

Layering of Local Governments & City-County Mergers

*A Report to the New York State Commission on Local Government
Efficiency and Competitiveness*

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Introduction

This report addresses two very specific questions raised by New York's Commission on Local Government Efficiency and Competitiveness:

- How does New York's system of layered general purpose local governments compare with the systems in other states, how does layering vary within New York, and what alternatives are there to layering?
- What are the possibilities for city-county mergers in New York?

These questions are part of a much broader set of questions: How should local governments be structured, what should their service areas be, and how many should there be?

Layering of general purpose local governments

New York has a complex system of 1,607 general purpose local governments - governments that serve more than one purpose, and are not limited to a single function such as education or fire protection. There are four types of general purpose local governments: counties, cities, towns, and villages. The land area of New York is divided into 57 counties plus New York City, which together with 14 native American reservations exhaust the territory of the state. The counties outside New York City have 61 cities and 932 towns within their borders. These cities and towns exhaust the territory of the counties, so that New York has no unincorporated territory. (An unincorporated area is an area within a county that has no sub-county government.) None of the cities or towns crosses county boundaries. With one minor exception, cities and towns do not overlap.¹ Some counties have no cities, while others have several. Every county has at least one town. Finally, New York has 556 villages, which sit within towns. Many towns have one or more villages wholly or partly within their borders, with 76 villages crossing town boundaries.² (New York has five towns that are coterminous with their village and have a single government that exercises town and village powers.)

This leads to multiple layers of general purpose local government. Village residents have three layers – the village, the town their portion of the village is in, and the county. Town residents outside of villages have two layers – the town and the county. City residents outside New York City also have two layers – city and county. Finally, New York City residents have just one layer of government, as the City performs the functions of both a city and a county. (In addition, the 0.1 percent of New York's population outside New

York City who live on Native American reservations also have only one layer of government.) Thus, New York citizens can reside within one, two, or three layers of general purpose local government.³

Historically, cities were centers of population and industry, and towns were sparsely populated, occasionally with densely populated areas that were incorporated as villages. But over time, the economies and demographics of cities, towns, and villages changed dramatically but their legal structures did not. Between 1950 and 2000 cities (outside New York City) lost 24 percent of their population while towns increased in population by 121 percent. A 2006 study by the state comptroller noted that the distinctions among towns, cities, and villages are now quite artificial, with all of these governments capable of delivering a broad array of services. It showed that major urban areas in New York tend to be either large cities or large towns, smaller upstate urban centers tend to be cities or villages, smaller downstate urban centers tend to be either villages or town, and suburbs can be either villages or towns. The study described New York's local government arrangements as "a structure no one would design today." (Office of the New York State Comptroller, 2006b)

Layering across the nation

New York's system of layering is an artifact of its historical development. It is unusual but not unique. Figure 1 shows the share of each state's population that is within one, two, or three layers of general purpose local government.⁴

Figure 1 New York is one of 10 states with triple-layering of general purpose local governments

Layering of general purpose local governments by state

	Population (2000 Census)	Percentage of population with exactly:			Rank ("Rest of state" used for NY rank)
		1 layer	2 layers	3 layers	
Alaska	626,932	81.4	15.3		
Alabama	4,447,100	41.6	58.4		
Arkansas	2,673,400	38.5	61.5		
Arizona	5,130,632	21.2	78.9		
California	33,871,648	21.1	78.9		
Colorado	4,301,261	42.6	57.4		
Connecticut	3,405,565	99.3	0.7		
Delaware	783,600	72.6	27.4		
Florida	15,982,378	55.4	44.6		
Georgia	8,186,453	67.1	32.9		
Hawaii	1,211,537	100.0			
Iowa	2,926,324	22.6	77.4		
Idaho	1,293,953	34.4	65.6		
Illinois	12,419,293	0.9	38.1	61.0	1
Indiana	6,080,485	12.9	37.4	49.7	2
Kansas	2,688,418	6.6	82.5	10.9	5
Kentucky	4,041,769	59.7	40.3		
Louisiana	4,468,976	61.6	38.4		
Massachusetts	6,349,097	53.1	46.9		
Maryland	5,296,486	85.4	14.6		
Maine	1,274,923	0.8	99.3		
Michigan	9,938,444	-	97.1	2.9	9
Minnesota	4,919,479	0.8	98.9	0.3	10
Missouri	5,595,211	38.4	58.4	3.2	8
Mississippi	2,844,658	49.4	50.6		
Montana	902,195	51.2	48.8		
North Carolina	8,049,313	49.6	50.4		
North Dakota	642,200	7.6	92.4		
Nebraska	1,711,263	16.2	79.5	4.4	7
New Hampshire	1,235,786	0.0	100.0		
New Jersey	8,414,350	-	100.0		
New Mexico	1,819,046	38.1	61.9		
Nevada	1,998,257	45.4	54.6		
New York	18,976,457	42.3	48.1	9.7	
New York State outside NYC	10,968,179	0.1	83.2	16.8	3
New York City	8,008,278	100.0			
Ohio	11,353,140	0.0	85.8	14.2	4
Oklahoma	3,450,654	24.3	75.7		
Oregon	3,421,399	33.4	66.6		
Pennsylvania	12,281,054	12.4	87.6		
Rhode Island	1,048,319	100.0			
South Carolina	4,012,012	64.8	35.2		
South Dakota	754,844	15.4	84.6		
Tennessee	5,689,283	51.9	48.1		
Texas	20,851,820	24.5	75.5		
Utah	2,233,169	16.5	83.5		
Virginia	7,078,515	93.9	6.2		
Vermont	608,827	0.0	93.1	6.9	6
Washington	5,894,121	40.4	59.6		
Wisconsin	5,363,675	-	100.0		
West Virginia	1,808,344	64.4	35.6		
Wyoming	493,782	32.1	67.9		

Source: Author's analysis of data from the 2000 Census of Population (SF1), U.S. Census Bureau

Note: Percentages will not add exactly to 100 in Alaska and Hawaii. In Alaska there are 11 Census areas, with 20,438 residents, that do not have borough government and are outside of a municipality. In Hawaii, Kalawao County, with 147 residents, is not within a city or county.

Hawaii and Rhode Island each has only one layer of general purpose local government.

In Hawaii the city and County of Honolulu are a consolidated city-county government. The remainder of the state is divided into four counties, three of which are governments: Hawaii, Kauai, and Maui. The fourth, Kalawao, is considered an adjunct of state government. Hawaii ranks 50th among states in number of local governments, and it is the only state with no separately incorporated municipalities.⁵

Three states have exactly two layers of general purpose local government in all areas -- New Hampshire, New Jersey, and Wisconsin. Another 35 states have one layer in some parts of the state and two layers in other parts of the state. This is by far the most common structure, but there is great variation within the group. Maine has 99 percent of its population in two layers and just under one percent in one layer, while Virginia has one percent of its population in two layers and 94 percent in one. The cities in Virginia are independent cities, meaning that they do not fall within county boundaries, and so there is only one layer of government in a Virginia city.

