

An additional significance of the 1979 amendments is that the same provided for the “Further professionalization of the office of tax collector”, Committee on Taxation Statement, supra, “through the establishment of a certification and examination procedure”, Senate County and Municipal Governmental Committee Statement to Assembly, No. 3371 (dated December 6, 1979). By section 2 of the 1979 amendments the Legislature created the “new section” of N.J.S.A. 40A:9-145.2, which as enacted, provided, in order to become a tax collector in the state of New Jersey, one had to have “obtained a certificate or diploma issued after at least 4 years of study in an approved secondary school or [had] received an academic education considered . . . equivalent, and [had] graduated from a 4-year course at an institution of higher education.” If one did not meet this college education requirement, Section 2 further provided, that he/she was allowed to “substitute on a year-year basis full-time experience in tax collection or accounting.” If one did not meet the college education or full-time experience requirements, Section 2 allowed an individual to “substitute certificates of completion of municipal tax collection I, II and III courses offered through Rutgers, The State University.” As today, the proposed tax collector under the 1979 amendments was required to pass a State examination.

The 1979 amendments also, in the words of the Legislature:

established a “grandfathering” regarding examination for certifications for tax collectors who have obtained tenure while actually in office as tax collector and who shows proof that he has served as a coadjutant faculty member instructor of training courses, or, who has completed courses, designated as Principles of Municipal Tax Collection and Advanced Tax Collection-Tax Sales offered through Rutgers, The State University, all not later than December 31, 1981. Assembly Committee on Taxation Statement to the Assembly, No. 3372 (dated July 31, 1979).

In 1981, by L.1981, c. 393, § 28, which became effective on January 6, 1982, the Legislature afforded greater salary protections to the tax collector, as well as the tax assessor and municipal clerk, with respect to salary increases. N.J.S.A. 40A:9-165 was specifically amended in 1981 to provide, “no ordinance shall reduce the salary of, **or deny without good cause an increase in salary given to all other municipal officers and employees** to, any tax assessor, tax collector or municipal clerk during ht terms for which he shall have been appointed.” [Emphasis added.] Therefore, not only was the salary of a tax collector protected from a reduction during a tax collector’s term of office, but the tax collector was now given statutory protection with respect to salary increases. The intent behind this amendment was “to protect these officers from economic discrimination regardless of whether it is politically motivated.” Haus v. Mayor and Council of Borough of South Plainfield, 237 N.J. Super. 558, 562 (App. Div. 1990). It is noted that by L.1991, c. 175, § 14, the chief financial officer was also granted these statutory salary protections.

Under current law, the collector is appointed for an initial four-year term to begin on the first day of January next following appointment. N.J.S.A. 40A:9-141,-142. Furthermore, in order to become a tax collector in the state of New Jersey, one must, in pertinent part, have “graduated from a four year course at an institution of higher education of recognized standing, or has not less than two years’ full-time experience in tax collection, or has at least one year’s full-time experience in tax collection and 30 credit hours at an institution of higher education of recognized standing.” N.J.S.A. 40A:9-145.2(a). The tax collector must also complete three courses that deal with municipal tax collection and finance, being “Municipal Tax Collection I, II, and III courses offered by Rutgers, The State University [as] approved by the Division of Local Government Services in the Department of Community Affairs.” N.J.S.A. 40A:9-145.2(a). Finally, a tax collector must

also pass a state examination that is “given in sections on the subjects of lien enforcement; tax collecting, tax billing, and reporting; policies and practices relating to tax collection in a municipality operating under a State fiscal year; and any other material as determined appropriate by the director and in sections as determined necessary.” N.J.S.A. 40A:9-145.2(d),(e). In other words, now in order to be a tax collector in the State of New Jersey, one must have a license and satisfy comprehensive, statutorily mandated education requirements.

Furthermore, when a collector has been reappointed to a second four-year term “subsequent to having received a tax collector certificate and has filed with the Division of Local Government Services a certificate evidencing satisfactory completion of course instruction”, the collector is deemed to have tenure and thereafter may only be removed for cause. N.J.S.A. 40A:9-145.8(a)-(b). Significantly, a municipality is expressly prohibited removing a tenured tax collector from office “for political reasons but only for good cause shown and after a proper hearing before the director or his designee”. N.J.S.A. 40A:9-145.8(b). Additionally, as previously stated, a municipality is expressly prohibited from reducing a tax collector’s salary during the term of his or her office. N.J.S.A. 40A:9-165.

Conclusion

In conclusion, the position of tax collector underwent a significant evolution, from a largely elected, unlicensed position with limited salary protections, to a statutory, licensed position with a gradually increasing ability to tenure, enhanced salary protections and specific, substantive educational requirements. The tax collector is not a clerk, but rather has evolved from an elected official to a licensed statutory officer.

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THE HISTORY *of the* MUNICIPAL TAX COLLECTOR *in the State of* NEW JERSEY

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The purpose of this history of the municipal tax collector in New Jersey is to educate the elected officials and the taxpayers in the State of New Jersey on the history of the office of tax collector and provide facts to the elected officials and the general public that the tax collector is more than simply a clerk.

Many of the elected officials do not understand the role of a statutory officer, particularly the office of tax collector. While there are very few tax collectors left who ever were elected to office, the history of the office is important in understanding the evolution from an elected official to a licensed statutory officer.

Until 1979, the law provided for the election, rather than for the appointment, of the tax collector. Both L. 1876, c. 177, § 1 and L. 1878, c. 205, § 1 recognized that tax collectors may be elected by the voters of an incorporated city or town, or may be appointed by the “common council” of the city or town. However, the ability to appoint a tax collector only came into effect under these laws provided that: (1) the city or town did not provide for the election of the tax collector by its voters, (2) the city or town did not have a population greater than six thousand, and (3) the city or town was or may be divided into wards. While the appointment of a tax collector was allowed in certain towns and cities as outlined, the position of tax collector largely being an elected position is exemplified by the former Township Act of 1899. “Section 4 of the Township Act . . . expressly name[d] the collector of taxes as an elective officer.”

