

A LOOKING BEYOND OUR PAST
SPECIAL REPORT



RECLAIMING HOPE
VOLUNTARY DISINCORPORATION
IN ALLEGHENY COUNTY

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COUNTY OF ALLEGHENY

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STATEMENT OF PURPOSE

*An evolving community needs government
to promote its progress
to strengthen the elements of life
that unite its citizens.*

*It is the purpose of this report to examine
county government's role in affecting the quality of life,
and if necessary, re-define that role by challenging
the current state of affairs with new ideas.*

*In so doing, we seek to have our community
benefit by taking advantage
of the changing nature of opportunity.*

-- This Statement of Purpose first appeared on June 12, 1990 in the special report "Looking Beyond Our Past." Each Subsequent special report is an attempt to fulfill another aspect of these goals.

FOREWORD

In a series about how our region would face the decade of the 1990, Pulitzer Prize winning news reporter Mary Pat Flaherty, wrote: "The old ways carried us through. But can they carry us forward? It's time not only to re-evaluate how we traditionally solve community problems but also how we define them."

She went on to say that simply surviving change won't be enough in the future, that change must be mastered. "If we're to preserve what is best about our past and shape new institutions to deal with the challenges on the horizon we must improve the quality of our thinking, individually and collectively."

We are constantly hearing about the quality of thinking that goes on in places like Indianapolis and Baltimore, about how progressive those areas are at solving old problems with new ideas.

One problem facing our region is the need for new ideas to help municipalities stay financially healthy and deliver quality services. That need has never been more urgent than it is today in Allegheny County. It is demonstrated by a few recent examples.

*"To keep pace with our changing world and our changing neighborhoods will require new ideas, new commitments and new strengths." --
Pittsburgh Press, May 5, 1990.*

The City of Clairton, one of the first municipalities to be declared distressed by the state, has severely limited options for the future. In Clairton's financial recovery plan, the Pennsylvania Economy League expressed "serious questions" about its "long-term viability." The recovery plan goes on to state that some problems can be averted "by the consolidation of Clairton with one or more other governments. However, merger or structural consolidation under existing state law is improbable..."

Wall Borough officials, looking for a way to protect their citizens and save tax dollars, entered into a contract with neighboring Wilmerding Borough to provide night-time police protection. As soon as Wilmerding's one police officer started joint patrols, burglaries increased in Wilmerding.

Officials in Leetsdale Borough expressed interest in merging their municipality with neighboring Leet Township. (Leetsdale was once a part of Leet.) The effort ended quickly when

Leet officials declined to participate in preliminary discussions. Leetsdale was hoping the municipal merger could save money and relieve its budgetary problems.

A financial recovery plan proposed for East Pittsburgh calls for tax increases on residents and businesses. Balancing East Pittsburgh's budget through tax increases and, in some instances, service cuts aggravates the very problem it is trying to solve by making it a less attractive place to live and locate a business. Other municipalities, especially those that are financially distressed, have also tried this same remedy -- tax increases and service cuts.

Other examples of the need to improve the delivery of services and the need to solve the fiscal problems bedeviling municipalities exist throughout Allegheny County. There also exist many ideas and many differences of opinion on what ideas work best: The Municipalities Financial Recovery Act (Act 47). State aid. Economic development. Functional consolidation. Annexation. Mergers. Contract services. All of these ideas have supporters and each has its own merits. But municipal planners and borough officials working in the county's seven financially distressed municipalities readily acknowledge that with the methods currently available they do not know when, if ever, their respective municipalities will be financially viable.

The problems in Wall, Leetsdale, Clairton, and East Pittsburgh illustrate the need for new ideas about how Allegheny County government can help its municipalities. Citizens are ready for bold actions. Seventy-six percent of Allegheny County residents do not care who provides their local public services if they are of the highest quality and provided at the lowest price, according to a poll conducted by the University of Pittsburgh for *Allegheny County 2001*, an exhaustive county planning document. Of those polled, 61 percent also said they would support municipal mergers if current public services continue without increased costs.

"The large number of municipalities is a problem because many of these communities are too poor and too small to maintain an adequate level of services. Even those communities who are not financially strapped find it difficult to pull together for larger objectives, say economic development." -- Edward S. Kiely, former executive director of the Pennsylvania Economy League.

This report proposes one such new idea. Specifically, it addresses how Allegheny County can contribute to the welfare of municipalities that are: (1) Too small to provide adequate services; (2) On the margins of economic viability; (3) Have been declared distressed; or (4) Simply want to merge with a neighbor to provide better services for their residents.

This new idea is called *Voluntary Disincorporation*.

Voluntary disincorporation takes advantage of Allegheny County's ability to play a leadership role in improving the quality of municipal services. It can be used by the county to reconfigure the delivery of public services to municipalities that are financially distressed and on the margins of economic viability. This will help improve the quality of life in these communities and in the communities that surround them.

Since 1970, over 250 municipalities throughout the United States have disincorporated, according to the U.S. Census Bureau. Citizens in these municipalities voted to dissolve their ineffective local governments in return for better services provided by county government or another form of government. During the latest four years for which statistics are available, 34 municipalities in 13 states have disincorporated. This type of municipal realignment is not unusual; it's an identifiable occurrence.

A common thread runs through the instances of disincorporation examined in this report -- citizen demand for effective and efficient public services. When local government is unable to provide services due to economic pressure coupled with ineffective government, citizens turn to the county for assistance. In return, county government is able to supply improved services to the unincorporated area. County government is also better equipped to reorganize the territory with another local government. Disincorporation has worked across the country and, if given a chance, can work to solve one of Allegheny County's most intractable problems.

Voluntary disincorporation means giving municipal residents the power, if they wish to use it, to dissolve ineffective municipal governments which would then become unincorporated territory within the county with municipal services temporarily administered by Allegheny County.



Frank J. Lucchino
Allegheny County Controller
January 23, 1994

[A] INTRODUCTORY SECTION

[1] STATEMENT OF PURPOSE

[2] FOREWORD

[3] INTRODUCTION

INTRODUCTION

The Difference is Pennsylvania

In St. Louis County, Missouri, a region similar in many ways to Allegheny County, three municipalities have disincorporated since 1980 using Missouri's disincorporation law. This law enables voters to dissolve their municipalities to improve the delivery of local services and to respond to changing economic situations. Missouri is not alone. Thirty-one states have disincorporation laws which, since 1970, have allowed more than 250 municipalities to disincorporate, according to the U.S. Census Bureau.

Unlike Missouri and other states where disincorporation laws exist and unincorporated territory is common, Pennsylvania has no such law and has no unincorporated land. Every square mile of Pennsylvania is incorporated under a local municipal charter. It is important to note that in states with disincorporation laws, county government provides public services like policing and road maintenance to unincorporated areas.

The 1968 Constitution of Pennsylvania specifically allows the General Assembly to create disincorporation laws. This was in recognition of the necessity of allowing for the natural process of governmental change. It specifically allowed for the creation and dissolution of any local governments through voter initiative and referendum. The General Assembly has the power to enact any laws establishing and dissolving governments (Art.9, Sec.8); but the Pennsylvania Legislature has not translated this constitutional provision into law. Consequently, Pennsylvania has no legal means of disincorporation.

"All power is inherent in the people, and all free governments are founded on their authority and instituted for their peace, safety and happiness. For the advancement of these ends they have at all times an inalienable and indefeasible right to alter, reform or abolish their government in such manner as they may think proper." Pennsylvania Constitution's Declaration of Rights, Article 1, Sec. 2

The most obvious disadvantage to not having a disincorporation law is evident in municipal governments that continue to exist even after they have been depopulated. Cold

Springs Borough, Lebanon County, which had a population of 117 as recently as 1970, now has a population of just three, according to the 1990 census. That is a 98 percent decline in population. Cold Springs was a mining town that began its decline in the 1930s when the mine closed. The municipality has not collected taxes or conducted elections for about a decade.

The municipality of Centralia, Columbia County, has been depopulated by an underground mine fire. Its population dropped from 2,449 in 1940 to 63 in 1990, a 97 percent decrease. The state is currently buying property throughout Centralia to persuade people to leave the municipality for safety reasons. Still, these two municipalities remain incorporated governments because there is no way to disincorporate them under current laws. (See Exhibit 3, pp. 32-33 for the population of mini-municipalities in Pennsylvania.)

Maintaining the Status Quo

Since 1945, the boundaries of local governments in Allegheny County have been static. This does not represent the real ebb and flow of economic and social circumstances. For its first 150 years, municipalities in Allegheny County were quite fluid. From 1870 to 1920, while Allegheny County was emerging as the steel manufacturing capital of the world, 69 new local governments were incorporated. This proliferation of local governments was understandable, even desirable, given the rapidly changing economic and demographic realities.

But during the past 50 years, only one local government change occurred in Allegheny County -- the 1978 incorporation of Pennsbury Village, which currently has only 769 people. Obviously, this singular change does not represent the massive social, economic, and demographic changes that have effected the county since 1950. This lack of change underscores the need for incorporation and disincorporation options. For example, in 1950, 66 percent of Allegheny County's population lived in the City of Pittsburgh and the river industrial towns (i.e. Homestead, Braddock, McKees Rocks etc.). Today, only 40 percent do. From 1940 to 1990 Allegheny County lost 75,000 people or 5 percent of its total population. Twenty-seven municipalities have lost more than 40 percent of their citizens. It is understandable that new municipalities are created to better serve people's needs when populations rapidly grow. It should therefore follow that when there are dramatic demographic decreases, municipal boundaries should be altered to accommodate these changes.

Following is a table of the top 10 Allegheny County municipalities that have lost population since 1940.

Allegheny County Municipalities with the Largest Population Loss

	1940 POPULATION	1990 POPULATION	% POPULATION LOSS
Glenfield Borough	911	201	78%
Homestead Borough	19,041	4,179	78%
Braddock Borough	18,326	4,682	74%
West Elizabeth Borough	1,297	634	51%
Rankin Borough	7,470	2,503	66%
East Pittsburgh Borough	6,079	2,160	64%
Wilmerding Borough	5,662	2,222	61%
Duquesne City	20,693	8,525	59%
Wall Borough	2,098	853	59%
East Deer Township	3,516	1,558	56%

Source: U.S. Census

*For a more complete list see Exhibit #7, page 39

The County's Emerging Leadership Role

As recently as last year, the General Assembly amended the Borough Code (Act 181) to recognize the increasingly important role county government should play in the creation of municipalities. The code now allows county planning departments to submit to the Court of Common Pleas an opinion on plans to create new municipalities. The court can use an unfavorable opinion by the county to deny a petition to create a municipality. The new amendment recognizes the county's emerging leadership role in the changing of local governmental structures.

"The complicated web of little governments snares tax dollars like a spider traps insects. Residents must demand an end to the steady feeding and push for cost-saving changes ..." The North Hills News Record, May 9, 1993.

Waiting Too Long

The large number of municipalities in Allegheny County means the delivery of services is highly fragmented. This creates problems like duplication of services and underscores the need for more creative approaches to help these municipalities deliver services economically. Allegheny County has 42 municipalities with less than 2,500 people. It even has five municipalities with populations of less than 500. [See Exhibit 2, p. 31 for a complete list of municipalities with populations under 5,000.] The

Allegheny Conference on Community Development, in its November, 1994 report "Working Together to Compete Globally," commented negatively on this multiplicity of municipalities. "Fragmentation in the delivery of public services hinders delivery necessary for business growth in both older industrial areas and in newer suburban districts." The fragmentation of local government is hurting the county's economic progress, the report states.

Further complicating the situation are municipalities, like Leetsdale, which may want to voluntarily merge with a neighbor, but cannot find a willing partner. These municipalities are not in a fiscal crisis. Their leaders may be either prescient enough to recognize trends that portend future economic troubles or simply feel they can deliver better services by taking advantage of the economies of scale. It is in these municipalities that voluntary disincorporation can have its greatest impact -- preventing the slide of marginally viable municipalities into distressed status by facilitating voluntary municipal consolidation for the purposes of improved services.

It is difficult for municipalities to voluntarily consolidate. This task is made even harder when one of the municipalities has been able to stave off financial troubles for a number of years by reducing services. Budget cutbacks in municipalities already suffering from financial strain lead to deteriorated roads, an increase in crime, and lower property values. These manifestations of decline make the municipality more difficult to revive economically and a less attractive partner for voluntary merger.

"But the notion that small ex-steel towns -- with declining populations and shrinking tax bases -- can make it the way they did 50 years ago is sheer nostalgia." The Pittsburgh Post-Gazette, April 15, 1991.

Voluntary municipal partnerships become even more difficult after a municipality has been declared distressed. By then the effects of economic decline are well established. For obvious reasons, economically distressed municipalities are not communities with which voluntary merger is easy. The Pennsylvania Economy League in its financial recovery plan for the distressed municipality of Duquesne describes this problem. "Most other governmental bodies will work cooperatively with Duquesne, or any distressed municipality, only when it is to their fiscal advantage. That is the nature of the system. However it is unlikely to occur, as a distressed municipality lacks the resources to make the arrangement fiscally advantageous to that body."