And then there are 10 states, including New York, which can have up to three layers of general purpose local government.⁶ Illinois and Indiana by far have the greatest shares of their population in three layers of general purpose local government, at 61 percent and 50 percent, respectively. Illinois has the most general purpose local governments of any state, with 2,823 in 2002. It has 102 counties that cover the entire territory of the state. Within 85 of those counties there are a total of approximately 1,430 townships that in almost all cases cover the entire county. In addition, Illinois also has approximately 1,290 municipal governments, which often sit within the townships, creating a third layer. Indiana has 91 counties plus the city of Indianapolis, which together cover the entire territory of the state. In addition, within the counties and Indianapolis it has 1,008 township governments that also cover the entire territory of the state, creating a full second layer. Finally, there are 567 municipal governments, which sit within the townships, creating a third layer of general purpose local government in much of the state.

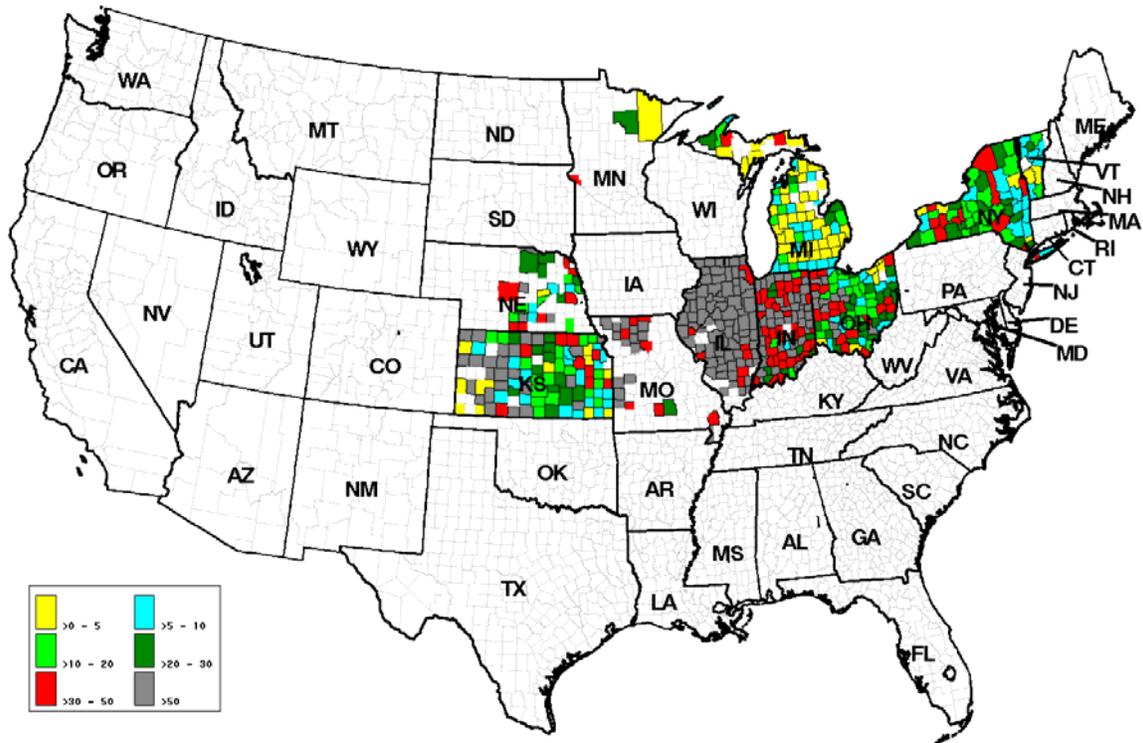
Ohio is a distant third with 14.2 percent of its population in three layers of general purpose government, followed by Kansas at 10.9 percent. New York is fifth with 9.7 percent of its population in triple layers (i.e., in villages) but would move to third place if we consider only the area of outside of New York City – this area has 16.8 percent of its population in triple-layered villages. The remaining triple-layer states -- Michigan, Minnesota, Missouri, Nebraska, and Vermont – have quite small percentages of the

population in three layers of general purpose local government.

Figure 2 shows the extent of triple layering within each state, by county.

Figure 2 Illinois and Indiana lead the pack in triple-layering, followed by New York

Percent of continental U.S. population subject to 3 layers of general purpose local government, by county



Source: Author's analysis of data from the 2000 Census of Population (SF1). U.S. Census Bureau

Layering within New York

Because villages are generally small, New York's triple layering does not greatly affect statewide spending totals. Spending by the village layer is 8 percent of total general purpose local government spending outside of New York City. (This is based on data from the New York Office of the State Comptroller. It is difficult to do a similar calculation for other states because the U.S. Census Bureau's population data, from which the layering estimates in this report were constructed, cannot easily be linked to the Census Bureau's government finance data.⁷) It is possible that layering creates inefficiencies that are difficult to measure – the complications and expense that may come from numerous meetings, phone calls, and other forms of communication and

villages cover only 2.5 percent of the county's land area. Although Livingston County is quite rural its villages are very different from other areas – their average population density is 1,657 people per square mile, which is about the same as Rockland County and more than 24 times the average density of Livingston's non-village areas. If Livingston did not have villages, it would need some other way to provide urban services to its village areas.

