

No. 2015-48

## AN ACT

HB 823

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 providing for bonds of tax collectors, for permanent basic and continuing education programs for tax collectors, for criminal history record information and for deputy tax collectors.

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

Section 1. Section 4 of the act of May 25, 1945 (P.L.1050, No.394), known as the Local Tax Collection Law, is amended by adding a subsection to read:

Section 4. Bonds of Tax Collectors.—\* \* \*

*(i) The approval of a deputy tax collector by a tax collector's surety required under section 22(b) shall be provided to each taxing district served by the tax collector and shall not be required to be filed in the office of the clerk of the court of common pleas.*

Section 2. Sections 4.1 and 4.5 of the act, amended or added October 22, 2014 (P.L.2604, No.164), are amended to read:

Section 4.1. *Interim* Basic and Continuing Education Programs for Tax Collectors.—(a) The department, in consultation with the Pennsylvania State Tax Collectors' Association, shall adopt and implement programs of basic training, examination and qualification of tax collectors and 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 basic training, examination, qualification and continuing education.

(a.1) (1) The basic training program shall include, but not be limited to, the following courses:

(i) Procedures for collecting taxes.

(ii) This act and other statutes related to the imposition and collection of taxes.

(iii) Auditing.

(iv) Accounting.

(v) Ethics.

(vi) Computerization.

(vii) Recent court decisions affecting the imposition and collection of taxes.

(2) As a prerequisite to taking a qualification examination, the individual shall complete the basic training program authorized by the department.

(3) (i) **[After successfully completing the basic training program, an]** *An* individual shall *have the option to* sit for [the] *any* qualification examination relating to the basic [training] *education* program.

(ii) No individual shall obtain qualification unless that individual has passed a basic qualification examination.

(iii) An individual who passes the basic qualification examination shall be known as a qualified tax collector. **[Successful completion of the basic training program shall be evidenced by a Pennsylvania Qualified Municipal Collector (PQMC) designation. The designation shall be awarded only to individuals who have successfully completed the basic training program and passed the basic qualification examination.]**

(a.2) The department shall:

(1) Make certain a qualified tax collector certificate is issued to an individual who passes the basic qualification examination. The certificate shall expire one year from the date of issuance but may be renewed for subsequent consecutive years upon the completion of mandatory continuing education in accordance with subsection (b).

(2) Maintain a register that lists all qualified tax collectors. The register shall be open to public inspection and copying upon payment of a nominal fee.

(3) Provide once each year a list of all qualified tax collectors on the department's **[World Wide Web site]** *publicly accessible Internet website*.

(4) Determine and approve reasonable fees for the training program and for testing and qualification. The individual shall bear the cost of the program, testing and qualification unless the political subdivision agrees to pay for the cost in whole or in part.

**[(5) Develop, implement and maintain an online training and testing program as an alternative option for individuals in lieu of in-classroom instruction and testing. The department may provide the training via compact disc. The testing shall be conducted in an online or a classroom setting. Nothing in this clause shall preclude the department from contracting with a third party to develop, implement or maintain the online training or testing program or to develop, produce or distribute the training compact disc.]**

(a.3) It shall be unlawful on or after the effective date of this subsection for any individual to hold himself out as being qualified in training under this section unless the individual holds a current, valid certificate.

**[(a.5) (1) Except as provided in clause (3), before taking the oath of office, an individual elected to the office of tax collector shall complete the basic training program provided by the department and pass the basic qualification examination in accordance with this section. Upon successful completion of the basic qualification examination, the individual shall provide a copy of his qualified tax collector certificate to the municipal secretary or clerk of the political subdivision for which the individual has been elected.]**

(2) Except as provided in clause (3), it shall be a qualification of office for an individual elected to the office of tax collector to become a qualified tax collector before taking the oath of office for the office of tax collector. No individual shall become a tax collector if the individual

is not a qualified tax collector on the date he is scheduled to take the oath of office as prescribed by law. If an individual is not a qualified tax collector on the date he is scheduled to take the oath, the office of tax collector shall be deemed vacant.

(3) (i) If an individual is appointed to fill a vacancy in the office of tax collector, the individual shall have sixty days to become a qualified tax collector. If the appointee fails to become a qualified tax collector within the time required, the office shall be deemed vacant.