Allegheny County has seven municipalities that have been declared distressed under the Municipalities Financial Recovery Act, better known as Act 47: the boroughs of Wilkinsburg, Braddock, East Pittsburgh, Homestead, and Rankin, and the cities of Duquesne and Clairton. [See Exhibit 1, p. 30 for definition of a distressed municipality.] Thirteen other municipalities are

on the Pennsylvania Department of Community Affairs' (DCA) "at-risk list." At-risk municipalities are ones that exhibit signs of economic distress for several years and could easily become distressed. DCA has declined a request by the Controller's Office to identify these municipalities.

The Rich Get Richer

The Pennsylvania Economy League also evaluates the fiscal status of Allegheny County's municipalities. The 128 municipalities located completely within Allegheny County's boundaries are ranked from least stressed to most stressed using a formula that includes the market value of the real estate taxes and the per capita tax revenue yields. [For a complete list of most stressed municipalities see Exhibit 4, p. 34.] Six of the top 11 most stressed communities have officially been declared distressed by the state. The difference in tax yields between the most stressed and the least stressed is huge and will continue to grow even more disparate. In 1981, Braddock's tax yield generated \$245 per person, while Sewickley Heights' generated \$1,393. In 1991, Braddock generated \$320 per person, while Sewickley Heights generated \$3,458 per person. Braddock's per capita tax yield increased only 30 percent during the 10-year period, while Sewickley Heights' tax yield increased 150 percent. The ability to deliver services is directly related to the ability to generate revenue.

Another example of a local government's decreasing ability to generate revenue can be found in the 24 percent decline in the total assessed value of real estate in the Borough of Rankin, from \$5.2 million in 1985 to \$4 million in 1995. The declining real estate valuation is due to the large number of commercial property assessment appeals filed and won each year by the owners. Rankin's DCA recovery coordinator called this situation "a planned and methodical strategy ... to devalue the property as much as possible so that they (the business owners) end up paying as little real estate taxes as possible." The coordinator went on to say that this "... perpetuates the acute and heightened fiscal crisis in the borough."

**10 MOST STRESSED MUNICIPALITIES
in ALLEGHENY COUNTY in 1981 & 1991**

Municipality	Stress Ranking 1991	Stress Ranking 1981	Per Capita Tax Yield in 1991
Braddock	1	1	\$319.73
Rankin	2	3	329.62
Homestead	3	49	422.22
Clairton	4	22	438.13
North Braddock	5	2	360.65
Duquesne	6	20	421.42
McKeesport	7	12	472.96
Glassport	8	10	403.59
Turtle Creek	9	17	428.83
Tarentum	10	4	471.74

Source: Pennsylvania Economy League

None of the county's designated distressed municipalities has resolved its fiscal problems and become financially viable. That is because both the reason for their distressed status, a shrinking tax base due to economic decline, and the cure, economic revitalization, are beyond their ability to control.

The Road to Viability

If a municipality's ability to sustain an adequate level of services is weakened by economic decline beyond its control -- steel mills closing in the Mon Valley, Westinghouse moving out of East Pittsburgh, etc. -- it stands to reason that its ability to restore services is also beyond its control. Only by state and county officials working together with local officials can these municipalities hope to become viable places to live and work again.

Municipalities searching for ways to deliver services more efficiently or those trying to overcome distressed status don't necessarily have to retain their current incorporated status, that is, remain the same municipalities. Removing the restraint of a municipality's incorporated status adds possible solutions that did not previously exist.

Voluntary disincorporation gives citizens a new choice. They can disband ineffective municipal governments that no longer serve their needs for a new future with the possibility of becoming healthier and more economically diverse. If citizens choose to exercise this new right, the county can provide the leadership necessary to make a smooth transition.

[B] DISINCORPORATION

[1] DISINCORPORATION ACROSS THE COUNTRY

[2] PROTECTING THE PUBLIC WELFARE

DISINCORPORATION ACROSS THE COUNTRY

Since 1970 over 250 municipalities have disincorporated, according to the latest figures of the U.S. Census Bureau. The people in these municipalities have voted to dissolve their ineffective local government in return for better services provided by county government or another form of government. During the latest four years for which statistics are available, 34 municipalities in 13 states have disincorporated. This indicates that this type of municipal realignment is not unusual and is a regular, identifiable occurrence, recorded by the Census Bureau.

Disincorporated Municipalities

Ward Ridge	FL	1987	Woodside	SC	1988
Plain View	IA	1987	Annin	SD	1986
Lynhurst	IN	1986	Black Dog	SD	1989
North Grove	IN	1987	DeGrey	SD	1987
Ravenswood	IN	1989	Dryden	SD	1989
Allensville	KY	1987	Fairview	SD	1986
Caseyville	KY	1987	Grouse Creek	SD	1986
Yorktown	KY	1986	Harrold	SD	1987
Benedicta	ME	1987	Highland	SD	1987
Hurricane Deck	MO	1988	Independence	SD	1986
Berwick	ND	1988	McLaughlin	SD	1986
Patent Gate	ND	1986	Murdo	SD	1986
Ideal	ND	1989	Seim	SD	1988
Northfork	ND	1986	Spring Valley	SD	1986
Snake Creek	ND	1988	White River	SD	1988
Lake	NE	1989	Rickman	TN	1989
Darbydale	OH	1986			
Sandy Point	OK	1987			

The reason voters decide to dissolve their local governments is simple. They want improved services. The common thread is that citizens want quality municipal services provided through reasonable levels of taxation.

STATES WITH DISINCORPORATION LAWS

Alaska	Kentucky	North Dakota
Arizona	Louisiana	Ohio
Arkansas	Maine	Oklahoma
Alabama	Michigan	Oregon
California	Mississippi	South Carolina
Florida	Missouri	South Dakota
Georgia	Montana	Tennessee
Idaho	Nebraska	Utah
Illinois	Nevada	Washington
Indiana	New Mexico	West Virginia
Iowa		

For a summary of all statutes, see Profiles of Disincorporation Statutes, pp. 45-60.

Following are four case studies of municipalities whose residents voted in favor of disincorporation and one case that is currently under consideration. Four of the cases are in urbanized areas that are similar to Allegheny County; only the fifth one, Cabazon, is in a rural area.

Government: Valley View, Illinois

Population Before Disincorporation: 2,112

Date of Disincorporation: 6/3/80

Reason: Budget deficits prevented delivery of services.

Current Status: Unincorporated area of Kane County, services much improved.

Kane County's Department of Development provided information regarding the disincorporation of Valley View. This is an example of fiscal pressure fueling disincorporation. Valley View was once a prosperous vacation community in Kane County, but its economy and

character began to change following World War II. Valley View's tax base eroded when developers started to buy the big, old, summer homes and subdivide them into apartments and rooming houses. As this trend continued, the allure of Valley View as a summer retreat faded, allowing more developers to buy more homes and subdivide them into apartments. The landlords began to let the buildings deteriorate, which decreased their value and, in turn, eroded the municipality's tax base even more.

Over time, Valley View gradually reached the point where it could no longer balance its budget or provide basic municipal services. The municipality disincorporated in 1980 and transferred its municipal property to Kane County. Services that were seriously curtailed before disincorporation are now provided by the county. These include police protection, planning and zoning, development, parks, public housing, and public health.

As incorporated territory, Valley View was originally slated to receive a \$500,000 grant from the U.S. Department of Housing and Urban Development. However, after it disincorporated, the county received the grant. This money was used to improve housing conditions, enforce building codes and public health laws, and to offer home improvement loans. The county used it to raze dilapidated buildings and restore property confiscated for delinquent taxes, pave streets, and maintain an improved sewage system.

Government: City of Kinloch, Missouri

Population Before Disincorporation: 2,962

Date of Disincorporation: Under consideration

Reason: Lost 40% of population, tax base eroded, municipal corruption.

Current Status: Considering disincorporating and becoming part of St. Louis County.

The City of Kinloch is another example of what can happen when a municipal government disintegrates politically and demographically due to the pressures of economic hard times. Kinloch, Missouri, in St. Louis County, is currently unable to provide its citizens with effective public services. According to figures from the St. Louis County Planning Department, Kinloch has the lowest per capita income of any municipality in St. Louis County. Between 1980 and 1990 it lost 40 percent of its population. Its previous mayor was convicted of robbery; the police department was disbanded after a newspaper investigation revealed that the organization had

protected drug dealers. St. Louis County provided police protection during the interim, until the police department could be reconstituted.

With the city in political and economic disarray, St. Louis County is using its resources to create an effective government. One portion of the city is considering consolidation with the more prosperous town of Berkeley. The remaining section of Kinloch is considering disincorporating. The move to disincorporate is currently on hold until the county's revenue sharing has been fully phased in. Also moving the city along the path to disincorporation is the Lindbergh-Lambert Field Airport Authority's strategy of buying homes for noise abatement and effectively depopulating a large section of Kinloch. When the second portion of Kinloch does disincorporate, St. Louis County will be responsible for providing local public services.

In an editorial praising the county's involvement in saving Kinloch and squarely in favor of disincorporation, the St. Louis Post-Dispatch stated "... disincorporation would be the best outcome for the residents of Kinloch." The editorial went on to say: "Kinloch is a city that's half vacant, troubled by crime and drugs, and without a viable tax base. 'It's never going to get any better,' as one resident said. So why let it linger on in its comatose condition?"

Previous Local Governments: Rivermine, Ester, Elvins, and Flat Rivers MO

Population: 9,500 (Total Park Hills - 1990)

Date of Formation: 1993

Reason: All new government, capable of delivering a variety of services.

Current Status: Park Hills, St. Francois County, MO

St. Louis County is not the only county in Missouri to benefit from that state's flexible disincorporation laws. Sometimes disincorporation laws can be used to foster voluntary consolidation, as in the case of Park Hills, St. Francois County. Park Hills was created in response to the economic collapse of the lead industry -- the area's largest economic generator. When the lead industry died, it left a number of municipalities in St. Francois County with a decimated tax base that forced reductions in public services. With ever-increasing budget shortfalls, the municipalities began to explore alternative ways to maintain services. Against the lobbying of their local mayors and town councils, four contiguous towns agreed to disincorporate and create a new municipality. The four towns that voted 3-to-1 to become Park Hills were Rivermine, Ester, Elvins, and Flat Rivers.

Park Hills now has a more diversified tax base capable of providing an adequate level of services. Filling potholes, having 24-hour police patrols, a full-time parks director, and building a little league field, proved to be more important to Park Hills' citizens than maintaining separate municipal councils.

Joe Layden, editor of the Flat River Daily Journal, said these struggling towns were hoping for a change in their economic well-being. "The light at the end of the tunnel turned out to be a locomotive," he said. "These towns have a proud past but it's the past."

County Leadership

The next two examples illustrate county leadership. These two municipalities were in political and economic trouble and their respective counties came to their rescue.

Government: Darbydale, Ohio

Population Before Disincorporation: 825

Date of Disincorporation: 1986

Reason: Tax base eroded, political instability.

Current Status: Unincorporated area of Franklin County, Ohio with county providing municipal services.

The Village of Darbydale had historically been an incorporated fishing resort on the Big Darby Creek, according to the Mid-Ohio Regional Planning Commission. As metropolitan Columbus expanded in the 1960s, Darbydale lost its resort town character and instead became part of the expanding metropolitan area. By the late 1970s, real estate speculators had moved in to take advantage of lax zoning regulations that allowed for unrestricted subdivisions of single-family homes and lots. As the nature of Darbydale changed from a seasonal resort to a year-round commuter municipality, the capacity of its roads and sewers were strained. As the strain intensified, the village council and mayor had numerous political battles that produced local government gridlock.

By the mid 1980s, it became clear that Darbydale could no longer provide local government services, including police protection. The voters resolved this problem by disincorporating. Franklin County provides most of the public services to Darbydale as

unincorporated territory. The sheriff's office started police patrols at a reduced cost to the former municipality's residents. The county housing authority obtained special grants to clean up Darbydale's worst housing problems. Pleasant Township and the county used state grants to repair and expand the road system. (Under Ohio law townships are minor civil divisions of counties that work exclusively on local road maintenance.)

Government: Cabazon, California

Population before Disincorporation: 613

Date of Disincorporation: 1972

Reason: Tax base never established, unable to pay for municipal services.

Current Status: Unincorporated area of Riverside County with county providing municipal services.

Cabazon was a community consisting of trailer parks and a few housing developments that incorporated in the 1950s with the hopes of reaping a tax bonanza from legalized gambling, according to the Riverside Local Agency Formation Commission. Gambling proved less profitable than expected. It was unable to provide the revenue needed to cover the added expenses resulting from the need for increased public services. Cabazon's zoning regulations were weak and subdivisions were sold without any concern for the infrastructure; for example, housing developments were built on dirt streets without sewer lines. As services deteriorated and tax revenue never appeared, the political atmosphere in Cabazon became extremely contentious. During the town's last two years of existence, officials were constantly being recalled from office by the voters. Six people served as mayor and 15 different people served on the five-person council in that two-year span. The police chief was under suspension. The local volunteer fire department was replaced by the county fire department because its equipment was unusable.