Figure 4 Triple layering in New York

Triple-layering of general purpose local governments in New York

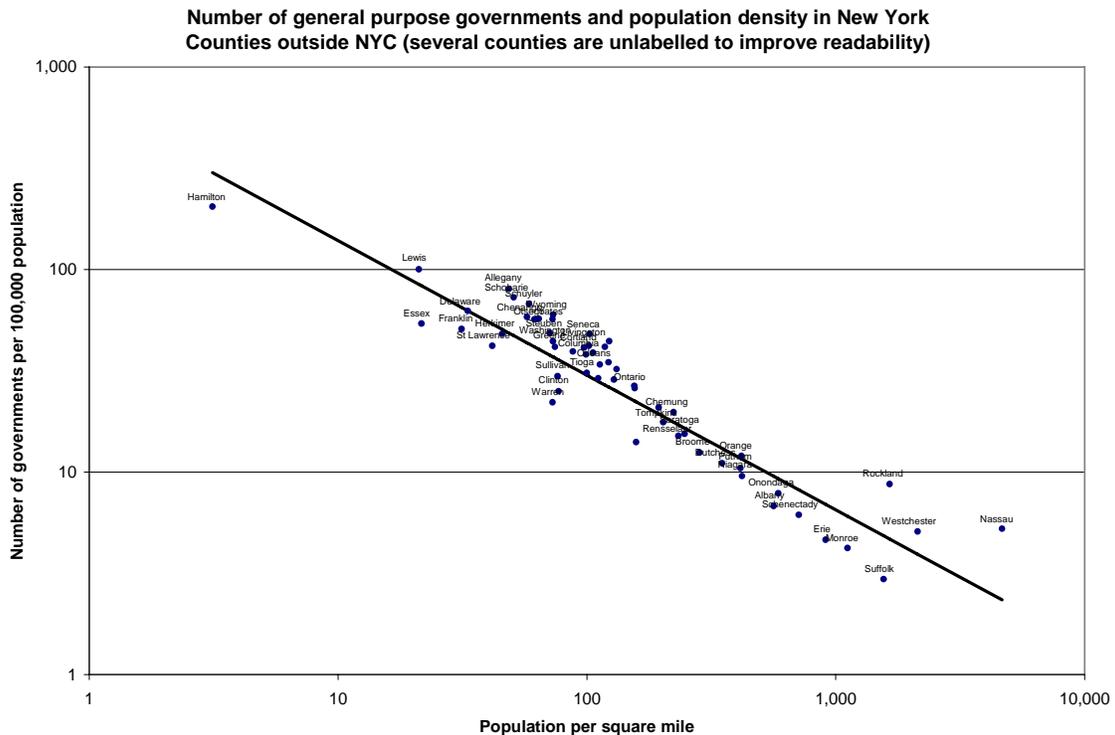
County	Population	Population density (per square mile)	Percent of population in triple layers
Livingston	64,328	101.8	41.4
Seneca	33,342	102.6	40.8
Herkimer	64,427	45.7	40.7
Rockland	286,753	1,645.9	40.3
Orleans	44,171	112.9	37.4
Wyoming	43,424	73.2	35.4
Washington	61,042	73.1	34.3
Nassau	1,334,544	4,655.0	33.7
Allegany	49,927	48.5	32.7
St. Lawrence	111,931	41.7	32.5
Delaware	48,055	33.2	31.5
Yates	24,621	72.8	31.1
Franklin	51,134	31.3	29.8
Lewis	26,944	21.1	28.9
Madison	69,441	105.9	28.6
Schoharie	31,582	50.8	27.5
Wayne	93,765	155.2	27.5
Schuyler	19,224	58.5	25.6
Westchester	923,459	2,133.6	23.1
Tioga	51,784	99.8	22.7
Chautauqua	139,750	131.6	22.7
Montgomery	49,708	122.8	22.3
Orange	341,367	418.2	21.2
Steuben	98,726	70.9	20.6
Greene	48,195	74.4	20.6
Jefferson	111,738	87.8	19.5
Sullivan	73,966	76.3	18.1
Chenango	51,401	57.5	16.8
Cattaraugus	83,955	64.1	16.6
Broome	200,536	283.7	16.6
Genesee	60,370	122.2	15.9
Essex	38,851	21.6	15.3
Tompkins	96,501	202.7	13.6
Chemung	91,070	223.1	13.3
Otsego	61,676	61.5	12.7
Ontario	100,224	155.5	11.9
Oneida	235,469	194.2	11.7
Cortland	48,599	97.3	11.2
Cayuga	81,963	118.2	10.8
Clinton	79,894	76.9	10.8
Onondaga	458,336	587.4	10.5
Columbia	63,094	99.3	9.9
Erie	950,265	910.0	9.6
Oswego	122,377	128.4	9.3
Saratoga	200,635	247.1	8.9
Suffolk	1,419,369	1,556.0	8.7
Ulster	177,749	157.8	8.5
Albany	294,565	562.7	7.4
Hamilton	5,379	3.1	6.5
Fulton	55,073	111.0	6.3
Dutchess	280,150	349.5	6.2
Schenectady	146,555	711.1	5.7
Rensselaer	152,538	233.3	5.2
Monroe	735,343	1,115.4	5.0
Putnam	95,745	414.0	4.9
Niagara	219,846	420.4	3.8
Warren	63,303	72.8	1.6

Source: Author's analysis of data from the 2000 Census of Population (SF1), U.S. Census Bureau

Population density, layering, and the number of governments

Observers of government often express concern that layering leads to excessive and unnecessary numbers of government. The number of general purpose governments within different areas of any given state is highly related to population density. Denser, more-urban areas tend to have fewer governments per hundred thousand population than do sparsely populated areas. Figure 5 shows that this relationship holds strongly in New York. The solid downward-sloping line depicts the average relationship between the number of governments and population density.⁸ New York's most sparsely populated county, Hamilton County, has far more governments relative to its population than any other county, while the densely populated counties, such as Erie, Monroe, Nassau, Suffolk, and Westchester have relatively few governments per 100 thousand population.

Figure 5 Spread-out areas tend to have more governments per 100,000 population



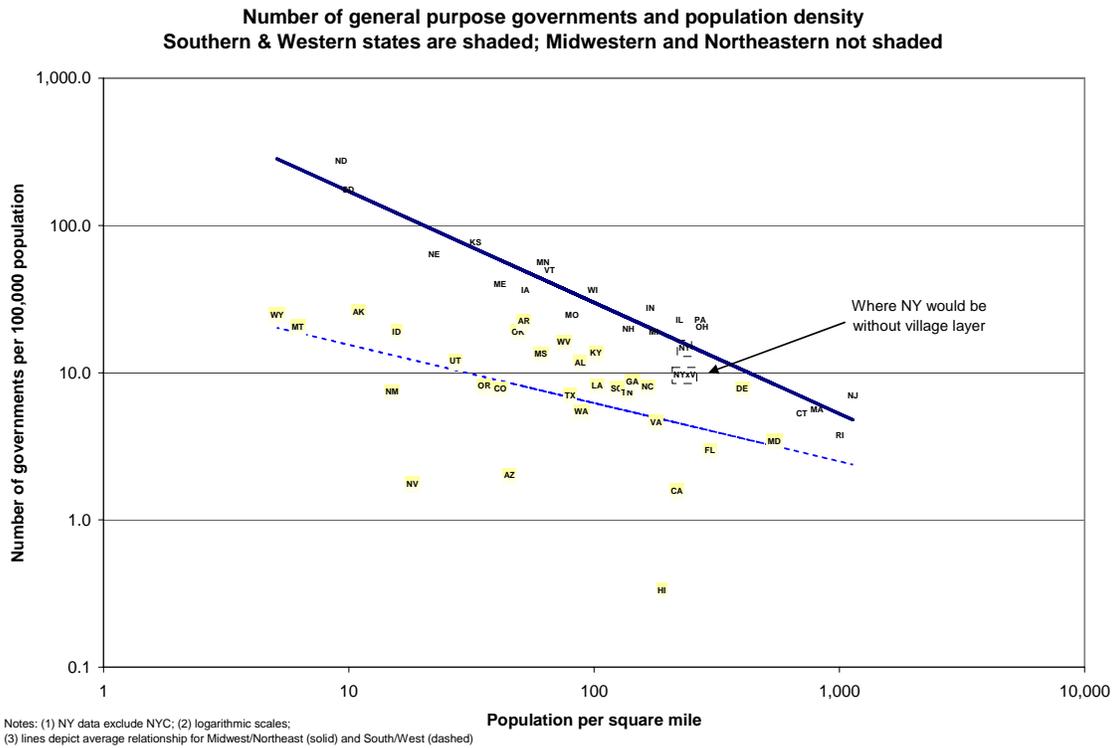
Nassau and Suffolk counties are interesting: both are densely populated (Nassau much more so) and have low numbers of governments relative to their populations compared with the rest of the state. But Nassau has more governments per capita than the regression line would suggest while Suffolk has fewer. Since each county has high taxes relative to others within New York, some analysts looking for simple explanations might point to

the high numbers of government in Nassau as a possible cause, while others might look to the relatively low numbers of governments in Suffolk as evidence against this.

The relationship between the number of governments and population density is strong within any given state. Presumably it is easier for a single government to serve a large number of people if they are packed densely in a small geographic area than if they are spread out over a larger area – a larger area might have greater diversity of service needs and willingness to pay for them.

The negative relationship between the number of governments and population density holds *across* states as well but less strongly than *within* states, presumably because legal structures such as layering vary across states. Figure 6 shows the relationship across states. The solid line depicts the average relationship between the number of general purpose governments and population density for northern and eastern states, while the dashed line depicts the average relationship for southern and western states.