Furthermore, with respect to the length of a tax collector’s term of office, under section 17 of the Township Act, the collector’s term of office was for three years. However, in 1937 the term of office of a tax collector in “any municipality” was extended to four years from the date of the tax collector’s “election or appointment.” L. 1937, c. 142, § 1. In 1947, through L. 1947, c. 350, the Legislature afforded a tax collector the opportunity to obtain tenure through a vote by the voters of the municipality. In other words, the municipality’s voters determined whether or not the tax collector would receive tenure. Section 1 of this 1947 law provided that the municipality’s voters had the right:

to present to the clerk of the municipality a petition requesting that the question of whether such collector of taxes or receiver of taxes shall thereafter continue to hold such office or position during good behavior and not be removed therefore except for good cause shown after a fair and impartial trial, be placed upon the ballot at the next succeeding general election . . .

Furthermore, under this Section 1, a prerequisite for the voters to ask for this question to be placed on the ballot was that the tax collector was required to have “held the office or position of municipal collector of taxes or municipal receiver of taxes of any municipality of this State for a continuous period of not less than ten years from the date of his election or appointment.”

In 1965 the Legislature provided another avenue for a tax collector to obtain tenure via L. 1965, c. 243. Section 1 of this legislation linked the concept of tenure with having to complete certain education courses. This statute provided in part:

Any person who has held or shall have held the office or position of tax collector in any municipality for a continuous period of not less than 5 years or who hereafter shall be re-elected or re-appointed to said office or position upon the completion of one full term of 4 years, upon filing with the clerk of the municipality . . . a certificate evidencing his satisfactory completion of a course of instruction in the functions and duties of tax collectors approved by the division of Local Government . . . shall thereafter continue to hold such office or position during good behavior and shall not be removed therefrom except for good cause shown after a fair and impartial trial notwithstanding that said person was appointed or elected to a fixed term.

Therefore, although this particular legislation dealt with tenure, the year 1965 can be said to have marked the movement toward tax collector having to complete certain education requirements.

The next step in the evolution of the position of tax collector occurred in 1971. The year 1971 heralded a new series of statutes with respect to the position of tax collector as embodied in L. 1971, c. 200, which became effective on July 1, 1971 (“1971 legislation”). This 1971 legislation signified the movement toward the office of tax collector being solely an appointed position. N.J.S.A. 40A:9-141 as enacted in 1971 provided that “the governing body of every municipality . . . by ordinance . . . shall provide for the **appointment or election** of a municipal tax collector and fix his compensation.” [Emphasis added.] Therefore, municipalities were expressly given the ability to have the position of tax collector being an appointed, rather than elected position.

While the Legislature through the 1971 legislation essentially re-codified the 1965 tenure law that linked tenure with competing certain courses of instruction, in N.J.S.A. 40:9-145, the Legislature modified the ability for a tax collector to obtain tenure through a vote by the municipality’s voters in N.J.S.A. 40A:9-144. While the tax collector still as a prerequisite had to have held his/her office for “10 consecutive years”, N.J.S.A. 40A:9-144 as enacted in 1971 indicated that “the governing body of the municipality may grant tenure in office” when this ten year prerequisite was met. This tenure issue was only subject to a vote by the municipal voters “if the governing body fail[ed] to grant tenure[.]” Id. Therefore, this change in tenure procedure also can be said to have echoed the movement toward the position of tax collector not being subject to, for better or worse, the “whims” of the municipal voter.

With respect to salary, the Legislature through the 1971 legislation also created N.J.S.A. 40A:9-165 which provided as enacted, in pertinent part that “no ordinance shall reduce the salary of any appointed or elected tax assessor or tax collector during the term for which he shall have been appointed or elected.” Significantly, a prohibition against increases in salary during a term of office was omitted.

In 1979, the position of tax collector continued its statutory evolution by virtue of certain amendments made by the Legislature as embodied in L.1979, c. 384, which became effective February 5, 1980 (“1979 amendments”). The purpose of the 1979 amendments is best summed up by the Assembly Committee on Taxation Statement to the Assembly, No. 3372 (dated July 31, 1979) as follows:

The purpose of this bill is to provide for the appointment, and to eliminate the election, of all tax collectors in the State. At the same time the bill provides for a certification procedure for tax collectors to ensure the qualification of those who may hold office, similar to that now required for tax assessors . . . The certification procedure would be phased in so that commencing January 1, 1982, no tax collector could be appointed or reappointed or acquire tenure unless he has acquired certification under this act. The bill provides for the protection of tenure rights acquired prior to December 31, 1981, under N.J.S. 40A:9-144 or 40A:9145, but would prohibit acquisition of tenure under those status after January 1, 1982.

To these ends, by Section 13 of the 1979 amendments, reference to the election of tax collector was omitted from N.J.S.A. 40A:9-141 and said statute was also amended to provide that the compensation of the tax collector was to be fixed in the manner otherwise provided by law, *i.e.* N.J.S.A. 40A:9-165, rather than by the governing body. Furthermore, by section 15 of the 1979 amendments, N.J.S.A. 40A:9-144 was amended to allow the grant of tenure for ten consecutive years of service on or before Dec. 31, 1981 by the governing body or through a referendum vote, upon the filing of a petition, by the registered voters of the municipality. This section was further amended to provide that “No election shall be held pursuant to this section on or after January 1, 1982.”