Before the town suffered a complete systemic breakdown of public services, Cabazon disincorporated in 1972. The county stepped in to provide municipal services including planning and zoning, police and fire protection, highway maintenance, and public housing.

In Summary

Cabazon, Darbydale, Park Hills, Kinlock and Valley View all reveal a common thread running through the circumstances leading to disincorporation -- citizen demand for effective and

PROTECTING THE PUBLIC WELFARE

There are two types of municipalities in Allegheny County that could benefit most from disincorporation: municipalities that have been declared distressed under the Municipalities Financial Recovery Act (Act 47) and those with small populations and stagnant tax bases. A fiscally distressed municipality can only balance its budget with state loans and special taxes. Allegheny County has seven distressed municipalities. Small municipalities have less than 2,500 people and provide, on their own, a very limited range of government services. Professors Robert Strauss of Carnegie Mellon University and Beverly Bunch of Syracuse University, experts on local government finance, define a very small municipality as having a population of less than 2,500. Allegheny County has 42 municipalities with less than 2,500 people, five of which have populations under 500.

Following is a list of the county's distressed municipalities and the dates they were declared distressed.

DATES OF DISTRESSED STATUS

Wilkesburg Borough	1/19/88
City of Clairton	1/19/88
Braddock Borough	6/15/88
Rankin Borough	1/9/89
City of Duquesne	6/20/91
East Pittsburgh Borough	11/13/92
Homestead Borough	3/22/93

In addition to the seven municipalities declared distressed, 13 others are on the Commonwealth's watch list for financial insolvency.

The goal of Act 47 is "to give a distressed municipality the technical and planning assistance necessary to aid the municipality in again becoming a viable community," according to the law's executive summary. Wilkesburg, Clairton and Braddock have been distressed for six

years, Rankin for five, and Duquesne for three -- none has yet emerged from distressed status.

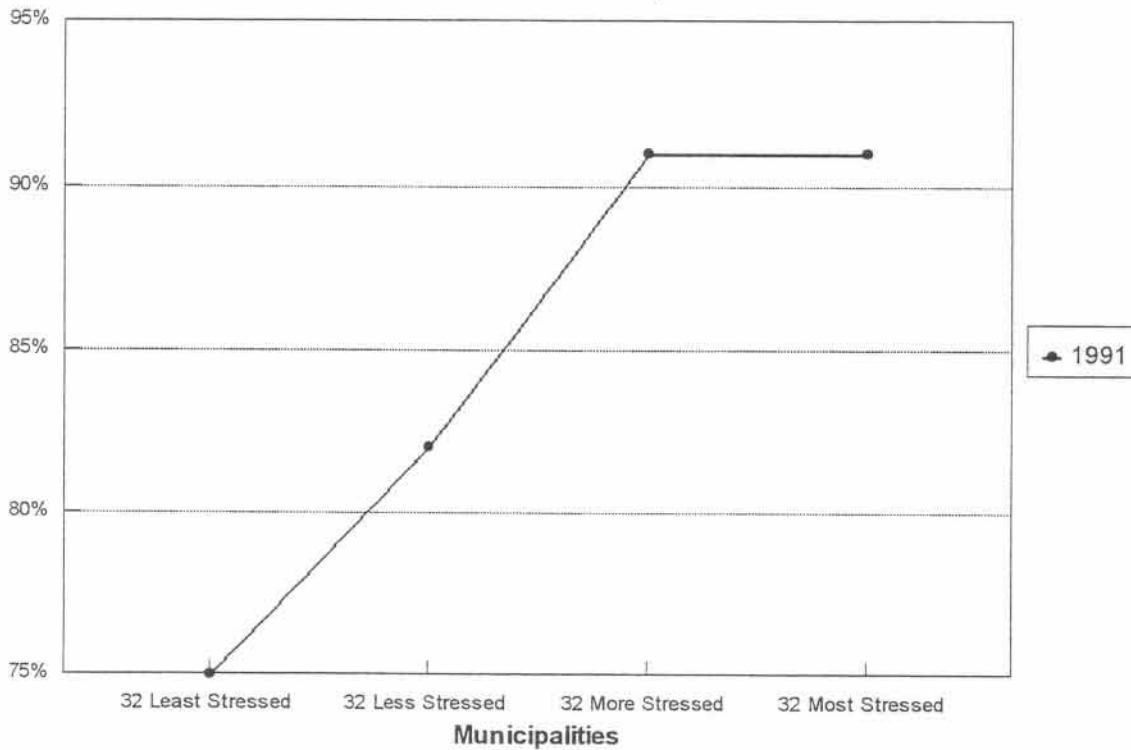
Act 47 has been able to stabilize municipal services during economically difficult times. For example, Braddock was able to increase its earned income tax (EIT) by .4 percent on both residents and non-residents who work in the borough under provisions in Act 47. The result was a \$128,000 increase in revenues per year over a five-year period, from 1989 to 1993, that was used to stabilize services. The "Catch 22" of Act 47 is that should Braddock emerge from distressed status, it would no longer be able to levy this additional percentage to the earned income tax. Without the additional revenue, services would again be destabilized. Braddock's distressed status has also entitled it to special state and federal grants totaling \$69,000. These grants were used to pay for beat police patrols and a professional borough manager for a portion of this five-year period. The additional revenue from the EIT combined with revenue from the two grants represented 15 percent of Braddock's total budget at one point in time. Braddock's budget, like those of other distressed municipalities, would not be balanced except for state grants and loans and court-approved tax increases.

"Braddock has not become recently distressed ... Easy or quick solutions are therefore neither appropriate nor likely to have any significant impact." Pennsylvania Economy League

Granting municipalities the power to raise revenues above the legal limit leads to an artificial stabilization of services with no fiscal recovery in sight. All seven distressed municipalities have increased taxes under Act 47, yet each remains distressed. The reason is that a financially distressed municipality's problems are broader based than just an insolvent local government. Its problems are due to national and global economic factors as well as social changes. The Pennsylvania Economy League, in its financial recovery plan for Braddock stated: "The systemic distress of the Borough of Braddock is the result of 40 years of macro-economic factors acting on the community. From this perspective, Braddock has not become recently distressed, rather has been distressed for an extended period. Easy or quick solutions are therefore neither appropriate nor likely to have any significant impact."

This problem is further complicated because the tax bases in these municipalities are not growing, but in fact are shrinking. This means that more and more tax dollars are being used for only the basic and most needed services. The following graph, derived from data on fiscal stress supplied by the Pennsylvania Economy League, shows that the group of most stressed municipalities uses 92 percent of its resources on police, public works and administration, while the least stressed municipalities use only 75 percent of their resources.

% of Resources Committed to Core Services*
Fiscal Distress in Municipalities



Source: Pennsylvania Economy League

* Core Services are defined as Municipal Expenditures for Police, General Administration and Public Works.

The loans, grants, and additional taxes provided by Act 47 remove the necessity to confront the reality that their municipalities are on the brink of financial collapse. The lack of discussion by the citizens about the actual state of their government endangers the public welfare by allowing for a dangerous decrease in the quantity and quality of public services.

The Remedy Creates New Problems

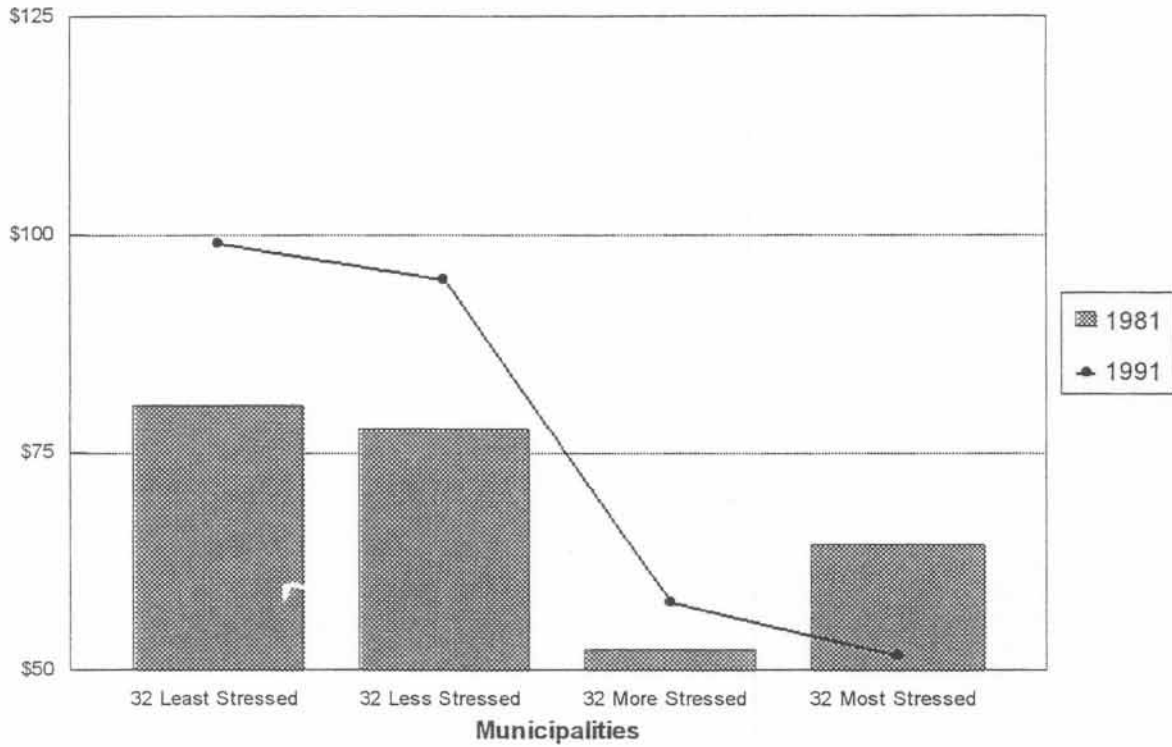
In East Pittsburgh, where Westinghouse Electric Corporation closed its plant in 1987, the plan presented by a state Department of Community Affairs' consultant exposes the difficulty facing distressed municipalities. The 1994 financial recovery plan increased the earned income tax from 1 to 1.6 percent for residents along with a 25 percent surcharge to sewage bills. Non-residents who work in the borough must now pay East Pittsburgh an additional .4 percent earned income tax. These tax and fee increases hurt everyone. The residents suffer because they are paying more for their services. Businesses and their workers are hurt because they are paying higher taxes than would be required in a non-distressed municipality. These increases also make it harder to encourage businesses to locate in East Pittsburgh, including its new industrial park, Keystone Commons.

Preventing Distressed Status

Voluntary disincorporation can also help a municipality that has not been declared distressed. Some of these municipalities may want to merge with other municipalities but cannot find a neighbor willing to consolidate. The elected officials in these municipalities either recognize that economic trouble is imminent or feel services can be improved by taking advantage of the economies of scale offered by merging with a neighbor. It is in these municipalities that voluntary disincorporation could have its greatest impact -- preventing a viable municipality from becoming distressed. Disincorporation can accomplish this by creating an environment where services are actually stabilized rather than declining. This can stave off the type of financial strain that leads to distressed status and a drop in the quality of life.

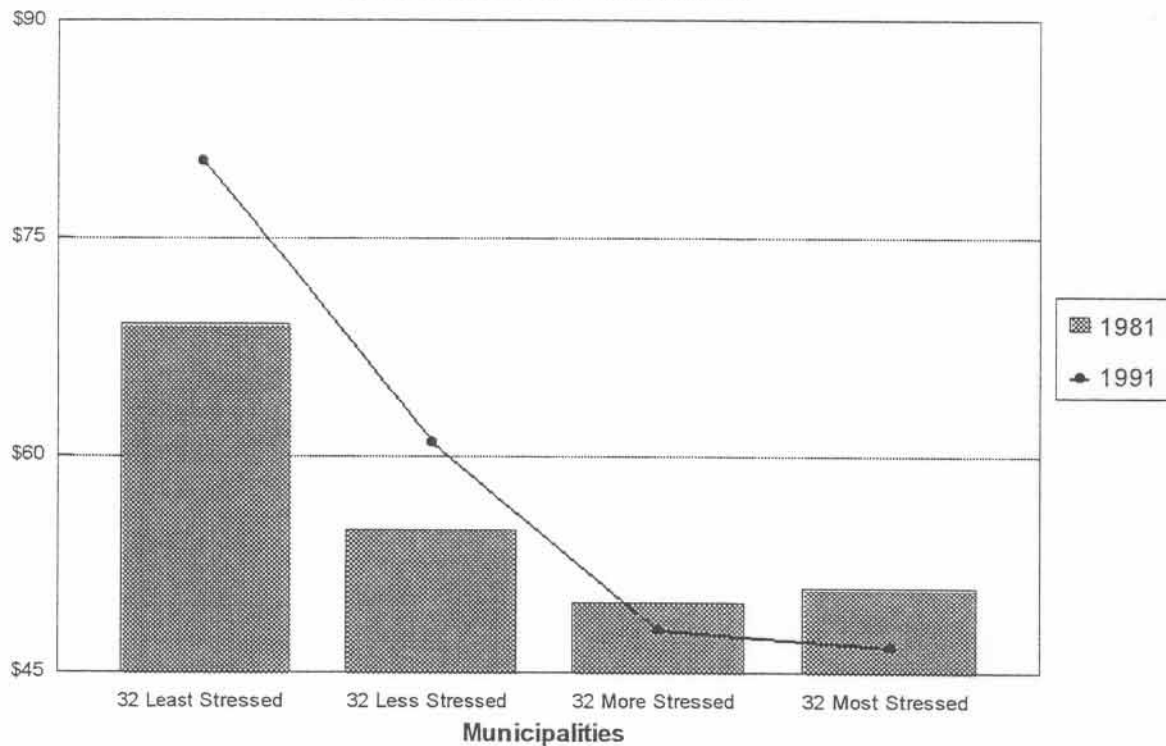
The limitations of a declining tax base reverberate through the most important municipal services offered by local governments. The Pennsylvania Economy League's study on fiscal status mentioned earlier, reveals the financial strain on all stressed municipalities, not just the governments declared distressed under the commonwealth's definitions. The following two graphs illustrate the differences between the most fiscally stressed municipalities and the least fiscally stressed. In the all-important categories of police services and public works, the most affluent local governments almost double the per capita expenditures of the most fiscally stressed governments. This tremendous differential is even more significant because the most stressed have even greater needs than the least stressed in the crucial areas of public safety and infrastructure.