Figure 6 New York has more general-purpose governments relative to its population density than the typical state, but is similar to its neighbors and other Midwestern and Northeastern states

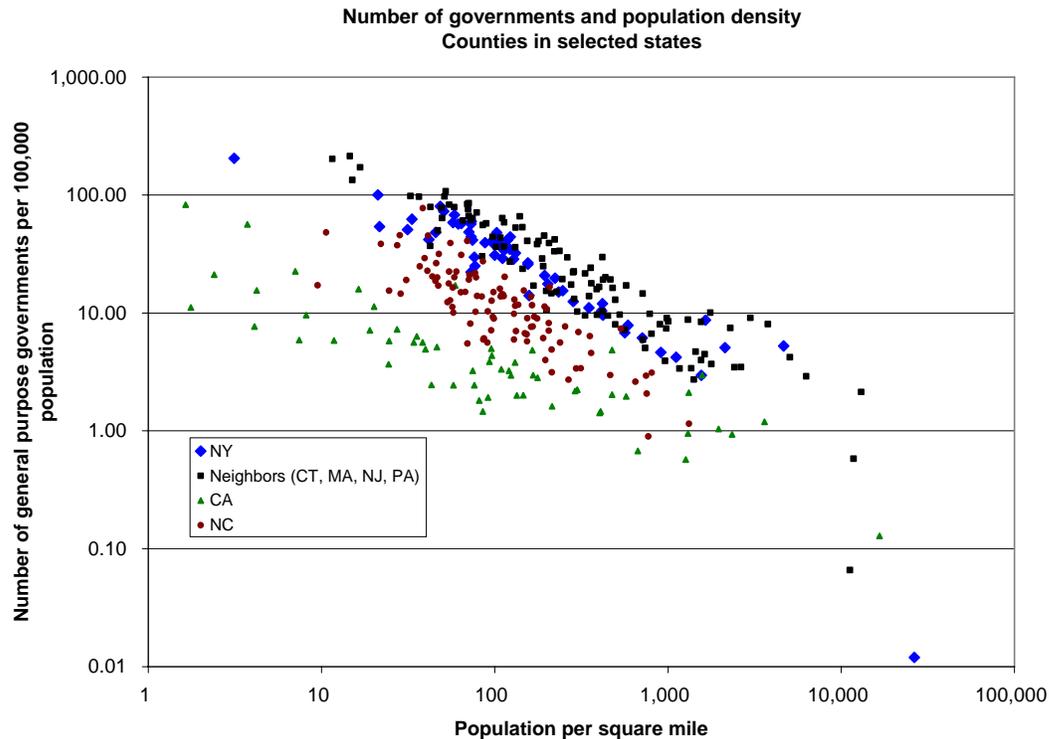


Western and southern states are shaded on the figure, and it is clear they have fewer general purpose governments than northern and eastern states after taking population density into account, reflecting among other things their widespread use of annexation – as outlying unincorporated areas become more urban and their citizens desire additional services, it is common for these areas to become annexed by cities rather than forming their own municipal corporations. Northern and eastern states tend to have little unincorporated area and little annexation. (New York has no unincorporated areas.) The two states with the highest degree of layering – Illinois and Indiana – have above average numbers of governments even for northern and eastern states.

There are two plot points for New York, both of which exclude New York City.⁹ The point labeled “NY” is the non-NYC portion of New York under current arrangements. The point labeled “NYxV” shows where that point would be if New York State did not have its third layer of government -- villages. New York’s number of general purpose local governments taking population density into account is typical for northern and eastern states but well above the typical western or southern state. If New York were to eliminate its village layer, its number of governments would be atypically low for a northern or eastern state but still atypically high for a southern or western state – there is more going on here than layering. However, another dimension of New York State’s local government structure – its complexity in mismatched and overlapping boundaries – is not accounted for by these simple ratios. In New York, schools, special districts and villages can all overlap towns and even counties. There is no easy way to analyze whether and to what extent New York’s overlapping boundaries may be more extensive or complex than other states.

Finally, Figure 7 shows the number of general purpose local governments in each county (per 100 thousand population) and population density, for New York outside NYC (blue diamonds), its large neighbors (black squares), and two southern/western states with statewide average density fairly similar to New York’s average - California (green triangle) and North Carolina (brown circle). The numbers of governments in New York’s counties are similar to its neighbors but somewhat lower. New York and its neighbors all have many more governments than counties in California or North Carolina.

Figure 7 Numbers of governments in NY counties are comparable to NY's large neighbors



Options for reducing layering

Setting aside whether it is advisable or politically feasible to eliminate triple layering, there are several ways to go about it. One approach would be to encourage or require villages to dissolve and merge into their towns so that New York would have two layers of general purpose governments everywhere outside New York City – cities within counties, and towns within counties.

Another approach would be to eliminate towns and transfer their functions to counties, so that New York would have counties, urbanized areas within counties that are either cities or villages, and unincorporated areas that would be the county area outside cities and villages. This is similar, superficially, to a proposal put forth by the Indiana Commission on Local Government Reform to eliminate its township layer of government. (Indiana Commission on Local Government Reform, 2007) But below the surface there are significant differences. Indiana, with the second-most triple layering in the country, has 1,008 township governments that constitute a universal middle layer of government, below counties and above municipalities. However, they do not do as much as New York's town governments, which can perform the functions of what otherwise might be

full-fledged cities elsewhere in the nation or in some areas of New York. The main functions performed by Indiana townships are property tax assessment, poor relief, fire protection, emergency medical services, and certain park services and community services. In total, Indiana townships raise only 8 percent of general purpose tax revenue. New York's towns raise about 33 percent of general purpose tax revenue outside New York City. What may make sense in Indiana does not appear to be a simple proposition in New York.

Most of the 19 village dissolutions since 1950 have involved small villages – 15 had population of less than 1,000. One reason for this is that small villages often have difficulty finding people to govern and manage the village. Larger villages that dissolved often have had significant financial distress. (Hattery, 2004)

There are procedures for dissolving villages: a proposition to dissolve a village may be placed before village voters either on a motion of the village board, or by a petition signed by one third of the voters in the village. Before the proposition can be approved, the village board must form a study committee that will issue a report addressing the topics in the plan for dissolution, and that will consider alternatives to dissolution. Among other things, the dissolution plan must address disposition of village property will be disposed, payment of village debts and other obligations, and transfer or elimination of village employees. (Batson, 2007) Services and functions provided by the village must be assumed by the town and charged to the taxable property unless the dissolution plan or law state otherwise. (Bridges, c.1996) The committee must have representatives from all towns in which the village is located. If a majority of village voters approve, the proposal will take effect and the village will be annexed into the towns – there is no requirement for town voters or the board of the town (or towns) to approve. (Batson, 2007)

Village dissolution is often difficult politically and dissolutions do not occur frequently. As with school districts, citizens often have strong attachments to their villages and will not easily let them disappear. The Village of Naples in Ontario County tried to dissolve into its town in 1994, 2001, and again in 2005 but each time electors voted it down. (Cornell University, 2006) South Corning (Steuben County) village residents also are considering merging. A merger study is under way, and village officials must complete a merger plan before a vote can take place.

