

SENATE, No. 452

STATE OF NEW JERSEY
219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator MICHAEL J. DOHERTY

District 23 (Hunterdon, Somerset and Warren)

SYNOPSIS

Permits municipalities to designate newly-appointed tax assessors as professional service contractors.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** allowing municipalities to designate newly-appointed tax
2 assessors as professional service contractors and amending
3 various sections of statutory law.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. N.J.S.40A:9-146 is amended to read as follows:

9 40A:9-146. a. The governing body or chief executive, as shall be
10 appropriate to the form of government of the municipality shall
11 provide for the appointment of a tax assessor and such deputy tax
12 assessors as it may determine necessary. The requirement that every
13 municipality shall have a tax assessor and any such deputy tax
14 assessors as it deems necessary may be fulfilled by the sharing of a tax
15 assessor and any necessary deputy tax assessors with another
16 municipality or municipalities under a shared service agreement
17 entered into pursuant to the provisions of P.L.2007, c.63 (C.40A:65-1
18 et seq.). Any such shared service agreement shall be subject to the
19 provisions of section 4 of P.L.2007, c.63 (C.40A:65-4) and, with
20 respect to pilot municipalities, of section 3 of P.L.2013, c.166
21 (C.40A:65-4.2). The appointing authority may, by resolution or order
22 as appropriate, set the total number of weekly hours of operation of the
23 tax assessor's office and the total number of weekly work hours of the
24 tax assessor, commensurate with the compensation paid to the tax
25 assessor. The appointing authority shall not set the specific work
26 hours of the tax assessor. The governing body, by ordinance, shall
27 determine the amount of compensation of such assessors.

28 b. (1) As of the effective date of P.L. c. (pending before the
29 Legislature as this bill), the governing body of a municipality may, by
30 ordinance, provide that all newly-appointed tax assessors and deputy
31 tax assessors shall serve through a contract for professional services as
32 set forth in section 5 of P.L.1971, c.198 (C.40A:11-5). Any such
33 municipality may return to the former employment arrangement for
34 tax assessors through adoption of another ordinance.

35 (2) As of the effective date of P.L. c. (pending before the
36 Legislature as this bill), municipalities that share a tax assessor may,
37 through the adoption of parallel ordinances in each municipality
38 subject to the shared services agreement, provide that all newly-
39 appointed tax assessors and deputy tax assessors shall serve through a
40 contract for professional services as set forth in section 5 of P.L.1971,
41 c.198 (C.40A:11-5). Such municipalities may return to the former
42 employment arrangement for tax assessors through adoption of another
43 parallel ordinance in each municipality subject to the shared services
44 agreement.

45 (cf: P.L.2013, c.166, s.14)

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

 Matter underlined thus is new matter.

1 2. Section 32 of P.L.1981, c.393 (C.40A:9-146.1) is amended
2 to read as follows:

3 32. a. Boards of assessors created prior to the effective date of
4 this act are abolished.

5 b. The secretary of, or in the event there is no secretary then
6 the individual having primary responsibility for the discharge of the
7 duties of assessor for, any board of assessors constituted on the
8 effective date of this act shall be the municipal tax assessor and any
9 other members of the board shall be deputy municipal tax assessors.

10 c. **【Nothing】** With the exception of subsection b. of
11 N.J.S.40A:9-146, allowing municipalities to designate newly-
12 appointed tax assessors as professional service contractors, nothing in
13 this act shall affect adversely the salary or tenure rights acquired
14 pursuant to section 7 of P.L.1967, c.44 (C.54:1-35.31), or any other
15 law, whether now or previously enacted or in effect of any secretary
16 or other member of a board of assessors who becomes the
17 municipal tax assessor or a deputy municipal tax assessor.
18 (cf: P.L.1981, c.393, s.32)

19

20 3. N.J.S.40A:9-148 is amended to read as follows:

21 40A:9-148. **【Every】** Unless otherwise provided by contract in a
22 municipality that has adopted an ordinance pursuant to subsection
23 b. of N.J.S.40A:9-146, every municipal tax assessor and deputy
24 assessor shall hold his office for a term of 4 years from the first day
25 of July next following his appointment.

26 Vacancies other than due to expiration of term shall be filled by
27 appointment for the unexpired term.

28 (cf: P.L.1981, c.393, s.2)

29

30 4. N.J.S.40A:9-165 is amended to read as follows:

31 40A:9-165. The governing body of a municipality, by ordinance,
32 unless otherwise provided by law, shall fix and determine the
33 salaries, wages or compensation to be paid to the officers and
34 employees of the municipality, including the members of the
35 governing body and the mayor or other chief executive, who by law
36 are entitled to salaries, wages, or compensation.