Per Capita Police Expenditures Fiscal Distress in Municipalities



Source: Pennsylvania Economy League

Per Capita Public Works Expenditures Fiscal Distress in Municipalities



Source: Pennsylvania Economy League

More troubling still, these graphs show that the gap between rich and poor municipalities is widening. Rich municipalities are getting richer, poor ones are getting poorer, with the wealthy governments being able to afford more services and poorest governments inevitably able to afford less. The numbers in the graph are shocking. Police expenditures, one of the most important public services, are, in constant dollars, actually decreasing in the most stressed municipalities. From 1981 to 1991, the per capita expenditures have decreased by 20 percent -- from \$64.52 to \$52.73. This has not been the case with our least stressed or richest municipalities. They have increased their expenditures by 23 percent from \$80.50 to \$99.10.

In other critical areas the change has been much the same during the last 10 years. Public works expenditures in the most stressed municipalities have not been maintained; they have dropped from \$50.88 in 1981 to \$46.86 in 1991. This decrease in funding is occurring in older municipalities with aging infrastructures that require a great deal of maintenance. The wealthiest municipalities have been able to increase spending on infrastructure from \$68.99 in 1981 to \$80.29 in 1991.

In terms of general government services, which represents the core municipal administrative services, the results read much the same. Expenditures in the least stressed municipalities have almost doubled between 1981 and 1991-- \$40.61 to \$80.29. The most stressed municipalities, once again, have not been able to hold their own, dropping from \$38.93 in 1981 to \$37.04 in 1991. In essence, the Economy League's analysis proves that a number of municipalities in Allegheny County are having increasing difficulty providing governmental services to their citizens.

Going it Alone

Wall Borough is a good illustration of a small municipality with a stagnant tax base. From 1990 to 1994, Wall's total assessed real estate value has increased just 5 percent, compared to an increase of 18 percent for all of Allegheny County. The borough is less than 1/2 square mile with a population of 853, according to the 1990 U.S. census. Thirty-two percent of its citizens are 55 years of age or older. Eighteen percent of Wall's residents have a per capita income below the poverty level of \$6,970. It has only 3 employees, a part-time secretary, a one-man road crew, a full-time sewage bill collector, and a volunteer fire company. Policing is contracted out to Wilmerding; snow removal, garbage, and code enforcement are also contracted out.

*"What is next?
The key to that for us
is to accomplish the
impossible and stop
assessing the future
on the basis of what
has happened in the
past. — John G. Craig
Jr., editor, Pittsburgh
Post-Gazette, July 10,
1994.*

Wall officials have discussed consolidation with neighboring municipalities, but their suggestions have been rejected. Voluntary disincorporation would put the county in charge of mediating these consolidation discussions. For example, when the unincorporated area known as Meacham Park, consolidated and merged with two neighboring municipalities, St. Louis County took a leadership role in expediting and encouraging the merger.

It did this by dividing Meacham Park into two different segments. The larger segment was merged with the City of Kirkwood and the smaller segment was merged with the City of Sunset Hills. St. Louis County promoted the plan by offering financial inducements to Kirkwood. It agreed to maintain Meacham Park's roads during a transition period and provided grant money to hire an extra police officer. The county also used community development funds to install a street lighting system. The county served as the key facilitator in promoting the merger of Meacham Park into neighboring municipalities.

Other small communities are finding themselves in similar situations to Wall -- with no way out. For instance, Leetsdale has publicly discussed merging with Leet Township to save money through more efficient delivery of services. They were rebuffed. Homestead Borough, before it was declared distressed, discussed merging with the City of Pittsburgh. The borough also held informal discussions with other neighboring municipalities. These too were unsuccessful. Other municipalities that have stagnant tax bases might find themselves in situations similar to Wall, Leetsdale and Homestead.

A disincorporation law can be used to help keep small municipalities with stagnant tax bases from becoming distressed. It can also give distressed municipalities another option to improve public services. It will enable both stagnant and distressed municipalities to devise mutually advantageous cooperative arrangements with other local governments. Mergers cannot take place until they can be beneficial to both parties. Unincorporated areas, rather than fiscally stressed municipalities, will be better able to offer something to other local governments.

"If the Berlin Wall can be torn down, and two separate countries and economies merged, why can't the divisiveness in Allegheny County be overcome." -- Frank Lucchino, Allegheny County Controller, February 8, 1991.

[C] PROPOSAL SECTION

[1] CREATING VIABLE COMMUNITIES:

A PROPOSAL FOR VOLUNTARY DISINCORPORATION

[2] CONCLUSION

***CREATING VIABLE COMMUNITIES:
A PROPOSAL FOR VOLUNTARY
DISINCORPORATION***

The citizens and elected officials of Allegheny County should be governed by a law that allows for the voluntary disincorporation of municipalities. Such a law would allow Allegheny County to provide local services until other alternatives are available. This proposal introduces that law.

This proposal seeks to solve one of the region's most difficult conundrums -- how to ensure that every citizen receives an effective and efficient level of municipal services. It is based on both a study of municipalities that have disincorporated and a review of the statutes of states that have disincorporation laws.

Specifically, this proposal for voluntary disincorporation contains: 1) A procedure that municipalities can follow to voluntarily disincorporate; 2) A mechanism for county government to wind down the old municipalities' affairs and administer unincorporated areas and; 3) A provision for the municipal reorganization of unincorporated territory.

PART I

For a disincorporation referendum to appear on a general election ballot, 20 percent of the registered voters who live in the municipality would have to sign a petition. The county election board would validate the petitions and then the referendum would be placed on the ballot in that municipality.

A disincorporation proposal could also be placed on the ballot by the governing body passing a resolution.

A third and alternative means of initiating disincorporation can be accomplished by three-fourths of the registered voters of the municipality signing a petition to disincorporate. The Court of Common Pleas could then dissolve the municipality without a referendum. Disincorporation by petition already exists in Missouri and Arizona where a valid petition, signed by a super majority of the voters, can automatically disincorporate a government.

PART II

Winding Down Affairs

If disincorporation has been voluntarily secured, the municipality would become unincorporated land, governed by the county within six months. All assets of the former municipality would become property of the county at that time.

During the six-month transition period, the county commissioners would appoint an administrator(s) to wind down the municipality's affairs. The administrator would formulate a plan to transfer the municipality's business affairs to the county. This plan would include a schedule regarding the employment of non-elected employees; the safekeeping of records and deeds; the transfer of financial accounts to a special county account; payment of outstanding debts and obligations; and disposition of contracts previously entered into by the disincorporated municipality.

The administrator would meet with the governing body of the disincorporated municipality, obtain a report on the municipality's financial status, and establish a special fund for settling the municipality's affairs. The administrator must determine from the financial reports if there are sufficient funds to pay for the municipality's indebtedness. It is important to note that the disincorporated municipality's debts would still be the responsibility of the citizens of the disincorporated municipality. This follows Pennsylvania law and Chapter 9 of the federal bankruptcy code. Should there be insufficient money in the treasury to pay for this indebtedness, the administrator must recommend to the board of commissioners the tax rate to be levied against the real property of the disincorporated municipality to satisfy its debts. This follows the procedure for disincorporation around the nation.

The person(s) appointed by the commissioners would specifically oversee the transfer of property from municipal ownership to ownership by the county and ensure that pension and other obligations are met.

PART III

Administering the Territory

The county, through the board of commissioners, would represent the unincorporated area's interests. To accomplish this, the commissioners may either appoint the administrator(s) who concluded the municipality's affairs or they may appoint a different person(s). This

administrator will coordinate the provision of all municipal services by using either county departments and facilities, or where appropriate, contracting out with other available organizations and municipalities.

For example, the county maintenance department could repair roads and bridges and clear snow, or a contract could be negotiated with a Council of Government's public works department, if such a department exists that covers this area. The county police could provide or supplement law enforcement activities or the administrator could negotiate a contract with a neighboring police department. The administrator could also negotiate contracts for garbage collection, emergency medical services, and fire protection with the appropriate suppliers, companies and non-profit organizations. The county parks department could administer the municipality's parks and recreational programs. The departments of health and planning could share responsibilities for the inspection of buildings and the issuance of building permits. [For a list of other services the county could perform see Exhibit 5, p. 35.]

After disincorporation, the former municipality's local ordinances and planning and zoning laws would remain in effect. The commissioners would have the right to amend any laws and ordinances or enact new laws and ordinances. Differences in ordinances and zoning regulations would exist from one unincorporated territory to another in the same way ordinances and regulations differ from municipality to municipality. This situation would remain in effect until the county developed a standard body of laws to govern unincorporated territory.

Allegheny County would have planning and zoning powers in unincorporated territories. This is consistent with Pennsylvania planning law where counties assume the planning and zoning powers whenever a municipality does not exercise its land use rights.

Residents of unincorporated territories would continue to pay for these local services through taxes. The county commissioners could levy taxes to cover the cost of county services. Any state aid or special taxes, including an earned income tax on non-residents, like the ones levied in distressed communities, would continue and be collected by the county. Also, revenue from the regional assets district would be received by the county and consideration could be given to increase the amount to a territory that decides to disincorporate.

"... Disincorporation would be the best outcome for the residents of Kinlock (because) Kinlock is a city that's half vacant, troubled by crime and drugs, and without a viable tax base." -- Editorial, St. Louis Post-Dispatch, August 31, 1990

Part IV

Municipal Reorganization

Another responsibility of the administrator would be to formulate a municipal reorganization plan. The goal of the plan would be to incorporate the territory in a way that allows for adequate public services to be delivered. With the approval of the territory's residents, this could be accomplished in two ways: (1) The unincorporated territory could be divided into segments, with each segment separately merged with a different, neighboring municipality; or (2) The entire unincorporated territory could be merged with another municipality. There is a possibility that municipal reorganization plans may not be able to accommodate all of the unincorporated territory immediately. This means pockets of unincorporated territory could exist for longer periods of time, although every effort would be made to avoid this possibility.

The administrator would draw up these reorganization plans with assistance from the county Planning Department. Each plan would be submitted to the board of commissioners for approval. Following the commissioners' approval, the issue would be put on the general election ballot to be accepted or rejected by majority vote in each of the individual municipalities involved in the reorganization. If voters in either the unincorporated territory or the municipality reject the reorganization plan, the administrator would be required to devise another plan.

In 1992, St. Louis County provided an excellent example of county leadership in the merging of unincorporated areas with their neighboring municipalities. The unincorporated area of Meacham Park merged with two adjoining municipalities, Kirkwood and Sunset Hills. To make these mergers more attractive, St. Louis County supplied financial inducements ranging from an extra police officer to a new street lighting system.

Productive mergers through disincorporation can provide effective and efficient services for the citizens in those municipalities that become unincorporated. A disincorporation law will help citizens evaluate the effectiveness of their municipalities by offering them the chance to vote on whether they should exist. It will give them the opportunity to examine their local government and come to a decision about whether it is performing at acceptable standards. Allegheny County would be a facilitator during a transitional phase by providing or arranging for local municipal services and helping to design an alternative municipal structure. In this proposal no disincorporation or reorganization could be achieved without the voters' approval. [For a model of a disincorporation statute for Pennsylvania see Proposed Legislation, pp. 39-44.]

REORGANIZATION IN PRACTICE

In 1992, St. Louis County used municipal reorganization plans to successfully merge unincorporated territory with neighboring municipalities. It divided an unincorporated territory known as Meacham Park into two segments. The larger segment was merged with the City of Kirkwood and the smaller segment was merged with the City of Sunset Hills.

St. Louis County helped implement the municipal reorganization plan by offering several financial inducements to Kirkwood. It agreed to maintain the unincorporated area's roads during a transitional period and provided grant money to hire an extra police officer. It also used community development funds to install a street lighting system.

St. Louis County helped improve services to the unincorporated territory by functioning as a facilitator between incorporated and unincorporated areas.

CONCLUSION

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness.--- That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed,---That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness.