Discussions in 1996 about a possible merger between the village of Cherry Creek and the

town of Cherry Creek in Chautauqua County illustrated some of the technical and political complications involved in a village dissolving and merging with its town.¹⁰ The proposal would have resulted in four new special districts. The dissolution consultant estimated that taxes on a typical parcel in the former village would decline by 18.9 percent while taxes on a similar parcel outside the former village would increase by 11.7 percent. The merger did not occur.

Tax increases in the town-outside-village area have been the norm in past village dissolutions. (Hattery, 2004.) Furthermore, if the village is urbanized and residents wish to retain village services, then the merger may result in creation of multiple special assessment districts.¹¹

An alternative to dissolving villages or towns is to transfer some or all village functions to other governments. Counties have the legal power to transfer functions between cities, towns, and villages within the county, or to the county itself, although the process is cumbersome and not easily accomplished. Under the relevant provisions of law, counties may transfer functions without the consent of the affected governments as long as the transfer is approved by separate majorities of (a) voters in cities within the county taken as a unit, (b) voters in non-city areas in the county, plus (c) voters in any villages affected by the transfer. Thus, triple majorities of voters are required to transfer village functions to towns or the county. (Batson, 2007) While transfer of functions can be done without action by the state or by town boards, it does not appear easy.

City-county merger possibilities

A consolidated city-county typically generally is thought of as a government created from the merger of a county, a city, and possibly other governments.¹² It has the responsibilities of a city and a county.

City-county consolidation nationally

Nationally, there are 38 consolidated city-county governments – slightly more than one percent of the approximately 3,069 counties.¹³ The merger of New Orleans city and New Orleans Parish in 1805 was the first. Perhaps the most notable was the creation of New York City in the 1890s. The most active period was the 1960s through 1976, with 14 mergers including Nashville-Davidson in 1962, Jacksonville-Duval in 1967, and Indianapolis-Marion in 1970.¹⁴ The most recent large merger was Louisville-Jefferson County in Kentucky in 2003.

City-county mergers are most common in the South and the West. There has not been a single city-county merger in the northeast since the creation of New York City, and every city-county merger since 1900 has been in the South or West. Southern and western states often have unincorporated areas that have been brought into the merged city-county, in contrast to the northeast where unincorporated territory is rare. There are no unincorporated areas in New York. Figure 8 shows the years and number of consolidations by state.

Figure 8 Consolidation by state¹⁵

City-county consolidations by state and year of consolidation

							Number
Virginia	1952	1957	1962	1962	1971	1972	6
Alaska	1969	1971	1975	1992	2002		5
Georgia	1970	1990	1995	2003	2006		5
Louisiana	1805	1947	1981	1992			4
Tennessee	1962	1987	2000				3
Kentucky	1972	2000					2
Massachussets	1821	1821					2
Montana	1976	1976					2
California	1856						1
Colorado	1902						1
Florida	1967						1
Hawaii	1907						1
Indiana	1970						1
Kansas	1997						1
Nevada	1969						1
New York	1898						1
Pennsylvania	1854						1
							<hr style="width: 100%; border: 1px solid black;"/>
Total							38

Source: National Association of Counties, c.2007, plus Indianapolis

Many proponents of city-county mergers argue that they will lead to greater efficiency, greater equity in treatment of citizens, more-accountable government, and more-coordinated and successful economic development efforts. They argue that merged city-county governments can reduce costs by taking advantage of economies of scale in delivery of some services and by eliminating duplication of service. They also believe that consolidated governments create greater opportunities for redistribution of income and resources, incentives for less segregation of residents, and opportunity for broader political participation.

There is no clear consensus among academic researchers and analysts on many of these claims. As one researcher noted, “Simply put, the ability of consolidated government to produce the benefits promised by its proponents has not been established.” (Carr, 2004) Public choice economists argue that citizens are best served when they have many small governments to choose from. Governments closest to the people are most likely to make decisions reflecting local preferences, and with many small governments citizens can go shopping around for services by “voting with their feet.” Regionalists counter that

fragmentation limits the ability of citizens in a region to act regionally

Literature reviews have suggested that costs of merged governments are not necessarily lower than costs of individual governments and can be higher.¹⁶ One recent review concluded, “as the number of general purpose governments (or governments per capita) increases, service costs decrease.” (Foster, 2001). Many studies found higher costs after consolidation due to “leveling up” of salaries (e.g., paying all workers at the highest pay scale of the governments involved in a consolidation). The proper interpretation of these studies is not that consolidation never saves money, but rather that it may for some services while it may not for others, the politics of achieving savings are difficult, and it all depends on the specific implementation.

Consolidation is politically difficult. Nationally from 1805 through 2006 there were 166 formal consolidation attempts with only 37 successes – a 78 percent failure rate. While the rejection rate has been somewhat lower in the current decade to date, it is still quite high. (See Figure 9) (NACo, c.2007)

Figure 9 Nationally, most city-county consolidation attempts fail

City-county consolidation attempts by decade

Decade beginning	# of attempted city-county consolidations	# passed by voters	% rejected by voters
1800	1	1	0.0
1820	2	2	0.0
1850	2	2	0.0
1870	1	1	0.0
1900	2	2	0.0
1920	4	0	100.0
1930	5	0	100.0
1940	3	1	66.7
1950	9	2	77.8
1960	20	6	70.0
1970	49	8	83.7
1980	27	2	92.6
1990	24	5	79.2
2000 through 2006	17	5	70.6
Total	166	37	77.7

Source: National Association of Counties, c.2007

The Augusta/Richmond County consolidation in Georgia failed four times before finally passing in 1995 – a process that took 24 years. The recent Louisville/Jefferson County, Kentucky consolidation failed twice, beginning in 1982, before finally passing in 2000. With only one exception (the merger of Indianapolis and Marion County) consolidations have not been mandated by states, but rather have been locally initiated, and have required approval by affected local governments and by voters – a high hurdle. Successful locally initiated mergers reportedly have tended to have popular local leaders behind them. Voters typically have been supportive of consolidation studies, but then often vote consolidations down - consolidations often take multiple attempts and many years.

While it is tempting to think that consolidation reduces the number of separate governments dramatically, historically that has not been the case: Nationally, consolidations generally have not dissolved existing municipalities. For example, the U.S. Census Bureau counts 14 separate city and town governments within the borders of Indianapolis, which consolidated with Marion County in 1970 (U.S. Census Bureau, 2002a) In fact, at least 12 consolidated city-counties have one or more separate governments within their borders.¹⁷

Finally, the elimination of a layer of government through city-county consolidation does not eliminate the need to provide different service levels in different geographic areas of the consolidated government. The traditional solution is to create at least two special districts within the consolidated government: (1) a general service district that finances services throughout the former county, such as courts, jails, and human services, and perhaps a basic level of other services, and (2) an urban service district that provides municipal services such as fire protection and enhanced levels of services such as garbage collection. (Pennsylvania Economy League, 2007.)

City-county consolidation in New York

City-county consolidation is possible but difficult under New York law.¹⁸ The New York State Constitution prohibits creation of new hybrid forms of general purpose governments, but city-county consolidation is permissible as long as the surviving entity is either a city or a county.

