

No. 2000-104

AN ACT

SB 769

Amending the act of May 25, 1945 (P.L.1050, No.394), entitled "An act relating to the collection of taxes levied by counties, county institution districts, cities of the third class, boroughs, towns, townships, certain school districts and vocational school districts; conferring powers and imposing duties on tax collectors, courts and various officers of said political subdivisions; and prescribing penalties," further defining "tax collector"; providing for continuing education of qualified tax collectors and for interim assessment, duplicate and warrant; further providing for installment payment of taxes and for collection and payment over of taxes; and providing for appointment of delinquent tax collector.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The definition of "tax collector" in section 2 of the act of May 25, 1945 (P.L.1050, No.394), known as the Local Tax Collection Law, amended December 13, 1982 (P.L.1202, No.275), is amended to read:

Section 2. Definitions.—The words—

* * *

"Tax Collector" or "*Elected Tax Collector*" shall include every person duly elected or appointed to collect all taxes, levied by any political subdivision included in the provisions of this act, including the treasurers of cities of the third class and of townships of the first class in their capacity as treasurers, and county collectors of taxes in counties of the third, fourth, fifth, sixth, seventh and eighth class who have been designated to collect county and institution district taxes in cities of the third class and county treasurers in counties of the fourth, fifth, sixth, seventh and eighth class who have been designated to collect county taxes in municipalities existing or organized under [the act of April 13, 1972 (P.L.184, No.62), known as the "Home Rule Charter and Optional Plans Law,"] 53 Pa.C.S. Pt. III Subpt. E (relating to home rule and optional plan government) that have eliminated the elective office of tax collector.

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Section 2. The act is amended by adding sections to read:

Section 4.1. Continuing Education Program for Tax Collectors.—(a) The department, in consultation with the Pennsylvania State Tax Collectors' Association, shall adopt and implement a program of continuing education to be met by persons qualified as tax collectors as condition for renewal. The department may contract with a third party to provide the continuing education.

(b) Each qualified tax collector shall be required to obtain ten hours of mandatory continuing education during each year.

(c) The topics for continuing education shall include, but not be limited to, the following:

- (1) *Accounting.*
- (2) *Auditing.*
- (3) *Computerization.*
- (4) *Ethics.*
- (5) *Procedures for collecting taxes.*
- (6) *Recent court decisions affecting the imposition and collection of taxes.*
- (7) *The local tax collection laws and other statutes related to the imposition and collection of taxes.*

(d) *The department shall inform qualified tax collectors of the continuing education requirement upon issuance of certificates.*

(e) *Renewal of qualification shall be on an annual basis upon completion of continuing education requirements as set forth in this section. The collectors shall bear the cost of the program and qualification unless the political subdivision agrees to pay for the cost in whole or in part.*

(f) *A record of all qualified tax collectors shall be kept by the department and shall be open to public inspection and copying upon payment of a nominal fee.*

(g) *This section shall not apply to a person who has served eight or more terms as a tax collector.*

(h) *The following words and phrases when used in this section shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:*

“Department” shall mean the Department of Community and Economic Development of the Commonwealth.

“Qualified tax collector” shall mean a person who holds a current valid certificate of qualification issued by the Department of Community and Economic Development.

“Tax collector” shall mean a person duly elected or appointed to collect real property taxes levied by a political subdivision, other than a county, including the following:

(1) *A tax collector in a borough, incorporated town or township of the second class.*

(2) *A treasurer of a city of the third class or a township of the first class in that person’s capacity as tax collector.*

(3) *An employe or official who has been designated to collect real property taxes in a municipality, other than a county, existing or organized under 53 Pa.C.S. Pt. III Subpt. E (relating to home rule and optional plan government), which municipality has eliminated the elective office of tax collector.*

Section 5.1. Interim Assessment; Duplicate; Warrant.—(a) When a duplicate is issued after an interim assessment, it shall constitute the elected tax collector’s warrant for the collection of the taxes levied and assessed therein.

(b) Notwithstanding the complete and final settlement to be completed in accordance with section 26, the following shall apply to taxes due upon a duplicate issued after an interim assessment:

(1) If the whole amount is paid within two months after the date of the tax notice, a discount of at least two per centum from the amount of such tax shall apply.

(2) If paid within four months after the date of the tax notice, no penalty may be imposed and said taxes shall not be considered delinquent even if the payment occurs after December 31.

(3) If, as of December 31, taxes remain unpaid and less than four months have elapsed since the date of the tax notice, the taxing district shall reissue the duplicate to the elected tax collector in order to permit the taxpayer four months from the date of the tax notice to pay said taxes before either a penalty is imposed or a delinquency is declared.