Thomas Jefferson, "Declaration of Independence," 1776

Thomas Jefferson and America's Founding Fathers made it clear in 1776 that any government that cannot keep its commitment to protect the safety and happiness of its citizens should be changed or abolished. The Pennsylvania Constitution's Declaration of Rights states: "All power is inherent in the people, and all free governments are founded on their authority and instituted for their peace, safety and happiness. For the advancement of these ends they have at all times an inalienable and indefeasible *right to alter, reform or abolish their government* in such manner as they may think proper." (Article 1, Sec. 2) Both the nation and state's constitution make it clear that citizens have a right to change and reform their local government in whatever way they deem appropriate.

There is, however, an inherent contradiction between what Pennsylvania's Constitution states and what the law allows. Under current law, citizen rights to reform their local government are limited by the lack of a disincorporation statute. Citizens can only replace their government with another local municipal government through merger or consolidation. The choice to disincorporate, to eliminate local municipal government and not replace it, even for a limited amount of time, does not exist. This is a choice citizens in 31 states currently possess. The end result of not having a disincorporation law is that residents are never given the opportunity to vote directly on whether their local government should remain in business.

"There is no reason for a 0.048-square-mile community to exist. It's ridiculous. I'll say it. I may lose my council seat, but I'll say it." -- Former Wilmerding Councilman Gerald Price, Pittsburgh Press, April 6, 1991

----- *RECLAIMING HOPE* -----

This report offers a plan that will allow residents to voluntarily dissolve their local government, and will require county government to administer the territory and provide public services until the area can be incorporated into an existing municipality or municipalities. Throughout this process, the county will play a leadership role in helping to shape the region's future.

Disincorporation is neither unique nor revolutionary. Municipalities in 31 states can invoke these laws to reformulate their governments so that they can successfully deliver services to their citizens. A disincorporation law that allows local governments in Allegheny County to voluntarily disincorporate will focus community attention on the delivery of basic services. Given an unlimited ability to reform local governments, the citizens of Allegheny County can create municipalities capable of delivering the best possible municipal services in the most effective and efficient manner. With disincorporation, Allegheny County's local governments can begin the process of reclaiming hope.

[D] APPENDIX

[1] EXHIBITS 1 THROUGH 7

[2] PROPOSED STATUTE

[3] DISINCORPORATION STATUTE PROFILES

WHAT DEFINES A DISTRESSED MUNICIPALITY

Act 47, The Distressed Municipalities Act, contains rigorous criteria that state planners use to define which local governments qualify as a distressed community. Following is a list of criteria for distressed status:

- 1) A one percent deficit for three years;
- 2) Expenditures exceeding revenues for three years;
- 3) Defaulted payment on bonds, notes or rentals;
- 4) Missed payroll for 30 days;
- 5) Failure to pay creditors for 30 days;
- 6) Failure to forward taxes withheld on employee incomes;
- 7) Operated for two successive years with a deficit equal to 5 percent or more of revenues;
- 8) Failure to make pension payments as required by the Municipal Pension Funding Standard and Recovery Act;
- 9) Filed for bankruptcy under Chapter 9 of the Bankruptcy code; *
- 10) A decrease in a quantified level of municipal services from the preceding fiscal year which has resulted from the municipality reaching its legal limit in levying real estate taxes.

* U.S. Bankruptcy Code for public entities. When a municipality files for bankruptcy it automatically becomes distressed; it can restructure debt but not get out from under it. The main advantage to bankruptcy is thought to be its ability to break labor contracts. But that has never been tested. Bankrupt municipalities do not lose their legal status.

-- Department of Community Affairs

ALLEGHENY COUNTY
70 MUNICIPALITIES OUT OF 130 WITH POPULATIONS LESS THAN
4,800*

Haysville	100	Wilmerding	2,213
Glenfield	197	Crescent	2,215
Ben Avon Heights	370	Ohio	2,358
Thornburg	460	Dravosburg	2,367
Rosslyn Farms	482	Baldwin Twp	2,477
South Versailles	504	West Homestead	2,484
Osborne	565	Rankin	2,487
Sewickley Hills	613	East McKeesport	2,670
West Elizabeth	630	Fawn	2,696
Pennsbury Village	769	Liberty	2,741
Wall	851	Aspinwall	2,793
Kilbuck	887	Emsworth	2,879
Chalfant	1,048	Harmar	3,132
Sewickley Heights	1,064	Verona	3,243
Lincoln	1,184	Edgewood	3,600
Heidelberg	1,219	Brackenridge	3,757
Aleppo	1,235	Sharpsburg	3,776
Neville	1,270	Reserve	3,855
Bradford Woods	1,319	Forward	3,863
Frazer	1,351	Churchhill	3,872
Leetsdale	1,385	Ingram	3,885
Whitaker	1,387	Marshall	3,949
Bell Acres	1,412	Pine	3,957
East Deer	1,553	Springdale	3,983
Elizabeth Boro	1,591	Pitcairn	4,073
Blawnox	1,625	Sewickley	4,129
Edgeworth	1,646	Mt. Oliver	4,131
Leet	1,715	Etna	4,132
Springdale Twp	1,743	Homestead	4,140
Oakdale	1,750	Millvale	4,315
Versailles	1,830	Findlay	4,446
Cheswick	1,961	Braddock	4,566
Braddock Hills	2,005	Port Vue	4,632
Ben Avon	2,044	Collier	4,774
East Pittsburgh	2,146	Greentree	4,777

* 1990 U.S. Census Report

**PENNSYLVANIA MUNICIPALITIES
WITH LESS THAN 100 PEOPLE***

	<u>1990</u>	<u>1940</u>	<u>CHANGE from 1940 to 1990</u>
Ashland Borough (Columbia Co.)	3	230 ¹	-99%
Centralia Borough (Columbia Co.)	63	2449	-97%
Cold Springs Borough (Lebanon Co.)	3	58	-95%
Ohiopyle Borough (Fayette Co.)	81	420	-81%
East Keating Township (Clinton Co.)	22	102	-78%
Lumber City Borough (Clearfield Co.)	83	300	-72%
West Keating Township (Clinton Co.)	34	108	-69%
Elk Township (Tioga Co.)	42	133	-68%
Smicksburg Borough (Indiana Co.)	76	223	-66%
Wharton Township (Potter Co.)	70	200	-65%
Glasgow Borough (Beaver Co.)	74	204	-64%
Brady Township (Clarion Co.)	78	213	-63%
Jacksonville Borough (Indiana Co.)	89	232	-62%
Ward Township (Tioga Co.)	55	113	-51%
Stewardson Township (Potter Co.)	66	136	-51%
Hovey Township (Armstrong Co.)	99	169	-41%
Worthville Borough (Jefferson Co.)	65	105	-38%

¹ 1970, First U.S. Census after Incorporation

**PENNSYLVANIA MUNICIPALITIES
WITH LESS THAN 100 PEOPLE***

	<u>1990</u>	<u>1940</u>	<u>CHANGE from 1940 to 1990</u>
Sylvania Township (Potter Co.)	80	121	-34%
Casselman Borough (Somerset Co.)	89	135	-34%
Emlenton Borough (Clarion Co.)	10	13 ²	-23%
Grugan Township (Clinton Co.)	52	67	-22%
Pleasant Valley Township (Potter Co.)	78	91	-17%
St. Clairsville Borough (Bedford Co.)	88	114	-16%
New Washington Borough (Clearfield Co.)	78	80	-3%
Pine Township (Clearfield Co.)	43	44	-2%
Elkland Township (Tioga Co.)	61	62	-2%
Cherry Valley Borough (Butler Co.)	96	97	-1%
Green Hills Borough (Washington Co.)	21	18 ³	+17%
Callimont Borough (Somerset Co.)	55	32 ⁴	+72%
Cook Township (Cumberland Co.)	90	50	+80%

* 1990 U.S. Census

² 1980 First U.S. Census after Incorporation

³ 1980 First U.S. Census after Incorporation

⁴ 1980 First U.S. Census after Incorporation

**32 MOST STRESSED MUNICIPALITIES
in ALLEGHENY COUNTY 1981 & 1991***

Municipality	Stress Ranking 1991	Stress Ranking 1981	Per Capita Tax Yield in 1991
Braddock	1	1	\$319.73
Rankin	2	3	329.62
Homestead	3	49	422.22
Clairton	4	22	438.13
North Braddock	5	2	360.65
Duquesne	6	20	421.42
McKeesport	7	12	472.96
Glassport	8	10	403.59
Turtle Creek	9	17	428.83
Tarentum	10	4	471.74
East Pittsburgh	11	89	559.27
Wall	12	25	346.27
Dravosburg	13	44	475.34
McKees Rocks	14	6	462.04
East Mckeesport	15	41	501.57
Brackenridge	16	19	521.22
Port Vue	17	9	429.93
Munhall	18	29	592.50
Verona	19	32	584.96
Whitaker	20	7	460.83
Wilkinsburg	21	14	597.49
Stowe	22	15	572.32
Chalfant	23	28	626.50
Millvale	24	8	454.75
West Elizabeth	25	38	362.63
Swissvale	26	11	619.37
Wilmerding	27	58	535.62
Versailles	28	51	652.74
Dormont	29	13	589.42
Bellvue	30	22	632.21
Elizabeth	31	5	504.28
Ingram	32	43	497.48

* Source: Pennsylvania Economy League

SERVICES PROVIDED BY ALLEGHENY COUNTY

The following list describes the means by which services would be provided to unincorporated territories in Allegheny County. The list is based on a review of the way St. Louis County, Missouri delivers services to its unincorporated territories.

- | | |
|---|---|
| 1) <i>Police services --</i> | <i>Contracted out to neighboring communities and possibly supplemented with county police.</i> |
| 2) <i>Emergency
Medical services --</i> | <i>Contracted out to neighboring communities.</i> |
| 3) <i>Parks --</i> | <i>Allegheny County Departments of Parks and Special Services & Maintenance.</i> |
| 4) <i>Library services --</i> | <i>Commission on the Future of Libraries in Allegheny County.</i> |
| 5) <i>Residential
road maintenance --</i> | <i>Contracted out or provided by Allegheny County Department of Special Services & Maintenance.</i> |
| 6) <i>Issuance of
building permits --</i> | <i>Allegheny County Departments of Health and Planning.</i> |
| 7) <i>Planning matters --</i> | <i>Allegheny County Planning Department.</i> |
| 8) <i>Zoning --</i> | <i>Allegheny County.</i> |
| 9) <i>Tax collection --</i> | <i>Allegheny County Treasurer.</i> |
| 10) <i>Garbage collection --</i> | <i>Contracted out with local provider.</i> |
| 11) <i>Detective services --</i> | <i>Allegheny County Police.</i> |
| 12) <i>Rodent
control services --</i> | <i>Allegheny County Health Department.</i> |

NEW MEXICO DISINCORPORATION STATUTE

ARTICLE 4

Disincorporation of Municipality

- | | |
|---|---|
| <p>Sec.
 3-4-1. Disincorporation; petition; notice of election.
 3-4-2. Disincorporation; ballots.
 3-4-3. Disincorporation; conduct of election.
 3-4-4. Disincorporation; vote required; effect on debts and contracts.
 3-4-5. Disposition of records after disincorporation; pending business.
 3-4-6. Notice of disincorporation; publication.</p> | <p>Sec.
 3-4-7. Disincorporation; care of property; manager; disposition of funds.
 3-4-8. Income from property of a disincorporated municipality.
 3-4-9. Disincorporation; insufficient income to pay obligations; levy of tax; duty vested in board of county commissioners.</p> |
|---|---|

3-4-1. Disincorporation; petition; notice of election.

A. If one-fourth of the registered voters of a municipality petition the board of county commissioners of the county wherein the municipality is situated to disincorporate the municipality, the board of county commissioners shall, within fourteen days after the petition has been certified as valid, adopt an election resolution calling for a special election to be held within the municipality on the question of disincorporating the municipality. At the top of each page of a disincorporation petition, the following heading shall be printed in substantially the following form:

"PETITION TO DISINCORPORATE THE MUNICIPALITY OF

We, the undersigned registered voters of the municipality of, pursuant to Section 3-4-1 NMSA 1978, petition the board of county commissioners of county to conduct a special election on the question of disincorporating the municipality of

Date	Name—Printed As Registered	Address As Registered	Usual Signature."
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The day for holding the election shall not be less than fifty days nor more than sixty days after the board of county commissioners adopts the election resolution.

B. Notice of the election shall be published as required for special elections as set forth in the Municipal Election Code [Chapter 3, Articles 8 and 9 NMSA 1978].

History: 1953 Comp., § 14-4-1, enacted by Laws 1985, ch. 300; 1983, ch. 154, § 1; 1985, ch. 208, § 6.

Cross-references. — As to examination, purging and judicial review of petitions, see 3-1-5 NMSA 1978.

Effective dates. — Laws 1985, ch. 208, § 126 makes the act effective on July 1, 1985, except that for home rule charter municipalities and territorial charter municipalities the effective date of the act is January 1, 1986.