Perhaps the most difficult issue this raises is that a combined city-county legally defined as one or the other would be subject to either city tax and debt limits, or county tax and

debt limits, but not both. At present, large cities in New York generally are subject to a tax limit for operating purposes of 2 percent of full value, and the counties in which they are located are subject to tax limits of 1.5 to 2 percent. These limits are cumulative. Large cities in New York are close to their tax limits and so any reduction in cumulative limit could create significant fiscal problems. Half measures might be available that retain the city as a “shell,” allowing both city and county limits to be tapped, but these approaches could create other difficulties.

Although consolidation is constitutionally permissible, unlike some other states there is no general statutory authorization allowing it.¹⁹ State action would be required for any proposed merger, and could take the form of new general authorizing legislation similar to what is in place now for towns and villages, or case-by-case specific legislation. State-mandated mergers might also be legally permissible, but this is an open question (Lavine, 2007). The history of city-county consolidation in the nation suggests that state-mandated mergers have little support.

Case-by-case legislation could be quite a cumbersome process. Both the city and county government would have to request state legislation, probably in form of a new county charter. The state legislature would then have to pass the legislation and the governor would have to approve. If a new charter was drafted by the state it would have to be approved by a majority of residents of the entire county (including town residents) and a majority of residents in city. In total three separate sets of approvals would be required - each local government, the state government, and then the residents of each local government. The state could enact general authorization providing for a more-streamlined process.

The proposed Buffalo-Erie consolidation

In early 2004 the Erie County executive, Buffalo City Mayor, Chairman of the Erie County Legislature, and President of the Buffalo Common Council asked a commission to examine the possibility of merging the city and county. In January 2005 the Greater Buffalo Commission proposed that the two governments merge. They argued that a merger would stop the sniping between the city and suburbs and end competition between City Hall and County Hall, empower political leadership to think and act regionally, and enable the region to become competitive with other regions. Cost effectiveness was not the sole or even primary purpose of the proposed merger. (Greater Buffalo Commission, 2005)

The proposed merger process would require many approvals, similar to the earlier discussion:

- The county legislature would need to request state legislation to allow for a merger referendum
- The state legislature and then governor would have to approve
- A charter-revision commission would be established and would draft a proposed new county charter
- The county legislature would review the proposed charter and approve it for referendum (following hearings etc.)
- There would be a dual referendum: A majority of the residents of cities would have to approve, AND a majority of residents of towns in the county would also need to approve

The process did not get past the first step above.

The details of the proposed merger were not fleshed out in legislation, but included the following elements:

- Buffalo City would remain as a legal “shell”. The reason for this was not given, but it may have been to avoid losing the additive city-county tax and debt limits discussed earlier
- Towns and villages would not be altered in any way
- Similar to the experience in other city-county consolidations, city boundaries would define a new special district within the county called the “Municipal Service Area.” Residents would continue to receive special services (e.g., more intensive policing services) and would be taxed for these services
- Administrative, back-office, and governance functions such as budgeting, planning, and law, would have their managements merged
- The county legislature and city council would be merged, increasing the size of the county legislature from 15 to 21 seats
- City of Buffalo employees would be governed by the Erie County collective bargaining agreements. (Whether it would be possible to substitute county bargaining agreements for city agreements while retaining the city as a “shell,” so that a vestige of the city remained, is debatable.)
- The school district apparently would remain fiscally dependent on the shell city.

Because the proposal was not fleshed out in the form of legislation, it is not surprising

that there are unanswered questions about it. Some of the more significant questions include:

- What role would city-based legislators play in governance of the county? With the increase in the county legislature's size, would the city have greater weight in county affairs?
- The proposal attempted to have its cake and eat it too – on the one hand treating city employees as if the city were dissolved, in an effort to circumvent and vitiate existing city labor agreements (see cost savings section below regarding police and solid waste disposal), while on the other hand acting as if city still exists for purposes of tax and debt limits. Would this have been legally permissible?
- What would happen to state and federal aid for the city? For the county? What would happen to the overall budget?
- What would happen to the school district? Apparently city residents would be taxed as at present (assuming tax and debt limits were not affected). Thus, any savings that might be obtained from sharing or merging operations with neighboring districts would not be obtained.
- How if at all would debt be affected?
- How would the many fragmented economic development efforts in the area be affected? It appears that individual municipalities would continue to have their individual (and competing) IDAs.
- How, exactly would capital planning work? When would county residents (outside the city) have a role in deciding what projects get built, and who will pay, and when wouldn't they?
- How would land use planning work? Would Buffalo control its own zoning? What role would the rest of the county play?

Presumably all of these questions are answerable, given that governments elsewhere have managed to resolve these issues.

The county executive and the Greater Buffalo Commission were clear that cost savings were not the primary rationale behind the proposal. However, with the help of the regional CPA firm Lumsden & McCormick they did project some savings. In total, they estimated that the combined entity would be able to reduce expenditures by about \$32 million, or 2 percent of combined county-city expenditures. (Lumsden & McCormick, LLP, 2005) The main elements were:

- \$15.5m (48 percent of the total) in savings on police expenditures. The key assumption was that the consolidation would require police officers to become county

employees, voiding their city contract and requiring them to be paid at the much lower pay scales of county sheriffs – with salaries and benefits that were well below what police officers were paid in Rochester and Syracuse

- \$4.4m (14 percent) came from assuming the city-county would not need to honor a pre-existing Memorandum of Understanding that the city had reached with refuse workers prohibiting city privatization of refuse collection. This would allow the city-county to lay off 130 refuse workers and privatize the services at much lower expenditure amounts.
- Most of remaining \$12+ million of savings (38 percent of the total, and 0.8 percent of combined city-county spending) came from traditional consolidation opportunities – in this case, from eliminating the city council and expanding the county legislature, and from merging back-office operations to eliminate duplication.
- Lumsden & McCormick noted that the scope of the report was limited. They expected that additional savings would be available if the scope had been expanded to include major spending areas that were not in the scope of the project, such as social services.

These savings estimates are notable for three reasons. First, very little of the savings come from elimination of duplicative services or from greater efficiencies. The largest share by far came from assuming that the combined entity would be able to void existing labor contracts and agreements. Second, the estimates raise questions about whether the city and county would be able to have their cake and eat it too – to retain a “legal shell” of the city, presumably allowing it to benefit from additive city and county tax and debt limits, and yet for labor-agreement purposes treat the city as if it had disappeared. Third, the largest savings come from actions that the city could have achieved on its own if it had the political capacity to do so – if it had been able to negotiate lower salary agreements with its police force, and if it had been able to avoid agreeing with its sanitation workers that it would not privatize refuse collection.

Attempts to consolidate Buffalo and Erie have fizzled out, in part because political leadership for the effort has waned, particularly since Erie County began experiencing severe fiscal difficulties itself after the merger was proposed. Furthermore, it’s not clear that the boundaries of that proposal were the best boundaries. In an analysis conducted in 2004, the Center for Governmental Research showed that the urban area likely to need city-like services was larger than just the City of Buffalo, and that a more-flexible approach that allowed creation of a “Buffalo Urbanized Development Area” including the neighboring City of Lackawanna and parts of neighboring towns and villages would

establish a more-efficient delivery and financing area than would the rigid Municipal Service Area that would be created in the consolidation proposal (Zettek, 2004)

Demographic differences and political difficulties

One review of research on city-consolidations concluded that “Americans generally embrace regionalism when it promises material gains through improved service delivery or tax-reducing mergers, but reject it when it redistributes resources, promotes racial and class mixing, or jeopardizes local land use prerogatives.” (Foster, 2001). Figure 10 shows demographic and economic data for the five largest cities outside New York City, and the counties to which they belong. By almost every measure each large city is radically different from the remainder of the county.²⁰ For example:

- The rest of county has 17 to 30 times as much land area as the large city, depending on the city we look at;
- Population density – clearly an indicator of service needs and wants – is 6 to 14 times as great in the large cities as in the county remainder;
- Poverty rates are 2 to 5 times as great in the large cities and educational attainment is much lower,
- The large cities are much more diverse racially and ethnically than their county remainders
- Expenditures (and tax levels) are substantially higher in the large cities.