(ii) Notwithstanding subclause (i), and if there is less than one year remaining in the term of the office of tax collector when a vacancy occurs in the office, the individual appointed as tax collector is not required to become a qualified tax collector.

(4) A tax collector subject to clause (3)(ii) that seeks reelection to the office of tax collector for a subsequent term must become a qualified tax collector.

(5) Nothing in this section shall preclude an individual from retaking the qualification examination prior to taking the oath of office for the office of tax collector if the individual failed the qualification examination on a prior attempt.

(a.6) This section shall not preclude filling a vacancy in the office of tax collector by:

(1) A municipality entering into an agreement with the county commissioners under section 4.4 for the county treasurer to collect the taxes levied by the municipality.

(2) A taxing district forming a joint tax collection district in accordance with section 4.2.

(3) Any other method of filling a vacancy in the office of tax collector provided by law.

(a.7) (1) A tax collector in office on the effective date of this subsection shall be considered a qualified tax collector under this section and issued a qualified tax collector certificate by the department and added to the list of qualified tax collectors.

(2) A tax collector subject to clause (1) who is not reelected for the office of tax collector for the term immediately subsequent to the current term, but is reelected for the office of tax collector for a later term, shall be subject to the requirements of this section.]

(a.8) *Nothing in this section shall prevent any individual from participating in the department's basic training program and obtaining qualification.*

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

(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) [(1)] 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.

**[(2) The department shall issue a renewed qualified tax collector certificate to each tax collector upon the tax collector's successful completion of the annual continuing education requirements.]**

**(e.1) Within thirty days of the department issuing a renewed qualified tax collector certificate to a tax collector, the tax collector shall provide a copy of the renewed qualified tax collector certificate to the municipal secretary or clerk of the political subdivision for which the tax collector was elected.**

**(e.2) Completion of the requirements in subsection (e.1) is considered a qualification of office and if the tax collector fails to successfully complete the continuing education requirements or provide a copy of the qualified tax collector certificate to the municipal secretary or clerk within thirty days of the department's issuance of the certificate, the tax collector shall be deemed ineligible to be placed on the ballot for the office of tax collector at the end of the tax collector's current term of office.]**

(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.1) The department shall bear the costs of subsections (a.2)(5), (a.7)(1) and (e)(2) and their requirements. The Governor shall annually recommend an appropriation to the General Assembly from the General Fund in an amount sufficient to cover the costs incurred by the department in carrying out the certification and training program.]**

**(g.2) This section shall not apply to a person who has served eight or more terms as a tax collector.**

**(g.3) This section shall expire December 31, 2016.**

(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 first or second class.

(2) A treasurer of a city of the third 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 4.5. Criminal History Record Information.—(a) An individual filing a nomination petition *or papers* for the office of tax collector to the county board of elections under the act of June 3, 1937 (P.L.1333, No.320), known as the "Pennsylvania Election Code," shall include the following information obtained within one year prior to filing the petition *or papers*:

(1) In accordance with 18 Pa.C.S. Ch. 91 (relating to criminal history record information), a report of criminal history record information from the Pennsylvania State Police. The dissemination of criminal history record information to an individual filing a nomination petition *or papers* for the office of tax collector shall be governed by 18 Pa.C.S. § 9121(b) (2) (relating to general regulations).

(2) If an individual filing a nomination petition *or papers* who for the two years immediately preceding the filing of the petition *or papers* has not been a resident of this Commonwealth, the individual shall submit a report of Federal criminal history record information obtained pursuant to 28 CFR Pt. 16, Subpt. C (relating to production of FBI identification records in response to written requests by subjects thereof).

***(3) An individual who is elected to the office of tax collector for the term of office beginning January 1, 2016, shall submit the information required under paragraph (1) or (2) to the municipality for which the tax collector was elected before the individual is scheduled to take the oath of office as prescribed by law. If the tax collector does not submit the required information before the date the individual is scheduled to take the oath, the office of tax collector shall be deemed vacant.***

(a.1) An individual whose name did not appear on the ballot but has received sufficient votes under section 1405 of the "Pennsylvania Election Code" to be issued a certificate of election by the county board of elections as the successful candidate for the office of tax collector shall, within thirty days of the certification, provide to the county board of elections the following information obtained within one year prior to certification by the county board of elections:

(1) In accordance with 18 Pa.C.S. Ch. 91, a report of criminal history record information from the Pennsylvania State Police. The dissemination of criminal history record information to an individual certified by the county board of elections for the office of tax collector shall be governed by 18 Pa.C.S. § 9121(b)(2).