Costs of disincorporation. — There was no

indication that the legislature intended to tax the costs of disincorporation of a village upon those who proposed or happened to sign the petition. 1964 Op. Att'y Gen. No. 64-80.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 56 Am. Jur. 2d Municipal Corporations, Counties, and Other Political Subdivisions §§ 89 to 91.

Rights and remedies of creditor of municipal corporation which is dissolved or combined with another municipal body, 47 A.L.R. 128.

62 C.J.S. Municipal Corporations §§ 101 to 105.

3-4-2. Disincorporation; ballots.

The form of the ballot shall be:

"For the disincorporation of (insert name of municipality) and

Against the disincorporation of (insert name of municipality) .

History: 1953 Comp., § 14-4-2, enacted by Laws 1965, ch. 300.

3-4-3. Disincorporation; conduct of election.

The election shall be conducted in the same manner as a special municipal election except that the election officials shall be appointed by the board of county commissioners, and the county clerk shall perform the duties of the municipal clerk and the board of county commissioners shall perform the duties of the governing body. The election returns shall be made to the board of county commissioners and canvassed in the same manner as are special election returns.

History: 1953 Comp., § 14-4-3, enacted by Laws 1965, ch. 300; 1985, ch. 208, § 7.

Effective dates. — Laws 1985, ch. 208, § 126 makes the act effective on July 1, 1985, except that

for home rule charter municipalities and territorial charter municipalities the effective date of the act is January 1, 1986.

3-4-4. Disincorporation; vote required; effect on debts and contracts.

If a majority of the votes cast are in favor of disincorporation, the municipality shall be disincorporated after provision has been made for payment of its current indebtedness, contracts and obligations, and for levying the requisite tax to do so. The current indebtedness, contracts and obligations do not include funded or bonded indebtedness nor any contract whose termination date is more than one year beyond the date the election was held.

History: 1953 Comp., § 14-4-4, enacted by Laws 1965, ch. 300.

3-4-5. Disposition of records after disincorporation; pending business.

All public records and the corporate seal of the disincorporated municipality shall be deposited with the county clerk.

History: 1953 Comp., § 14-4-5, enacted by Laws 1965, ch. 300.

Compiler's notes. — The words "pending busi-

ness," contained in the catchline to this section as enacted, do not reflect the content of this section.

3-4-6. Notice of disincorporation; publication.

Whenever a municipality is disincorporated, the county clerk shall publish a notice once a week for four consecutive weeks that the municipality is disincorporated. A certified copy of the notice shall be sent to the secretary of state, the secretary of finance and administration and the secretary of taxation and revenue.

History: 1953 Comp., § 14-4-6, enacted by Laws 1965, ch. 300; 1981, ch. 204, § 5.

3-4-7. Disincorporation; care of property; manager; disposition of funds.

If a municipality is disincorporated, the board of county commissioners shall assume control of all property belonging to the disincorporated municipality and shall employ a qualified person to manage and operate the property and to collect all charges due from the operation of such property. He shall execute a bond to the county in an amount determined by the board of county commissioners, conditioned that he will faithfully perform his duties and will promptly pay all money he receives to the county treasurer monthly on the first day of each month. The bond shall be executed by him and a surety company authorized to do business in the state. The premium on the bond shall be paid by the board of county commissioners from municipal funds if any; if none, from county funds.

History: 1953 Comp., § 14-4-7, enacted by Laws 1965, ch. 300.

3-4-8. Income from property of a disincorporated municipality.

Money received from the operation of property of a disincorporated municipality shall be used in the following priority:

- A. to pay employees engaged in the operation, maintenance and protection of the property;
- B. to pay the interest on the bonded indebtedness of the municipality;
- C. to purchase or redeem bonded indebtedness of the municipality; and
- D. after all bonded indebtedness has been paid, to support the public schools that existed within the boundary of the municipality at the time of its disincorporation.

3-4-9. Disincorporation; insufficient income to pay obligations; levy of tax; duty vested in board of county commissioners.

If insufficient money is received from the operation of the property of the disincorporated municipality to pay the obligations in the order designated in Section 3-4-8 NMSA 1978, the board of county commissioners shall levy a tax on all taxable property within the boundary of the municipality at the time of its disincorporation. This tax shall be sufficient to pay the obligations incurred in the operation of the property of the municipality and to comply with the terms and conditions of the evidences of the bonded indebtedness. The board of county commissioners shall, without charge, perform the duties of the governing body of the disincorporated municipality to satisfy the terms of the bonds, obligations or contracts of the disincorporated municipality.

History: 1953 Comp., § 14-4-9, enacted by Laws 1965, ch. 300.
Law reviews. — For article, "Indian Sovereignty

and the Tribal Right to Charter a Municipality for Non-Indians: A New Perspective for Jurisdiction on Indian Land," see 7 N.M.L. Rev. 153 (1977).

ALLEGHENY COUNTY

MUNICIPALITIES WITH THE GREATEST POPULATION LOSS

	1940 POPULATION	1990 POPULATION	POPULATION LOSS
Glenfield Borough	911	201	78%
Homestead Borough	19,041	4,179	78%
Braddock Borough	18,326	4,682	74%
West Elizabeth Borough	1,297	634	51%
Rankin Borough	7,470	2,503	66%
East Pittsburgh Borough	6,079	2,160	64%
Wilmerding Borough	5,662	2,222	61%
Duquesne City	20,693	8,525	59%
Wall Borough	2,098	853	59%
East Deer Township	3,516	1,558	56%
McKees Rocks Borough	17,021	7,691	55%
North Braddock Borough	15,679	7,036	55%
Sharpsburg Borough	8,202	3,781	54%
McKeesport City	55,355	26,016	53%
Kilbuck Township	1,772	890	50%
Elizabeth Borough	2,976	1,610	46%
Heidelberg Borough	2,239	1,238	45%
Pittsburgh City	671,659	369,879	45%
Millvale Borough	7,811	4,341	44%
Etna Borough	7,223	4,200	42%
Tarentum Borough	9,846	5,674	42%
Brackenridge Borough	6,400	3,784	41%
Clairton City	16,381	9,656	41%
Haysville Borough	169	100	41%
Leetsdale Borough	2,332	1,387	41%
Mt. Oliver Borough	6,981	4,160	40%
Aspinwall Borough	4,716	2,880	39%
Coraopolis Borough	11,086	6,747	39%
Stowe Township	12,577	7,681	39%
Collier Township	7,685	4,841	37%
Glassport Borough	8,748	5,582	36%
Whitaker Borough	2,217	1,416	36%
Pitcairn Borough	6,310	4,087	35%
Swissvale Borough	15,919	10,637	33%
Turtle Creek Borough	9,805	6,556	33%
Chalfont Borough	1,372	959	30%
West Homestead Borough	3,526	2,495	29%
Wilkinsburg Borough	29,853	21,050	29%
Carnegie Borough	12,663	9,278	27%
Sewickley Borough	5,614	4,134	26%
Blawnox Borough	2,162	1,626	25%
Dormont Borough	12,974	9,772	25%
Verona Borough	4,356	3,260	25%

Source: U.S. Census 1940, 1990

**PROPOSED LEGISLATION FOR
DISINCORPORATION OF MUNICIPALITIES
SITUATED IN SECOND CLASS COUNTIES**

I. Definitions

- A. Board of Commissioners -- The Board of Commissioners of the Second Class County in which the disincorporated municipality is situated.
- B. County -- Second Class County in which the disincorporated municipality is situated.
- C. Electors -- Registered voters of the municipality.
- D. Governing Body -- The council in cities, boroughs and incorporated towns; the board of commissioners or board of supervisors in townships of all classes; or legislative policy-making body in home rule municipalities.
- E. Municipality -- Every city, borough, township and home rule municipality located in a Second Class County.

II. Procedure for Disincorporation

- A. The disincorporation of a municipality may be commenced by
 - (1) Resolution of the governing body of the municipality to be disincorporated; or
 - (2) Initiative of the electors as follows:
 - (a) In order for disincorporation proceedings to be commenced by electors, petitions containing signatures of at least twenty (20%) percent of the registered electors of said municipality shall be filed with the County Board of Elections.
- B. A disincorporation resolution or petition shall be filed with the county Board of Elections not later than the thirteenth (13th) Tuesday prior to the next general election. The petition and proceedings therein shall be in the manner and subject to the provisions of the election laws which relate to the signing, filing and adjudication of nomination petitions, and shall be signed and circulated not prior to the twenty-sixth (26th) Tuesday before the election, nor later than the thirteenth (13th) Tuesday before the election.
- C. Conduct of Referendum
 - (1) Following initiation of proceedings for disincorporation by the procedure set forth in IIA and IIB, the question of disincorporation shall be placed before the electors. A referendum shall be held at the next general election after either:
 - (a) The date of the resolution adopted by the governing body pursuant to IIA(1); or
 - (b) The date of filing of the petition filed pursuant to IIB.
 - (2) Disincorporation shall not be approved unless the referendum question is approved by a majority of the electors voting. If a majority in favor of

disincorporation is not achieved, the referendum shall fail and disincorporation shall not be effected.

- (3) Notice of the results of said referendum shall be sent to the Board of Commissioners from the Board of Elections after the results are certified.
- D. Alternate Method -- The Court of Common Pleas shall disincorporate the municipality upon the filing with the Prothonotary of a petition in accordance with IIB above signed by three-fourths (3/4) of the registered electors requesting disincorporation provided that the petition requests disincorporation without referendum.

III. Certification of Disincorporation

- A. The effective date of disincorporation shall be 180 days after the election results are certified by the County Board of Elections; or 180 after the date of an order of the Court of Common Pleas approving disincorporation.
- B. Upon the effective date of disincorporation, the terms and offices of all elected officials shall be extinguished.
- C. Disincorporation shall not prevent the county as the government of unincorporated territory from receiving financial aid and taxing powers under the Municipalities Financial Recovery Act, Act of July 10, 1987 (P.L. 246, No. 47) or any other state law set forth herein.

IV. Assumption of Power and Disposition of Property

- A. At the time disincorporation becomes effective, the Board of Commissioners shall be vested in all powers of the governing body of the disincorporated municipality. These powers shall also include those rights and duties granted to the governing bodies pursuant to the Municipalities Financial Recovery Act, Act of July 10, 1987 (P.L. 246, No. 47).
- B. At the time disincorporation becomes effective, the Board of Commissioners shall assume control of all property of the disincorporated municipality.

V. Review of Business Affairs

- A. Upon receipt of notice of election results or receipt of the order of the Court of Common Pleas for disincorporation, the Board of Commissioners shall appoint a person(s) to review the business affairs of the disincorporated municipality.
- B. Said person(s) shall submit a preliminary financial status report to the Board of Commissioners within 30 days and shall include the following information:
 - (1) Debts and obligations;
 - (2) Suits, claims and demands against the disincorporated municipality;
 - (3) Assets and accounts receivables;
 - (4) Current assessments and taxes levied;
 - (5) All outstanding taxes and debts due and owing to the disincorporated municipality.

VI. Closing Business Affairs and Administration

- A. After receipt of preliminary financial status report, the Board of Commissioners shall appoint a person(s) to close the business affairs of the disincorporated municipality and administer the territory. Said person(s) shall serve at the pleasure of the Board of Commissioners.
- B. The administrator(s) shall have the following powers:
 - (1) Administer the day-to-day operations as necessary in unincorporated territory;
 - (2) Recommend to the Board of Commissioners whether to reaffirm or void any contracts previously made by the disincorporated municipality with third parties;
 - (3) Prepare all financial reports required of the disincorporated municipality by the state;
 - (4) Prepare a plan for the reorganization of the disincorporated territory. The plan shall set forth terms regarding:
 - (a) Organization of non-elected employees;
 - (b) The disposition of all books, papers, records and deeds;
 - (c) The transfer of all accounts;
 - (d) Payment of all outstanding debts and obligations; and
 - (e) Disposition of contracts entered into by the disincorporated municipality.
 - (5) All other powers deemed necessary and granted to the administrator(s) by the Board of Commissioners.

VII. Compensation and Bonding

- A. The compensation to be paid said administrator(s) shall be set by the Board of Commissioners and be charged against the property of the disincorporated municipality.
- B. Each administrator, before entering upon his official duties, shall give and acknowledge a bond to the county in an amount set by the Board of Commissioners. Each such bond shall be, joint and several, with one or more corporate sureties which shall be surety companies authorized to do business in this Commonwealth and duly licensed by the Insurance Commissioner of the Commonwealth.

VIII. Contracts and Agreements; Furlough of Employees

- A. Contracts and agreements regarding employment and services in existence prior to disincorporation may be revoked by the Board of Commissioners provided said revocation shall not effect fraud upon the parties to said contracts or agreements.
- B. Subsequent to disincorporation, the Board of Commissioners may reduce the uniformed and non-uniformed employees to avoid over staffing and duplication of positions in the disincorporated municipality. If the Board of Commissioners

determines that an increase in the number of uniformed and non-uniformed employees is necessary, said employees may be reinstated. The reinstatement shall be in the order of seniority that former employees had been furloughed or in a manner prescribed by law or by collective bargaining agreement with affected employees.

