the TIF.<sup>36</sup>

### ***LGF payments***

Under continuing law, Local Government Funds (LGF) are distributed by the State to local subdivisions directly pursuant to law or according to an apportionment plan adopted by the county budget commission.<sup>37</sup> The budget commission of a county in which a dissolved village was fully or partially located must continue to make those LGF payments until the end of such an apportionment plan. During the transition period, the payments are distributed to the Transition Supervisory Board. After the transition period, the payments are distributed to the fiscal officer of the township that assumed most of the village's territory. After first putting those funds towards any outstanding debts, obligations, or liabilities of the village, that fiscal officer then apportions the amount to all of the townships into which the village was dissolved, in proportion to the amount of former village territory in each.

The budget commission cannot amend the apportionment plan to reallocate the village's portion until after the transition period has begun. Once the transition period has begun, if the commission does adopt a new apportionment plan, it must then exclude the dissolving village.<sup>38</sup>

### ***Fund transfers***

After a village is dissolved, any money remaining in a village account may be transferred by the Transition Supervisory Board to a special account solely for the purpose of paying the village's outstanding obligation or to the general fund of a township to benefit the village's former territory. This transfer may be made without the approval of the Tax Commissioner, as would otherwise appear to be required under current law.<sup>39</sup>

### **Transition over**

The transition period ends when the Auditor of State provides the final audit to the Board.<sup>40</sup> The Auditor of State must notify all entities affected by or participating in the dissolution that the transition period is over. The Board ceases to exist when the transition period ends.<sup>41</sup>

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<sup>36</sup> R.C. 703.378.

<sup>37</sup> R.C. 5747.50, 5747.503, 5747.51, and 5747.53, not in the bill.

<sup>38</sup> R.C. 703.379.

<sup>39</sup> R.C. 5705.14.

<sup>40</sup> R.C. 703.36.

<sup>41</sup> R.C. 703.38.



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## HISTORY

Action	Date
Introduced	03-09-23

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