(2) If an individual who for the two years immediately preceding certification by the county board of elections for the office of tax collector has not been a resident of this Commonwealth, the individual shall submit a

report of Federal criminal history record information obtained pursuant to 28 CFR Pt. 16, Subpt. C.

*(a.2) An individual who is appointed to fill a vacancy in the office of tax collector shall provide to each taxing district served by that tax collector the following information obtained within thirty days of appointment:*

*(1) In accordance with 18 Pa.C.S. Ch. 91, a report of criminal history record information from the Pennsylvania State Police. The dissemination of criminal history record information to an individual appointed to the office of tax collector shall be governed by 18 Pa.C.S. § 9121(b)(2).*

*(2) If an individual is appointed to the office of tax collector who for the two years immediately preceding the appointment has not been a resident of this Commonwealth, the individual shall submit a report of Federal criminal history record information obtained pursuant to 28 CFR Pt. 16, Subpt. C.*

*(a.3) An individual appointed to collect taxes under an agreement provided by sections 4.2 and 4.4 shall not be subject to the criminal history requirements of this section.*

*(b) (1) The criminal history record information received by the county board of elections under (a) or (a.1) shall be considered a part of the nomination petition or papers in accordance with section 308 of the "Pennsylvania Election Code." A Social Security number or other personal identification information under section 708(b)(6)(i) of the act of February 14, 2008 (P.L.6, No.3), known as the "Right-to-Know Law," [may] shall be redacted from the criminal history record information[,] prior to being released pursuant to a request under the "Right-to-Know Law."*

*(2) The criminal history record information received by a taxing district under subsection (a.2) shall be subject to the "Right-to-Know Law." A Social Security number or other personal identification information under section 708(b)(6)(i) of the "Right-to-Know Law" shall be redacted from the criminal history record information prior to being released pursuant to a request under the "Right-to-Know Law."*

*[(c) The Pennsylvania State Police may charge the individual a fee in accordance with 18 Pa.C.S. § 9161 (relating to duties of the Attorney General) to conduct the criminal record check required under subsections (a)(1) and (a.1)(1). The Pennsylvania State Police may charge a fee of not more than the established charge by the Federal Bureau of Investigation and associated processing fees under the current State contract for the criminal history record check required under subsections (a)(2) and (a.1)(1).]*

*(d) An individual who fails to meet the applicable requirements under [subsections (a) and] subsection (a) or (a.1) shall not be qualified to hold the office of tax collector.*

*(e) In no case shall an individual submit a nomination petition or papers for the office of tax collector if the individual's criminal history record information indicates the individual has been convicted of any of the following:*

*(1) An offense under any of the following:*

*(i) 18 Pa.C.S. Ch. 35 (relating to burglary and other criminal intrusion).*

- (ii) 18 Pa.C.S. Ch. 37 (relating to robbery).
- (iii) 18 Pa.C.S. Ch. 39 (relating to theft and related offenses).
- (iv) 18 Pa.C.S. Ch. 41 (relating to forgery and fraudulent practices).
- (v) 18 Pa.C.S. Pt. II Art. E (relating to offenses against public administration).
- (vi) 18 Pa.C.S. Ch. 76 Subch. B (relating to hacking and similar offenses).

(2) A Federal or out-of-State offense similar in nature to the offenses listed in clause (1).

(f) An objection to the nomination petition based on the conditions outlined in subsection (e) may be filed in accordance with section 977 of the "Pennsylvania Election Code."

(g) No member of a county board of elections shall be held civilly liable for any action directly related to good faith compliance with this section.

*(g.1) This section shall not apply to an individual filing a nomination petition or papers for a second or subsequent term in the office of tax collector.*

(h) As used in this section, the term "tax collector" shall have the same meaning as in section [4.1] 4.6.