City-county consolidation in any of New York's major cities is likely to lead to resource redistribution and racial and class mixing, suggesting that voters might require substantial service improvement or tax reduction to be in favor.

Figure 10 Large cities and their surrounding county areas are very different

Major NY cities and their county surroundings: selected comparisons

	County				
	Albany	Erie	Monroe	Onondaga	Westchester
<i>Largest city</i>	<i>Albany</i>	<i>Buffalo</i>	<i>Rochester</i>	<i>Syracuse</i>	<i>Yonkers</i>
Population					
Largest city	95,658	292,648	219,773	147,306	196,086
Rest of county	198,907	657,617	515,570	311,030	727,373
Ratio: Rest of county to city	2.1	2.2	2.3	2.1	3.7
Land area					
Largest city	21.4	40.6	35.8	25.1	18.1
Rest of county	502.1	1,003.6	623.5	755.2	414.8
Ratio: Rest of county to city	23.5	24.7	17.4	30.1	22.9
Population density					
Largest city	4,474.6	7,205.8	6,132.9	5,871.0	10,847.5
Rest of county	396.2	655.3	827.0	411.9	1,753.8
Ratio: City to rest of county	11.3	11.0	7.4	14.3	6.2
Percent of individuals below poverty line					
Largest city	21.7	26.6	25.9	27.3	15.5
Rest of county	5.6	5.8	4.9	5.4	6.9
Ratio: City to rest of county	3.9	4.6	5.3	5.0	2.3
Percentage of individuals identifying themselves as other than white-only					
Largest city	36.9	45.6	51.7	35.7	39.8
Rest of county	7.2	5.5	7.7	5.5	25.6
Ratio: City to rest of county	5.2	8.3	6.7	6.5	1.6
Percentage of housing units that are renter-occupied					
Largest city	62.4	56.6	59.8	59.7	56.8
Rest of county	32.1	24.3	23.7	23.7	35.1
Ratio: City to rest of county	1.9	2.3	2.5	2.5	1.6
Percentage of population aged 25+ with bachelor's degree or higher					
Largest city	32.5	18.3	20.1	23.2	24.8
Rest of county	33.7	27.1	35.4	30.6	45.1
City as % of rest of county	96.6%	67.6%	56.9%	75.8%	55.1%
Percent who voted for Democrat in 2000 presidential election					
Largest city	70.2	69.3	65.9	62.2	54.3
Rest of county	52.5	47.5	44.4	47.3	56.2
City as % of rest of county	133.8%	145.8%	148.3%	131.6%	96.7%
Expenditures per capita, general purpose governments, 2004					
Largest city	\$3,251	\$2,673	\$3,391	\$3,422	\$3,712
Rest of county	2,654	2,264	2,125	2,410	3,689
City as % of rest of county	122.5%	118.1%	159.6%	142.0%	100.6%

* assumes county revenue is uniform throughout county

Sources: U.S. Bureau of the Census, 2000 decennial census
 Office of State Comptroller, local government database, 2004
 NYS Legislative Task Force on Demographic Research and Reapportionment

All of this suggests that city-county mergers in New York are unlikely to be attractive politically. Academic research suggests that cost savings are by no means guaranteed and other potential benefits such as increased governmental accountability and increased democratic participation have been questioned by academic researchers. Furthermore, one of the key preconditions that regionalism advocates believe is essential – the availability of unincorporated territory to annex into the consolidated city-county government – is not present, making city-county consolidation in upstate New York unattractive to those who often advocate it. (Rusk, c.2005) In addition, some of the potential benefits of consolidation – particularly the potential fiscal benefits that might be obtained through economies of scale and scope – may be obtained through interlocal agreements and other arrangements.

If local governments and their citizens choose to pursue consolidation they should recognize that they face high hurdles. The legal process in New York is cumbersome. The politics have been daunting throughout the country, with very high failure rates and long time periods to success. State-mandated mergers do not happen. But getting all the local approvals required in New York will be very difficult, especially given how different the large upstate New York cities are in so many ways from the non-city areas of their counties.

Perhaps if the state provided significant financial incentives for consolidations they would be more likely. However, as the section below on school district consolidation discusses, even large fiscal incentives may not be enough to ensure support for consolidation, and even fiscally sensible consolidations can be mismanaged.

One important question is whether savings can best be accomplished in New York through formal merger given the political difficulties and legally cumbersome process, and whether there aren't better means to a similar end. Many objectives of consolidation might be obtained by consolidating or sharing services rather than outright merger of governmental entities.

Lessons from school district mergers

The biggest merger success story in New York has been school districts. In 1930 there were 9,118 school districts in New York but by 1970 there were only 760 districts -- a reduction of 8,358 districts or 92 percent.²¹ This decline, in large part reflecting consolidations and annexations, reflected a national trend and was driven by

improvements in transportation that made busing of children practical so that school district size was no longer determined primarily by walking distances.

Although the pace of school district mergers has slowed significantly since 1970, there have been more than 60 additional mergers, which is far more than for any other type of government in New York. Are there lessons in this for potential mergers of other governments?

There is a defined process for school district consolidations in New York although it is somewhat complex, which includes – depending on the type of districts involved, and the type of consolidation – a feasibility study, involvement by the BOCES District Superintendent, extensive public input including straw votes, and action by the commissioner of education.²²

There are at least two reasons to expect that voters would be disposed toward mergers of school districts: First, there is extensive research suggesting that mergers of small rural school districts can reduce costs considerably. One study of districts in New York concluded that “consolidation is likely to cut the costs of two 300-pupil districts by over 20 percent, cut the costs of two 900-pupil districts by 7 to 9 percent, and have little if any net impact on the costs of two 1,500 pupil districts” (Duncombe and Yinger).

Second, the state has generally provided incentive aid for consolidating districts – calculated as a 40 percent increase in “formula operating aid” for five years that is phased down over the ensuing nine years, plus up to a 30 percent increase in building aid for projects approved within 10 years of the consolidation, and aid for certain debt service payments as well. (Porter p.89 and Education Law Section 3602(14)(c,d,e,f, and j)) These incentives can amount to many millions of dollars for individual districts.