Section 3. Section 11 of the act, amended December 13, 1982 (P.L.1201, No.275), is amended to read:

Section 11. Installment Payment of Taxes.—(a) Any taxing district shall have power to provide by ordinance or resolution for the collection and payment of its taxes in not more than four installments. Where payment of taxes is made on the installment basis, no abatement or discount shall be allowed on said taxes.

(b) (1) Any such ordinance or resolution shall set forth the number of installments in which taxes shall be paid and the dates when the respective installments become due and delinquent. Notwithstanding the complete and final settlement made in accordance with section 26, a taxing district may set installment payment dates subsequent to December 31. The unpaid installments shall not be considered delinquent if paid on or before the respective installment dates established by ordinance or resolution of the taxing district. To each installment on the date when it becomes delinquent, a penalty of up to ten per centum shall be added, which shall be collected by the tax collector. No further penalties, except as hereinafter provided, shall be added to any installment of taxes, unless one or more installments remain unpaid, and the lands upon which such installments are due are returned under existing laws to the county commissioners for nonpayment of taxes, or in case a lien for such unpaid installment or installments is filed under existing laws in the office of the prothonotary, in which case, the additional penalty or interest provided for by such existing return and lien laws shall apply.

(2) If a taxing district has set installment payment dates subsequent to December 31, the following shall apply:

(i) Installment payments subsequent to December 31 of the year in which the taxes are levied shall be collected by the elected tax collector.

(ii) The elected tax collector shall, upon the certification over to him of installments remaining unpaid, proceed to collect the same from the persons respectively charged therewith, for which purpose he shall have

all the authority and power now vested by law in any tax collector for the collection of such taxes. The taxing district issuing the original warrants shall issue an additional warrant to the collector of installment payments.

(iii) Installments to be made on or before December 31 of the year in which taxes are levied shall be collected by the elected tax collector. The elected tax collector shall be allowed a credit for the total amount of all uncollected, nonlienable installments not required to be paid by December 31, and this amount shall be identified and carried forward on the reporting form prepared by the Department of Community and Economic Development in accordance with this act as nonlienable installments to be collected by the installment collector.

(iv) The elected tax collector shall be paid such commissions or compensation at the same rate on installment payments as is paid for the collection of taxes generally. Such commissions or compensation shall be paid by proper orders drawn on the taxing district. Every elected tax collector shall be responsible and accountable to the taxing district for all such taxes collected by the tax collector, and the final accounts and records, returns and payments, and duplicates shall be audited annually in the year in which the installments are collected in like manner and in accordance with the laws pertaining to tax collections.

(c) (1) The payment of the first installment by a taxpayer before the same becomes delinquent shall conclusively evidence an intention to pay his taxes on the installment plan, as provided by said ordinance or resolution.

(2) If installment payments are permitted subsequent to December 31 of the year in which taxes are levied, a taxpayer shall evidence his intention to make installment payments of taxes after December 31 either by the timely payment to the tax collector of a first installment before December 31 or, if the first payment is not due before December 31, by notifying the elected tax collector in writing of his intention to make installment payments.

(d) Where a taxpayer shall fail to evidence an intention to pay on the installment plan, as hereinbefore provided, his taxes shall become due and payable and be collected as elsewhere provided in this act, subject to the discounts and penalties provided thereby.

(e) The provisions of this section shall apply to cities of the second class A.

Section 4. Sections 25 and 26 of the act, amended December 21, 1998 (P.L.1294, No.169), are amended to read:

Section 25. Collection and Payment Over of Taxes.—The tax collector shall keep a correct account of all moneys collected by him as taxes under the authority of any duplicate or duplicates in his possession. He shall mark "paid" on each duplicate, at the name of each taxable, the amount of taxes paid and the date on which payment was made.

The tax collector shall on or before the tenth day of each month, or more frequently if required by ordinance or resolution of the taxing district,

provide a true, verified statement, in writing on a form approved by the Department of Community and Economic Development, to the secretary or clerk of the taxing district or, in the case of cities of the third class, to the director of accounts and finance for all taxes collected for such taxing district during the previous month or period, giving the names of taxables, the amount collected from each, along with discounts granted or penalties applied, if any, and the total amount of taxes received, discounts granted and penalties applied. The tax collector shall include with each statement made under this section a reconciled monthly tax collector's report for each type of tax collected for each taxing district. The report shall be reconciled from the tax duplicates to the amount of taxes remaining to be collected. ***A taxing district may require the elected tax collector to provide it with additional information supplementing that set forth on the form approved by the Department of Community and Economic Development.***

If a tax collector does not provide the statement, including the reconciled reports, within the prescribed period, the taxing district may impose a late filing fee in accordance with this section. Such fee shall not exceed twenty dollars for each day or part of a day, excluding Saturdays, Sundays and holidays, for the first six days that a statement with reconciled reports is overdue, and such fee shall not exceed ten dollars for each day or part of a day, excluding Saturdays, Sundays and holidays, for each day after such sixth day that a statement with reconciled reports is overdue. The maximum fee payable with respect to a single statement with reconciled reports shall not exceed two hundred fifty dollars. If a taxing district determines that there is a reasonable cause for failure to timely file the statement with reconciled reports under this section, the taxing district may waive the late filing fees. A taxing district shall receive an overdue statement with reconciled reports even if any late filing fee due has not been paid, but the statement with reconciled reports shall not be considered filed until all fees have been paid. No further late filing fees shall be incurred, notwithstanding the fact that the statement with reconciled reports is not considered filed.