Section 3. The act is amended by adding a section to read:

**Section 4.6. Permanent Basic and Continuing Education Programs for Tax Collectors.**—(a) *The department, in consultation with the Pennsylvania State Tax Collectors' Association and four tax collectors selected by the department who are not members of a Statewide association and are selected from different regions of this Commonwealth, shall adopt and implement programs of basic training, examination and qualification of tax collectors and 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 basic training, examination, qualification and continuing education.*

*(b) (1) The basic training program shall include, but not be limited to, the following courses:*

- (i) Procedures for collecting taxes.*
- (ii) This act, the act of July 7, 1947 (P.L.1368, No.542), known as the Real Estate Tax Sale Law, the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act, and other statutes related to the imposition and collection of taxes.*
- (iii) Auditing.*
- (iv) Accounting.*
- (v) Ethics.*
- (vi) Computerization.*
- (vii) Recent court decisions affecting the imposition and collection of taxes.*

*(viii) Assessments.*

*(2) As a prerequisite to taking a qualification examination, the individual shall complete the basic training program authorized by the department.*

**(3) (i) After successfully completing the basic training program, an individual shall sit for the qualification examination relating to the basic training program.**

**(ii) No individual shall obtain qualification unless that individual has passed a basic qualification examination.**

**(iii) An individual who passes the basic qualification examination shall be known as a qualified tax collector and may not be required to retake the basic qualification examination.**

**(iv) An individual who, on the effective date of this section, is holding the office of tax collector shall be known as a qualified tax collector.**

**(c) The department shall:**

**(1) Make certain a qualified tax collector certificate is issued to an individual who passes the basic qualification examination or is an individual described in subsection (b)(3)(iv) and shall provide notification of the certification, electronically or by mail, to the municipal secretary or clerk of the political subdivision for which the individual was elected.**

**(2) Maintain a register that lists all qualified tax collectors. The register shall be open to public inspection and copying upon payment of a nominal fee.**

**(3) Provide once each year a list of all qualified tax collectors on the department's publicly accessible Internet website.**

**(4) Determine and approve reasonable fees for the training program and for testing and qualification. The fees may not in the aggregate exceed \$250. The individual shall bear the cost of the program, testing and qualification unless the political subdivision agrees to pay for the cost in whole or in part.**

**(5) Develop, implement and maintain an online training and testing program as an alternative option for individuals in lieu of in-classroom instruction and testing. The department may provide the training via compact disc. The testing shall be conducted in an online or a classroom setting. Nothing in this clause shall preclude the department from contracting with a third party to develop, implement or maintain the online training or testing program or to develop, produce or distribute the training compact disc.**

**(d) It shall be unlawful on or after the effective date of this subsection for any individual to hold himself out as being qualified in training under this section unless the individual holds a valid certificate.**

**(e) (1) Except as provided in clause (2), before taking the oath of office, an individual elected to the office of tax collector shall complete the basic training program provided by the department and pass the basic qualification examination in accordance with this section.**

**(2) If an individual is not a qualified tax collector on the date he is scheduled to take the oath, the office of tax collector shall be deemed vacant.**

**(3) (i) If an individual is appointed to fill a vacancy in the office of tax collector, the individual shall have sixty days to become a qualified tax collector. If the appointee fails to become a qualified tax collector within the time required, the office shall be deemed vacant.**

*(ii) Notwithstanding subclause (i), and if there is less than one year remaining in the term of the office of tax collector when a vacancy occurs in the office, the individual appointed as tax collector is not required to become a qualified tax collector.*

*(4) A tax collector subject to clause (2) that seeks reelection to the office of tax collector for a subsequent term must become a qualified tax collector.*

*(5) Nothing in this section shall preclude an individual from retaking the qualification examination prior to taking the oath of office for the office of tax collector if the individual failed the qualification examination on a prior attempt.*

*(f) This section shall not preclude filling a vacancy in the office of tax collector by:*

*(1) A municipality entering into an agreement with the county commissioners under section 4.4 for the county treasurer to collect the taxes levied by the municipality.*

*(2) A taxing district forming a joint tax collection district in accordance with section 4.2.*

*(3) Any other method of filling a vacancy in the office of tax collector provided by law.*

*(g) For the purposes of this section, a county treasurer who collects taxes for a municipality in accordance with an agreement under section 4.4 shall not be considered a tax collector under this section.*