Despite these incentives and their potential to reduce property taxes and enhance educational programs, voters often are adamantly opposed to consolidation. For example, the 2000 merger between Cattaraugus and Little Valley near Buffalo will result in an increase in state aid of \$16 million over 14 years for a consolidated district of about 1,300 pupils, yet it was put before the voters many times before succeeding. And a 2000 proposal to combine Fort Ann and Hudson Falls in Washington County failed by a margin of nearly 7 to 1 in Fort Ann. (Aquiye)

Even when voters are overwhelmingly in favor of consolidation, there are huge implementation risks. Mismanaged mergers can go awry. In 1999 the school districts of Narrowsburg, Jefferson-Youngsville, and Delaware Valley merged to become the new Sullivan West Central School District. But a 2006 audit report from the state comptroller's office criticized the school boards and school officials, concluding that “because district officials failed to adopt a comprehensive strategic plan, they mismanaged the merger and wasted millions of taxpayer dollars.” (Office of the New York State Comptroller, 2006c) In late 2004 and early 2005, the districts of Bradford and Campbell-Savona studied the possible annexation of Bradford to Campbell-Savona. Both districts were purported to be financially sound and the annexation was supposed to generate \$25 million of additional state aid over 14 years for the combined districts. (Cornell University, 2006) In a November 2005 referendum more than 55 percent of voters in both districts favored the annexation. But scant months later in January 2006 Campbell-Savona reported a budget shortfall that, by March 2006, had grown to \$940,000. The commissioner of education subsequently decided in favor of a Bradford resident who challenged the validity of the referendum, and the commissioner annulled the annexation order. (Mills, 2006)

The history of school district consolidations offers important lessons:

- Unlike other kinds of consolidations, academic research provides strong support for cost savings in certain situations – smaller, rural districts
- Again, unlike other kinds of consolidations, the state offers fiscal incentives for school district consolidations
- Despite this, school district consolidations are relatively uncommon and often are voted down by substantial margins
- Potential cost savings plus large state incentives are not, by themselves, sufficient to ensure success if voters choose to support consolidation. There are risks and potential for mismanagement, and districts need considerable help to implement consolidations successfully.

Conclusions and policy implications

No one starting from scratch would design a local government system like New York has now, with its overlapping governments and rigid structure. This structure makes it difficult – but not impossible – to define efficient service areas and to levy taxes or assessments on those who are served. It creates some duplication of services and functions. It creates opportunity for miscommunication and lack of coordination in

economic development and other policy areas.

Although it is not the system we would design today, it is the system we have. Unfortunately, changing the system structurally is extraordinarily difficult: The political hurdles in front of eliminating a village layer or merging a city and county are extraordinarily high. City-county mergers in upstate New York would require merging governments whose citizens are dramatically different in terms of race, poverty, urbanicity, educational attainment, political inclination, and preferences for government services. That doesn't mean it cannot or should not be done, but clearly it will not easily be done.

The quantifiable benefits of eliminating a layer or merging a city and county appear to be low, often because of leveling up between collective bargaining agreements. Potential cost savings, while certainly meaningful in dollar terms, can be small relative to government budgets – on the order of 1 to 2 percent of spending, judging by available dissolution and merger studies. While taxpayers certainly would welcome tax reductions of this magnitude, historically they have rarely been willing to accept the intangible costs of dissolution or consolidation for this level of tax reduction.

Each merger and dissolution situation must stand alone. New York's local governments vary enormously as do their service delivery and financing arrangements. Whether a specific merger or dissolution will make sense from fiscal or other perspectives will depend on its facts – there is no one size fits all solution. However, even if a merger or dissolution appears sensible on its face, how it is implemented will matter. Careless implementation can lead to inefficiency and waste.

Consolidations and dissolutions also involve a redistribution of service benefits and tax costs. In a positive vein, one could say they involve equity issues, but another characterization is that they produce winners and losers.

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Endnotes

¹ Technically, the Vernon town government in Oneida County has jurisdiction over the territory of the city of Sherrill (population 3,147).

² Based upon the Commission Briefing: Number of Local Governments and on data from the Office of the State Comptroller.

³ Most New Yorkers also reside within one or more special purpose governments. New Yorkers outside the state's five largest cities have a separate school district government, and some citizens also reside within independent fire districts and possibly other special-purpose districts. These special purpose governments are outside the scope of this report.

⁴ Table developed from author's analysis of Summary File 1 of the 2000 Census of Population, with advice and consultation from Gregory Harper in the Population Division of the Census Bureau and Stephen Owens and Henry Wulf in the Governments Division. Any errors are the author's.

⁵ The primary sources for the description of layering in other states are Benjamin (1990a), U.S. Census Bureau (2002a), Chapters 8 and 9 of the U.S. Census Bureau's Geographic Areas Reference Manual (1994), and the author's analyses of Summary File 1 of the 2000 Decennial Census of Population and of unit-level data from the 2002 Census of Governments.

⁶ There are a few differences between this analysis and the analysis found in Benjamin (1990). Since the time of that report, seven counties were abolished by the state legislature in Massachusetts so that it now has some areas with one layer of government and other areas with two layers. Another two states, that were reported to have exactly two layers of government in that report (Pennsylvania and South Dakota) are shown in the 2000 Census data to have at least some of their population in only one layer. Finally that report noted that Iowa can have up to three layers of government. However at present the Census Bureau does not treat townships in Iowa as independent governments because their trustees are paid by the county and so it is reported here as having only two layers of government. However, that is an arguable point. If Iowa townships were treated as independent governments there would be 11 states with triple layering.

⁷ The population data were used to construct layering estimates because these data, unlike the Census Bureau's government finance data, allow users to determine the "nesting" of governments within the geography of other governments.

⁸ The axes for the figure are in a logarithmic terms. The line is the least squares regression line of the logarithm of the number of general-purpose governments per hundred thousand population on the logarithm of population density per square mile.

⁹ If New York City were shown on the graph, with one government for more than 8 million residents, it would be an extreme outlier – far to the right, and far below the line showing the typical relationship between the number of governments and population density.

¹⁰ The discussion here of the Cherry Creek analysis is based on Bridges (c.1996)

¹¹ Similar situations occurred in a 2001 dissolution study for the Village of Macedon in Wayne County, which was considering consolidation with the Town of Macedon, in the 1995 dissolution of the Village of Fillmore in Allegany County, and in a study of fiscal and municipal reorganization options for the town and village of Alfred in Allegany County (Hattery, 1999).

¹² There appears to be no universally accepted definition of a consolidated city-county. This one is consistent with Carr (2004).

¹³ This is based upon the 37 city-county consolidations approved by voters as shown on the list provided by NACo (c.2007), plus the Indianapolis-Marion County “UniGov” consolidation, which is the only state-mandated consolidation in the nation.

¹⁴ Some sources give 1969 as the year of the Indianapolis-Marion merger. I have not attempted to resolve the discrepancy.

¹⁵ The National Association of Counties lists the consolidation year for New York City as 1874, but most other sources list it as 1898 and that is used here.

¹⁶ For academic and nonacademic literature reviews, see among others, Feiock (2001), Foster (1998), Greene (2005), Hardy (2005), Michigan State University (2007), Onondaga Citizens League (2005), Pennsylvania Economy League (2007), and Staley et al. (2005).

¹⁷ See, for example, the Wikipedia entry for “Consolidated city-county”

¹⁸ The discussion of legal rules governing city-county consolidation in New York draws largely on Spitzer & Swiatek (2004) and Lavine (2007).

¹⁹ Tennessee and North Carolina have general enabling statutes. (Pennsylvania Economy League, 2007)

²⁰ This of course masks extraordinary variation within the remainder of each county, but detailing that is not the purpose here.

²¹ NYSED Powerpoint presentation, slide 3

²² See New York State Education Department, Guide to the Reorganization of School Districts in New York State.