



*New York State Assembly, Sheldon Silver, Speaker
Legislative Commission on State-Local Relations
Assemblymember Tim Gordon, Chair*

Transfer of Functions of Local Governments

Constitutional & Statutory Authority

Towns, Villages, Fire Districts, Special Improvement Districts or other Improvement Districts, Library Districts and other districts created by law except School Districts, City Districts and County Districts

Upon consolidation pursuant to article 17-A General Municipal Law, all rights, privileges and franchises of each component local government entity and all assets belonging to each component local government entity shall be transferred and vested in the consolidated local government entity. [General Municipal Law § 765(2)]

Counties - Alternative forms of county government may transfer functions of the county or of the cities, towns, villages, districts or other units of government wholly contained in the county to each other or, when authorized by the legislature, to the state, or may abolish one or more offices, departments, agencies or units of government upon voter approval in a referendum. [Constitution article IX, § 1(h)(1).]

The board of supervisors may, by local law subject to voter approval in a referendum, transfer functions of the county or of the cities, towns, villages, districts or other units of government in the county to each other or for the abolition of one or more units of government including offices, departments or agencies thereof, when the level and quality of ongoing services of all their functions or duties are transferred. [Municipal Home Rule Law § 33-a]

Cities – Transfer of functions from cities under alternative county government requires majority approval in the cities and in the county outside the cities. [Constitution article IX, § 1(h)(1) and (2)]

Towns – Transfer of functions from towns requires majority approval. [Constitution article IX, § 1(h)(1) and (2)]

Villages – Transfer from village under alternative county government requires majority approval. [Constitution article IX, § 1(d) and (h)1]

Opinions of the Comptroller and Attorney General

Comptroller Opinion [2006-9](#): Town Law §198(12). The transfer of property and facilities of a town sewer district to a county on behalf of a county district pursuant to an agreement under which the county will assume the payment of debt service on obligations issued to finance the cost of the town district property and facilities, is subject to referendum.

Attorney General Informal Opinion 85-73. Municipal Home Rule Law § 23(2)(f). A local law transferring a power of an elective official is subject to mandatory referendum. This requirement, however, does not apply to the transfer by a local legislative body of a ministerial responsibility.