*(h) A tax collector in office on the effective date of this subsection shall be considered a qualified tax collector under this section and issued a qualified tax collector certificate by the department and added to the list of qualified tax collectors.*

*(i) Each qualified tax collector shall be required to obtain two hours of mandatory continuing education during his four-year term of office.*

*(j) The topics for continuing education may include any of the topics of the courses listed under subsection (b)(1).*

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

*(k.1) The Pennsylvania State Tax Collectors' Association and any other organization or individual may offer continuing education courses. Each course offered shall be reviewed and approved by the department to ensure the course complies with the criteria in subsection (j). Attendance at an annual meeting of the Pennsylvania State Tax Collectors' Association or a similar organization that includes an educational component shall qualify as one hour of continuing education.*

*(l) (1) Renewal of qualification shall be completed prior to the tax collector's final year in office, upon completion of continuing education requirements as set forth in this section. The tax collector shall bear the cost of the program and qualification unless the municipality agrees to pay for the cost in whole or in part.*

*(2) The department shall issue a renewed qualified tax collector certificate to each tax collector upon the tax collector's successful completion of the continuing education requirements.*

*(m) Within thirty days of the department issuing a renewed qualified tax collector certificate to a tax collector, the department shall, electronically or by mail, provide a copy of the renewed qualified tax collector certificate to the municipal secretary or clerk of the municipality for which the tax collector was elected.*

*(n) If the tax collector fails to successfully complete the continuing education requirements, the tax collector shall be deemed ineligible to be placed on the ballot for the office of tax collector at the end of the tax collector's current term of office.*

*(o) The department shall bear the costs of subsection (c)(5). The Governor shall annually recommend an appropriation to the General Assembly from the General Fund in an amount sufficient to cover the costs incurred by the department in carrying out the certification and training program.*

*(p) 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 first or second class.*

*(2) A treasurer of a city of the third 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 4. Section 22 of the act, amended October 22, 2014 (P.L.2604, No.164), is amended to read:

Section 22. Deputy Tax Collectors.—(a) (1) A tax collector may, with the approval of a taxing district and his surety, deputize in writing one or more deputy tax collectors, who, when so deputized, shall be authorized to receive and collect any or all of the taxes in like manner and with like authority as the tax collector appointing them. Any tax collector, appointing any deputy collector, shall be responsible for and account to the taxing district for all taxes received or collected by his deputy.

*(2) The surety bond entered into by the tax collector pursuant to section 4 shall also be deemed to cover all taxes collected by a deputy tax collector appointed under this section. Any claims made on the bond arising from the actions of a deputy tax collector shall become the responsibility of the tax collector.*

(b) [At] *Notwithstanding subsection (a), at a minimum at the beginning of the tax collector's term, a tax collector shall, with the approval of a [taxing district] municipality for which the tax collector was elected and the tax collector's surety, appoint an individual as a deputy tax collector who shall collect and settle taxes during any incapacitation of the tax collector. The deputy tax collector shall collect and settle taxes for the duration of the tax collector's incapacitation, unless the taxing district determines action under section 4.2 or 4.4 is necessary. As used in this subsection, the term "incapacitation" shall mean temporarily or permanently impaired by reason of physical illness, physical disability, mental illness, mental deficiency or other cause to the extent that the person lacks sufficient understanding or capacity to make or communicate responsible decisions concerning the collection and settlement of taxes.*

(c) *Nothing in subsection (b) shall be construed to preclude a quo warranto action regarding the incapacitated tax collector's right to hold office.*

(d) *A tax collector shall provide a copy of the appointment of the deputy appointed pursuant to subsection (b) to each taxing district served by the tax collector.*

(e) *Any vacancy in the office of tax collector shall be filled as otherwise provided in law.*

Section 5. All other acts and parts of acts are repealed insofar as they are inconsistent with this act.

Section 6. The provisions of this act are severable. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application.

Section 7. This act shall take effect as follows:

(1) The amendment of section 4.1 of the act shall take effect October 22, 2015.

(2) The amendment or addition of sections 4.5(h) and 4.6 of the act shall take effect January 1, 2017.

(3) The remainder of this act shall take effect immediately.

APPROVED—The 22nd day of October, A.D. 2015

TOM WOLF