

The Countywide Shared Services Plan

What You Need to Know About Proposed Shared Services and Transfers of Function

The countywide plan legislation requires local governments to find new, recurring savings attributable to shared services and/or the transfer of functions; therefore, it is essential to understand the basic requirements and differences between the two.

Sharing Services

Shared services can take several forms such as joint purchasing, sharing equipment, or having a contract where another municipality performs a function on behalf of the town (e.g. one town plows the roads for another town). Whatever form shared services take, the service is still considered a town function and thus the town maintains a large degree of control. General Municipal Law Article 5-g sets forth the procedure to share services, although other statutes may authorize the sharing of a particular service. It requires:

- a written agreement outlining the nature of the services and the obligations of each party;
- the majority of the town board approve the agreement; and
- the term of the agreement cannot exceed five years (although it may be renewed).

Transferring Functions

Unlike sharing service, transferring functions means that the town is no longer responsible for performing that service or having someone perform it on their behalf. Instead, another municipality takes over that function entirely and the town has no say in how it is done. The procedure to transfer a function between municipalities is significantly more complex and can only be accomplished by:

- an amendment to the county charter or the adoption of a local law by the county legislature or board of supervisors (see Municipal Home Rule Law §§ 33; 33-a); **AND**
- mandatory referendum requirements under Article IX of the New York State Constitution (** Article IX has particular requirements that differ from other mandatory referendum rules**).

A transfer of function is permanent, unlike shared services.

Example

Sharing services: A town and county enter into an agreement for the county to plow the town's roads. The town can negotiate with the county on how often the town roads should be plowed, the cost for snow plowing services and the level of snow removal. The town can resume plowing its roads if desired if the agreement is terminated or when the agreement expires.

Transferring Functions: Plowing is transferred from a town to the county. The county now makes determinations like: how often town roads are plowed, expenditures on the service, charge-backs, and the level of plowing provided. The town no longer has a say on these items. Plowing is no longer a town function. The transfer of functions is permanent.

Approving the countywide plan does not automatically create shared services or transfer functions! Proposals to share services must still be implemented in accordance with General Municipal Law Article 5-g and proposals to transfer functions must be implemented in accordance with Municipal Home Rule Law and the NYS Constitution. (Chapter 59 of the Laws of 2017 Part BBB, §1(9)).

<u>Sharing Services</u>	<u>Transferring Functions</u>
<ul style="list-style-type: none"> • Generally governed by GML Article 5G (may be others) • Requires written contract approved by municipalities involved • 5 Year Contract Limit (can be renewed) • Service remains a town function 	<ul style="list-style-type: none"> • Municipal Home Rule Law §§ 33, 33-a; NYS Constitution, art. IX • Requires county charter change or county local law <u>and</u> a referendum • Permanent • Town no longer has authority to perform service

Things to consider when evaluating countywide plan proposals:

Chargebacks – If a town function is transferred to the county, will the county charge back all of the cost of the function now performed by the county to the town or the town taxpayers?

Costs and Payment for Services - If the county proposes having the town perform a function for the county, will the county pay the town the actual cost to perform the service under the agreement?

Quality of Service - Will the town have any local control over the quality of the services provided or the authority to provide the service locally?

Liability - What liability will the town face through a shared service agreement or the transfer of functions?

Tax Cap Implications - How will the transfer of functions impact a town’s tax cap?

How are charge-backs addressed under the tax cap?

State Aid - Will AIM or other state aid be impacted by a transfer of function or a shared service agreement?

Collective Bargaining - How will collective bargaining agreements or other personnel policies be affected?

Enforcement of Local Laws - Will the county enforce town local laws or just state laws if a function is transferred?

Termination of Arrangement - What is the procedure to undo a transfer of function or the sharing of a service?

Service Accessibility - How will the transfer of functions impact service accessibility for town residents?

Employee Management - How will employees performing work under a shared service agreement be managed?

Service Charges - How will service charges be assessed and collected under an intermunicipal agreement?

Property Ownership and Management - How will property or equipment be owned and managed under an intermunicipal agreement?