IX. Disposition of Law and Ordinances

- A. Unless the plan shall provide otherwise, all local ordinances, laws, rules or regulations of the disincorporated municipality in effect on the date of disincorporation, including but not limited to the zoning ordinance, shall remain in effect as if the same had been duly adopted by the Board of Commissioners and shall be enforced by the County within the limits of the disincorporated municipality.
- B. The Board of Commissioners shall be vested with the law-making powers of the governing body of the disincorporated municipality and shall have the power at any time to amend, repeal, or enact new local ordinances, laws, rules or regulations governing the disincorporated municipality.
- C. If the disincorporated municipality has a zoning hearing board or planning commission, or both, then upon disincorporation, the Board of Commissioners may appoint another board or boards, pursuant to applicable laws, to assume said powers and duties. Until such time, the existing zoning hearing board and/or planning commission shall continue with all the power and authority it had prior to disincorporation.

X. Functions and Services

- A. The functions and services formerly provided by the disincorporated municipality shall be assumed by the County. The cost of such functions and services shall be a charge upon the residents and wage earners taxable property of the disincorporated municipality unless the Board of Commissioners shall elect to provide such services as a County function.
- B. If, prior to disincorporation, the disincorporated municipality approved or began special municipal improvement or projects, the Board of Commissioners may elect to discontinue the same. If the Board of Commissioners elects to proceed with said improvements or projects, the cost shall be a charge upon the taxable property of the disincorporated municipality unless the Board of Commissioners shall elect to provide such services as a County function.

XI. Revenue, Taxation and Assessments

- A. The Board of Commissioners shall levy and collect taxes and assessments on the disincorporated municipality.
- B. If the disincorporated municipality collects or receives revenue other than through said taxes or assessments, the same shall be paid to the County.

- C. If, after the effective date of disincorporation, there are uncollected taxes, assessments, revenues, or unsatisfied liens, debts or obligations owed to the disincorporated municipality, the Board of Commissioners shall ensure that said debts and obligations are paid and satisfied and same shall be paid to the county.

XII. Debts and Obligations

- A. The debts and obligations issued on behalf of a municipality that disincorporate shall not become debts or obligations of the County, except that the County is responsible to ensure that all such debts and obligations are paid.
- B. Said debts and obligations shall be a charge upon the taxable property of the disincorporated municipality.
- C. All revenues collected by the County as a result of disincorporation shall be applied only to the debts and obligations of the disincorporated municipality.
- D. If insufficient revenue is received by the County on behalf of the disincorporated municipality to pay the debts and obligations thereof, the Board of Commissioners may levy and collect additional taxes and assessments on all taxable property of the disincorporated municipality to pay said debts and obligations.

XIII. Reorganization Of Disincorporated Municipalities

- A. Following disincorporation, the administrator(s) shall formulate a plan or plans to reincorporate the disincorporated municipality through consolidation with an adjacent municipality or municipalities. Consolidation may be achieved by one of the following methods:
 - (1) Consolidation of an entire disincorporated municipality with an existing municipality or municipalities; or
 - (2) Consolidation of portions of the disincorporated municipality with existing municipality or municipalities.

XIV. Content Of Plan

- A. The plan shall set forth the following information:
 - (1) The consolidated municipality's ability to obtain or provide adequate and reasonable community support services such as police protection, fire protection and other appropriate community facility services;
 - (2) The existing and potential commercial, residential and industrial development of the consolidated municipality;
 - (3) The financial and tax effect on the consolidated municipality, it's residents and the existing governmental units;
 - (4) The disposition of debts and liabilities associated with a disincorporated municipality or portion thereof to be consolidated;
 - (5) The disposition of existing assets of the disincorporated municipality or portion thereof to be consolidated; and;
 - (6) Any such other matters as the administrator deems to be necessary.

- B. The plan shall be submitted to the Board of Commissioners. Approval of the plan by the Board of Commissioners shall authorize the administrator(s) to negotiate a joint agreement with the municipality or municipalities involved in the consolidation.

XV. Joint Agreement For Consolidation

- A. The governing body of an existing municipality and the Board of Commissioners may enter into an agreement to consolidate all or part of the disincorporated territory into the existing municipality. The joint agreement shall include all necessary matters to enable the consolidation to succeed.

XVI. Referendum

- A. Approval for consolidation shall be determined by referendum in accordance with the rules and regulations of the County Department of Elections.
- B. Consolidation shall not be effective unless the referendum question is approved by a majority of the electors voting in the municipality which has entered into the joint agreement and the electors residing in the affected territory of the disincorporated municipality. If, in any one of the municipalities or disincorporated municipality in which the referendum is held, a majority in favor of consolidation does not result, the referendum question shall fail and consolidation shall not take place.
- C. Notice of the results of said referendum shall be sent to the governing bodies of the municipality and the disincorporated municipality and the Board of Elections within ten (10) days after the referendum.
- D. The effective date of consolidation shall be one hundred eighty (180) days after the results of the referendum are certified by the County Board of Elections.

XVII. Severability

- A. If any provisions of this Act or the application thereof is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Act which can be given effect without the invalid or unconstitutional provisions or applications and to this end, the provisions of this Act are declared to be severable.

PROFILES OF DISINCORPORATION STATUTES

There are a number of similarities shared by states that have disincorporation statutes: disincorporated municipalities are always held responsible for their debt; a real estate tax can continue to be levied on the former municipality to pay for this debt; counties provide municipal services to unincorporated areas; and taxes are levied to pay for these services. The following profiles do not include these similarities.

ALASKA

- Procedure Initiated: Petition signed by 25 percent of the legal voters of a municipality in its last legal election. If successful, an election is set for the next municipal election.
- Disincorporation Approved: If a majority of the voters approve the referendum, the community is considered dissolved.
- Process of Community Disincorporation: The borough (in Alaska a borough is equivalent to a county) must consent to assume the city's rights, powers, duties, assets, and liabilities. To dissolve a municipality it must be free of debt or, if in debt, each of its creditors must approve a repayment schedule.
- Alternative Method of Disincorporation: If the borough (or county) has a local boundary commission, this commission must accept the petition and set an election. Before the boundary commission accepts the petition, it will hold public hearings.

Alaska Statutes: Article 5 Dissolution, §29.06.450 to 530

ARIZONA

- Procedure Initiated: Petition signed by two-thirds of the electorate of a municipality and then presented to the county supervisors.
- Disincorporation Approved:
- 1) Board of Supervisors can disincorporate a town after accepting a petition; or
 - 2) Supervisors call for an election on the question and then ratify the election's outcome.
- Process of Community Disincorporation: The Board of Supervisors or Superior Court appoints a trustee who is responsible for finalizing all of the municipality's outstanding affairs and obligations, including the dispersion of property and development of a debt-payment schedule.
- Alternative Method of Disincorporation: Court of competent jurisdiction can declare incorporation of city or town rescinded or null and void for any appropriate reason. Jurisdiction is then turned over the Superior Court of the county. The Superior Court judge then nominates a trustee to supervise the disincorporation as described above.

Arizona Revised Statutes: Volume 3, Title §9 - 102

ARKANSAS

- Procedure Initiated: The county prosecuting attorney can petition the county court to revoke the charter of inactive municipalities.
- Disincorporation Approved: The county court then rules on the charter and revokes it. If revoked, the court order is sent to the Secretary of State and Arkansas History Commission.
- Process of Community Disincorporation: To have its charter revoked, a municipality must not have conducted business for five years. The county court where the municipality was located will assume all assets and property. The governor will appoint a receiver and back-tax collector to settle all the affairs of the municipality. The citizens of the former municipality remain responsible for all debts and liabilities. The receiver will make reports to the county court every six months.

*Arkansas Code of 1987: Title 14: Local Government Municipalities,
Chapter 39, §4-39-101 to 111*

ALABAMA

- Procedure Initiated: Petition is signed by three-quarters of the electorate of a municipality. This petition is then presented to a probate judge.
- Disincorporation Approved: Probate judge holds hearings. If deemed that three-quarters of the voters are in favor of disincorporation, a judge issues a decree dissolving the municipal corporation.
- Process of Community Disincorporation: Any municipal corporation dissolved under Alabama law vests its property and assets to the county. If the municipality has any indebtedness the county commission will sell these assets to cover the debt.
- Alternative Method of Disincorporation: A municipality, having less than 1,100 inhabitants, may be dissolved by a probate judge if it fails to elect a mayor, collect taxes, or maintain its roads. This proceeding may be initiated by the county commission or five qualified voters of the county.

Alabama Statutes: §11-41-20, Article 2 Dissolution

CALIFORNIA

- Procedure Initiated: Twenty-five percent of the registered voters of a municipality petition the county clerk or any affected agency, such as the county, can initiate the referendum by vote of its governing body.
- Disincorporation Approved: If a majority of voters support the referendum, the municipality is dissolved.
- Process of Community Disincorporation: All property and assets are conveyed to the county supervisors. They are then used to pay off any liabilities and debts. If assets do not cover liabilities, the supervisors can levy a tax on the former community to eliminate the indebtedness.
- Alternative Method of Disincorporation: ---

California Codes, §56751, §57400 to 425

FLORIDA

Procedure Initiated:	The Department of State can initiate proceedings to dissolve inactive municipalities.
Disincorporation Approved:	After evaluation the Secretary of State can dissolve a municipality by proclamation.
Process of Community Disincorporation:	To be dissolved a municipality must not have conducted a legislative election for four years. To qualify to be dissolved a municipality must also not be surrounded substantially by other municipalities. To become an unincorporated area, the county must demonstrate that it is capable of providing the necessary municipal services.
Alternative Method of Disincorporation:	---

Florida Statutes: Title 12 Municipalities, §65.061

GEORGIA

Procedure Initiated:	Fifty percent of the voters of a municipality can petition the Superior Court if the municipality has not functioned in 10 years.
Disincorporation Approved:	A judge of the Superior Court can then dissolve the municipality.
Process of Community Disincorporation:	---
Alternative Method of Disincorporation:	After July 1, 1995 the state Department of Community Affairs will have the power to dissolve inactive municipalities after a thorough study.

Georgia Statutes: §36-30-7

IDAHO

- Procedure Initiated: Petition signed by one-half of the electorate of a municipality that voted in the last city general election is presented to its city council and a special election set.
- Disincorporation Approved: If two-thirds of the voters are in favor, the county commission disincorporate the municipal corporation.
- Process of Community Disincorporation: The county clerk will assess the financial status of the disincorporated community. The county commission will assume ownership of all the communities assets and property.
- Alternative Method of Disincorporation: If a municipality has no elected council for a period of two years, petitions for disincorporation are filed before the county commission which can then initiate a referendum as describe above.

Idaho Statutes: §50-2201-2214 Chapter 22 Disincorporation Procedures

ILLINOIS

- Procedure Initiated: Petition signed by one-half of the electorate of a municipality that voted in the last general municipal election is presented to its municipal council and a special election set.
- Disincorporation Approved: If a majority of the voters vote in favor, the community is disincorporated.
- Process of Community Disincorporation: The elected officials of the former municipality are responsible for closing the community's affairs. The remaining assets are then divided by the county between the school district and township that encompasses the community. A valid petition signed by 75 percent of the voters or a two-thirds votes in an election can automatically disincorporate a government. The county taxes the unincorporated area to pay for local services.
- Alternative Method of Disincorporation: If a town has less than 50 inhabitants in the census, the board of commissioners can apply to the circuit court to dissolve the municipality.

Illinois Statutes: Division 6 Dissolution, 65 ILKS 5/7-6-2

INDIANA

- Procedure Initiated: Petition signed by two-thirds of the electorate of a municipality is presented to its municipal clerk. The petition must state a specific reason for dissolution. If these conditions are met, an election is set.
- Disincorporation Approved: If two-thirds of the voters vote in favor, the community is disincorporated.
- Process of Community Disincorporation: After dissolution a special election is held where the voters decide the manner that assets will be disposed of and debts satisfied.
- Alternative Method of Disincorporation: If a town has less than 500 inhabitants, a petition of 25 percent of the voters or a resolution of the town council may be presented to the county executive. The county executive holds hearings and decides if the municipality should be dissolved. An aggrieved individual can appeal the decision to the circuit court where a judge will rule without a jury. After dissolution the county executive will dispose of assets and debts.

Indiana Statutes: Article 5 Government of Towns, §36-5-1 to 19 and §36-5-1.1-1 to 11

IOWA

- Procedure Initiated: Five percent of the registered voters of a municipality sign a petition that is presented to its municipal council.
- Disincorporation Approved: The petition and referendum must contain a plan for the disposal of assets and liabilities. If a majority support the referendum, it passes.
- Process of Community Disincorporation: All property and assets are conveyed to the county for safe keeping. They are then used to pay off any liabilities and debts as described by the plan.
- Alternative Method of Disincorporation: If a municipality has not held elections or levied taxes for six years and the county commissioners are made aware of this fact, discontinuance is automatic. The county takes control of all of the discontinued municipality's property.