The collector shall pay over on or before the tenth day of each month, or more often if required by ordinance or resolution of the taxing district, to the treasurer of the taxing district all moneys collected as taxes during the previous month or period and take his receipt for the same.

The tax collector shall, at any time on demand of any taxing district, exhibit any duplicate in his possession showing the uncollected taxes as of any date.

Section 26. Settlement of Duplicates; Audit.—(a) By January fifteenth, the tax collector shall make a ***final and*** complete settlement of all taxes for the prior calendar year with the proper authority of the taxing district. In the settlement of such taxes, the tax collector shall be allowed a credit for ***the following***:

(1) ***for*** all taxes collected and paid over;

(2) *for all uncollected, nonlienable installments carried forward and certified for collection by the elected tax collector in accordance with section 11;*

(3) *for all unpaid taxes certified by the tax collector to the taxing district for collection as delinquent taxes as authorized by law;*

(4) *for unpaid taxes resulting from an interim assessment where, as of December 31, taxes remain unpaid and less than four months have elapsed since the date of the tax notice;*

(5) *for all unpaid taxes upon real property, which real property shall have been returned to the county commissioners as provided by law, or shall have been certified to the taxing district, or its solicitor, for the entry of liens in the office of the prothonotary[,]; and*

(6) *in the case of occupation, poll and per capita taxes, for taxes accounted for by exonerations, which shall be granted by the taxing district upon oath or affirmation that he has complied with section twenty of this act.*

In all taxing districts which have authorized installment payments to be made after December 31 of the year in which taxes are levied, all unpaid installments of taxes upon real property shall be certified by the elected tax collector to the taxing district, together with a proper description of the property upon which the same is levied, at the time of complete and final settlement. All unpaid installments so certified to the taxing district shall be collected by the elected tax collector in accordance with section 11.

Upon final *and complete* settlement of a tax duplicate, a tax collector shall take an oath or affirmation in writing and subscribed by the tax collector, that he has made a true and just return of all taxes collected by him. Such oath or affirmation shall be administered by the officer of the taxing district empowered to make settlement, who shall have power to administer the same, and shall be filed with such officer.

(b) (1) The final accounts and monthly or other periodic returns and payments of a tax collector for county taxes collected for a county of the third, fourth, fifth, sixth, seventh or eighth class in counties with an elected controller may be audited by the controller. If the controller does not conduct this audit, clause (2) shall apply.

(2) The provisions of this clause shall apply to all taxing districts except counties in which an audit is conducted by a county controller in accordance with clause (1). (i) The tax collector's final accounts and records, monthly or other periodic returns and payments and duplicates shall be audited annually by the controller or auditors of the taxing district or, at the request of the taxing district, by an independent certified public accountant or public accountant. (ii) If the audit is conducted by the controller or auditors of the taxing district, the audit shall be conducted in accordance with the [applicable] laws of the *Commonwealth applicable to the* taxing district. (iii) If the audit is conducted by a certified public accountant or public

accountant, the audit shall be conducted in accordance with generally accepted auditing standards.

(3) Nothing in this act or any other law shall prohibit local taxing districts from cooperating in conducting a simultaneous audit of any tax collector serving the taxing districts. Taxing districts may enter into agreements whereby the elected auditor or controller of one taxing district or a designated certified public accountant or public accountant may conduct a simultaneous audit on behalf of each taxing district.

Section 5. The act is amended by adding a section to read:

Section 26.1. Appointment of Delinquent Tax Collector.—The governing body of a county, city of the third class, borough, town or township shall by ordinance, annually, on or before December 31 each year, appoint the elected tax collector as a delinquent tax collector and provide for the collection of delinquent taxes in accordance with and providing for the same powers, rights, privileges, duties and obligations as are set forth in section 686 of the act of March 10, 1949 (P.L.30, No.14), known as the “Public School Code of 1949.”

Section 6. This act shall take effect as follows:

- (1) The addition of section 4.1 of the act shall take effect in 60 days.
- (2) The remainder of this act shall take effect immediately.

APPROVED—The 20th day of December, A.D. 2000.

THOMAS J. RIDGE