Iowa Statutes: §368.3, §368.11

KENTUCKY

- Procedure Initiated: If any city fails for one year to maintain a city government, it may be dissolved by the circuit court after a petition for dissolution, signed by a majority of the voters, is filed with the court.
- Disincorporation Approved: A circuit court judge can then dissolve the municipality.
- Process of Community Disincorporation: After dissolution the circuit court judge is responsible for the disposition of assets and liabilities.
- Alternative Method of Disincorporation: ----

Kentucky Statutes: §81.094

LOUISIANA

- Procedure Initiated: A petition signed by a majority of the property taxpayers is submitted to the municipality's governing body. Then an election is called on dissolution. This procedure applies only to towns with a population less than 2,500.
- Disincorporation Approved: If the majority of voting taxpayers is in favor of dissolution and there is no court challenge, the governor can proclaim the municipality dissolved.
- Process of Community Disincorporation: The police jury of the parish will be responsible for disposing of assets and liabilities. The police jury may impose taxes on the former community to resolve debts.
- Alternative Method of Disincorporation: Any municipality founded after 1898 with a population of less than 100 can be abolished by the governor through proclamation.

Louisiana Statutes: October 12, 1993: Part VI Dissolution of Municipalities, §231

MAINE

- Procedure Initiated: A petition signed by 10 percent of the registered voters of a municipality in the last gubernatorial election is presented to the municipality. The municipality then calls a town meeting on the question. At this meeting a vote is taken on whether to develop a deorganization committee and procedure.
- Disincorporation Approved: A five-person committee is formed to direct deorganization. The committee notifies both the state legislature and the fiscal administrator of unorganized territory of the state auditor's department. The state Commission on Municipal Deorganization will assist the local commission. Hearings are held and another town meeting is convened. The question is voted on again and, if the results are still affirmative, the issue is presented to the state legislature. If the state legislature votes in favor of deorganization, the municipality may hold a referendum. Then if two-thirds of the voters approve the referendum, the municipality is deorganized.
- Process of Community Disincorporation: The State Tax Assessor has five years to wind down the affairs of the community. He may assess taxes on the community to pay off its liabilities and debt. The state assesses real estate and collects taxes for the county. The state also retains all planning and zoning authority. All other traditional local municipal services are performed by the county.

Maine Statutes: Chapter 302 Deorganization of Municipalities and Plantations, §7201 - 7211

MICHIGAN

- Procedure Initiated: Twenty-five percent of the registered voters of a municipality sign a petition that is presented to the municipal clerk. Then the question is put on the ballot.
- Disincorporation Approved: If two-thirds of the electorate vote to eliminate the municipality, the municipality's incorporation is vacated.
- Process of Community Disincorporation: All property and assets are conveyed to the county for safe keeping. They are then used to pay off any liabilities and debts. If assets do not cover liabilities, the commissioners can levy a tax on the former community to eliminate the indebtedness. If assets are remaining, they are turned over to the township that takes responsibility for local road work.
- Alternative Method of Disincorporation: ---

Michigan Compiled Laws: §117.14a

MISSISSIPPI

- Procedure Initiated: A municipality's legislative body can pass an ordinance calling for abolition of its charter. To do this, a municipality must have 1,000 or less inhabitants according to the latest U.S. Census.
- Disincorporation Approved: After a decree is adopted, a petition is filed in chancery court. The chancellor then holds hearings and accepts or denies the petition.
- Process of Community Disincorporation: If the petition is affirmed, the decree is forwarded to the secretary of state. Property and assets of the former municipality are assumed by the county. The debts and obligations of the community are not assumed by the county.
- Alternative Method of Disincorporation: Any municipality that does not hold official meetings for consecutive months or hold municipal elections on two occasions is automatically abolished.

Mississippi Statutes: §21-1-51 & §21-1-53

MISSOURI

- Procedure Initiated: Three quarters of the voters petition the County Commission.
- Disincorporation Approved:
 - 1) Commissioners accept petition and disincorporate municipality; or
 - 2) Commissioners call for an election on the question after they are petitioned and then ratify its outcome.
- Process of Community Disincorporation: The county commission appoints a trustee who is responsible for finalizing all of the standing affairs and obligations, including the dispersion of property and development of a debt-payment schedule.
- Alternative Method of Disincorporation: St. Louis County is a home rule county with a county executive and council rather than a county commission. St. Louis County has the right to appoint a Boundary Commission. Some members are appointed by the county and the rest are appointed by the municipalities within the county. The Commission is staffed by the county Planning Department and holds public hearings on boundary changes. Any boundary change must be approved by the commission before a referendum can be held on a completed petition.

Vernon's Missouri Statutes: Volume 5, §80.570 - 80.670

MONTANA

- Procedure Initiated: A petition signed by 20 percent of the electorate in the last municipal election is submitted to the board of county Commissioners. The commissioners then put the question on the ballot.
- Disincorporation Approved: To disincorporate, 60 percent of the electorate must vote in its favor.
- Process of Community Disincorporation: If the election is affirmative, all property and assets are turned over to the county commissioners. The commissioners then manage all debt repayment, including levying taxes on the former municipality if necessary.
- Alternative Method of Disincorporation: Any municipality that does not function for two years, may be ordered disincorporated by the county commissioners.

Montana Statutes: Part 49 Disincorporation of Municipalities, §7-2-4901 to 7-2-4920

NEBRASKA

- Procedure Initiated: Ten percent of the voters at the last general election sign a petition that is presented to the county clerk or election commission. Alternatively, the majority of the board of commission can pass a resolution putting the question on the ballot.
- Disincorporation Approved: A majority vote in the election eliminates the township.
- Process of Community Disincorporation: All property and assets are turned over to the county commissioners. They are used to pay off any liabilities and debts.
- Alternative Method of Disincorporation: ---

Nebraska Statutes Revised: §17-402 , §23-297

NEVADA

- Procedure Initiated: A majority of a municipality's legal voters petition the board of county commissioners to disincorporate.
- Disincorporation Approved: The county commission has the power to disincorporate a municipality after all its debts have been paid or secured. Only then can the commissioners dissolve the municipality.
- Process of Community Disincorporation: The commissioners appoint three persons to act as trustees of the former municipality while its liabilities are being secured.
- Alternative Method of Disincorporation: ---

Nevada Statutes: §265.110. to 265.130.

NEW MEXICO

- Procedure Initiated: One fourth of the voters petition the Board of County Commissioners.
- Disincorporation Approved: The Board of Commissioners calls for a referendum on the question after they are petitioned. Then board ratified the election's outcome.
- Process of Community Disincorporation: The county commission appoints a bonded individual who is responsible for finalizing all of the municipality's outstanding affairs and current obligations. The county assumes control of all property. The qualified individual develops a debt-payment schedule.
- Alternative Method of Disincorporation: ---

New Mexico Statutes: Chapter 3 Article 4

NORTH DAKOTA

- Procedure Initiated: Twenty-five percent of the voters in the last city election can petition the board of county commissioners to disincorporate. The commissioners set an election on disincorporation.
- Disincorporation Approved: If a majority vote in favor of disincorporation, the county commissioners can disincorporate the community.
- Process of Community Disincorporation: Ownership of all property and assets of the disincorporated community is assumed by the county. The commissioners will hire a qualified and bonded person to manage the affairs of the unincorporated territory, who will supervise the retirement of all debts and liabilities.
- Alternative Method of Disincorporation: After application by the county attorney, a district court may dissolve a municipality.

North Dakota Statutes: Chapter 40-53.1

OHIO

- Procedure Initiated: Fifty percent of the householders of a municipality sign a petition that is presented to the county commissioners.
- Disincorporation Approved: If the commissioners vote approval, the municipality is disincorporated.
- Process of Community Disincorporation: All property and assets are conveyed to the county for safe keeping. They are then used to pay off any liabilities and debts. If assets do not cover liabilities, the commissioners can levy a tax on the former community to eliminate the indebtedness. If assets are remaining, they are turned over to the township that takes responsibility for local road work.
- Alternative Method of Disincorporation: ---

Ohio Revised Code: §503.01 to 503.31

OKLAHOMA

- Procedure Initiated: Petition signed by one-third of the voters in the previous general election of a municipality is presented to the municipality's governing body and a special election is set.
- Disincorporation Approved: If a majority of the electorate vote in favor of disincorporation and at least two-fifths of the registered voters have voted, the municipality is then disincorporated.
- Process of Community Disincorporation: A special election will then be held in the former municipality to determine the disposition of assets and the payment of debts.
- Alternative Method of Disincorporation: If a municipality has no elections for two successive general elections, a petition for disincorporation is filed before the district court by the district attorney. After a hearing, a judge rules on whether the municipality should be dissolved.

Oklahoma Statutes: Article VII Dissolution, §7 - 101 to 107

OREGON

- Procedure Initiated: Petition signed by the electorate of a municipality is presented to its governing body and an election set for the first Tuesday of November.
- Disincorporation Approved: If a majority of the voters approve the referendum, the municipality is then disincorporated.
- Process of Community Disincorporation: All property and assets of the former municipality are conveyed to the county. A municipality may only disincorporate if its debts and liabilities have been positively resolved.
- Alternative Method of Disincorporation: ---

Oregon Statutes: §221.610 - 221.650

SOUTH CAROLINA

- Procedure Initiated: Petition signed by a majority of the registered voters of a municipality is presented to the municipality's council. The council then calls for an election on the question.
- Disincorporation
Approved: If two-thirds of the voters approve the referendum, the community is dissolved.
- Process of Community
Disincorporation: ---
- Alternative Method
of Disincorporation: Any municipality whose population drops below 50 inhabitants automatically forfeits its incorporation. The Secretary of State may cancel any municipality's incorporation if the municipality has not collected taxes, performed services, or held elections for four years.

South Carolina Statutes: §5-1-80

SOUTH DAKOTA

- Procedure Initiated: Petition signed by 50 percent of the legal voters of a municipality is presented to the governing body of the municipality. The governing body then calls an election.
- Disincorporation
Approved: If a majority of the voters approve the referendum, the municipality is disincorporated.
- Process of Community
Disincorporation: All property and assets of the former municipality are conveyed to the county. The officials of the municipality are empowered to close up the affairs including assuring that all debts and liabilities are paid.
- Alternative Method
of Disincorporation: Any municipality with less than 250 inhabitants in the latest Census can have property owners owning more than 50 percent of the property petition the circuit court. A referee will make a report to the court and then a judge alone will rule.

South Dakota Statutes: Chapter 9-6-1 to 12

TENNESSEE

- Procedure Initiated: Petition signed by 10 percent of the registered voters of a municipality is presented to the board of county commissioners who call an election.
- Disincorporation Approved: If a majority of the voters approve the referendum, the county commission considers the municipality disincorporated.
- Process of Community Disincorporation: All property and assets of the former municipality are conveyed to the county. The county commission is empowered to levy a special tax within the former municipality to pay off any debts or liabilities.
- Alternative Method of Disincorporation: Any municipality with less than 100 inhabitants in the latest census can forfeit its charter if it fails to elect a mayor and/or legislature for more than one year after the time fixed for such elections or if it has failed to levy and collect real estate taxes for three successive years. Five citizens of the municipality can initiate the disincorporation process by appealing to chancery court.

Tennessee Statutes: Chapter 52, §6-52-101 to 304

UTAH

- Procedure Initiated: Petition signed by 25 percent of the voters of a municipality in the last Congressional election is presented to the county district court and an election set.
- Disincorporation Approved: If a majority of the voters approve the referendum, a judge is able to disincorporate the municipality.
- Process of Community Disincorporation: All property and assets of the former municipality are conveyed to the county. The court is empowered to wind up the affairs of the former municipalities. The court also can permit the county commissioners to levy a tax on the residents of the former municipality to pay off any liabilities or debts.
- Alternative Method of Disincorporation: Any municipality with less than 50 inhabitants in the latest Census may be dissolved by district court if it is petitioned by the county board of commissioners.

WASHINGTON

- Procedure Initiated: Petition signed by majority of the voters of a municipality is presented to the municipal clerk and a referendum election set for the next general election. The same election will include the election of a receiver to wind down the affairs of the municipality if any indebtedness or liabilities exist.
- Disincorporation Approved: If a majority of the voters approve the referendum, the state secretary of state can disincorporate the municipality.
- Process of Community Disincorporation: The elected receiver must post a bond. The receiver is responsible for winding up the affairs of the former municipality and he files reports to the clerk of Superior Court. Any remaining funds go to the county treasurer to be put in a fund earmarked for the local school district.
- Alternative Method of Disincorporation: Disincorporation may also be initiated by the filing of a petition with the Superior Court by the State Auditor. The municipality must have not held local elections for two consecutive years. The Superior Court can then disincorporate the community.

Washington Statutes: Chapter 35.07 Disincorporation

WEST VIRGINIA

- Procedure Initiated: Petition signed by 25 percent of the legal voters of a municipality is presented to the municipality. An election is then set for the next regular municipal election.
- Disincorporation Approved: If a majority of the voters approve the referendum, the community is dissolved.
- Process of Community Disincorporation: Any property or assets left after liabilities and debts are repaid become the property of the state, controlled by the auditor.
- Alternative Method of Disincorporation: Any municipality with either less than 100 inhabitants, less than 20 votes at the last election, or that has not exercised its corporate powers for a full year may be dissolved by the county commission.

West Virginia Statutes: Article 35 Dissolution of Municipalities, §8-35-1 & §8-35-2