37 Salaries, wages or compensation fixed and determined by
38 ordinance may, from time to time, be increased, decreased or
39 altered by ordinance. No such ordinance shall reduce the salary of,
40 or deny without good cause an increase in salary given to all other
41 municipal officers and employees to, any tenured tax assessor, chief
42 financial officer, tax collector or municipal clerk during the term for
43 which he shall have been appointed. Except with respect to an
44 ordinance or a portion thereof fixing salaries, wages or
45 compensation of elective officials or any managerial, executive or
46 confidential employee as defined in section 3 of the "New Jersey
47 Employer-Employee Relations Act" P.L.1941, c.100 (C.34:13A-3),
48 as amended, the ordinance shall take effect as provided therein. In

1 municipalities wherein the provisions of Title 11 (Civil Service) of
2 the Revised Statutes are in operation, this section shall be subject
3 thereto.

4 Where any such ordinance shall provide for increases in salaries,
5 wages or compensation of elective officials or any managerial,
6 executive or confidential employee, the ordinance or that portion
7 thereof which provides an increase for such elective or appointive
8 officials shall become operative in 20 days after the publication
9 thereof, after final passage, unless within said 20 days, a petition
10 signed by voters of such municipality, equal in number to at least
11 5% of the registered voters of the municipality, protesting against
12 the passage of such ordinance, be presented to the governing body,
13 in which case such ordinance shall remain inoperative unless and
14 until a proposition for the ratification thereof shall be adopted at an
15 election by a majority of the voters voting on said proposition. The
16 question shall be submitted at the next general election, occurring
17 not less than 40 days from the date of the certification of the
18 petition. The submission of the question to the voters shall be
19 governed by the provisions of Title 19 (Elections) of the Revised
20 Statutes, as in the case of public questions to be voted upon in a
21 single municipality.

22 (cf: P.L.1991, c.175, s.14)

23

24 5. Section 7 of P.L.1967, c.44 (C.54:1-35.31) is amended to
25 read as follows:

26 7. a. Notwithstanding the provisions of any other law to the
27 contrary, with the exception of subsection c. of this section, every
28 person

29 (1) who, upon reappointment or re-election subsequent to
30 having received a tax assessor certificate and having served as tax
31 assessor or performed the duties of assessor for not less than four
32 consecutive years immediately prior to such reappointment or re-
33 election, or

34 (2) who, on or before June 30, 1969, shall have received a tax
35 assessor certificate while actually in office as assessor or
36 performing the duties of an assessor, and who, on or before June 30,
37 1969, shall have served as assessor or performed the duties of
38 assessor for not less than four consecutive years,

39 shall hold his position during good behavior and efficiency and
40 compliance with requirements for continuing education pursuant to
41 section 1 of P.L.1999, c.278 (C.54:1-35.25b), notwithstanding that
42 such reappointment or re-election was for a fixed term of years, and
43 he shall not be removed therefrom for political reasons but only for
44 good cause shown and after a proper hearing before the director or
45 his designee after due notice. A person who was formerly an
46 assessor, a secretary of a board of assessors or a member of a board
47 of assessors who shall have become by virtue of this amendatory
48 and supplementary act, P.L.1981, c.393, a deputy tax assessor or an

1 assessor, and who has not met the requirements of (1) or (2) above
2 shall not be removed during his term in office for political reasons,
3 but only for good cause shown and after a proper hearing before the
4 director or his designee after due notice. In municipalities
5 operating under forms of government where the assessor served at
6 the pleasure of the appointing authority for an unlimited term of
7 office, receipt of a tax assessor certificate and continuance in
8 service as assessor after completion of 4 consecutive years of
9 service shall be deemed the equivalent of reappointment. The
10 provisions of this section shall apply to every person actually in
11 office as assessor or performing the duties of an assessor whether in
12 the classified service under Title 11A, Civil Service, or in a
13 municipality which has not adopted Title 11A, Civil Service. For
14 the purpose of this section, "good cause" shall include the failure of
15 a tax assessor to meet the continuing education requirement
16 required by section 1 of P.L.1999, c.278 (C.54:1-35.25b), and such
17 failure shall render a tax assessor ineligible for service as a tax
18 assessor.

19 b. In the case of a pilot municipality, a tenured tax assessor
20 may be dismissed to effectuate the sharing of a service entered into
21 pursuant to the provisions of P.L.2007, c.63 (C.40A:65-1 et seq.)
22 and such dismissal shall be deemed to be in the interest of the
23 economy or efficiency of the participants in the shared service
24 agreement. The removal of a tax assessor under this subsection
25 shall not require the pilot municipality to fulfill the requirements of
26 subsection a. of this section. Instead, the pilot municipality shall
27 provide the tax assessor with a written copy of the shared service
28 agreement entered into by the pilot municipality, and a letter stating
29 that the position of tax assessor in the pilot municipality is being
30 eliminated for reasons of economy or efficiency as the result of the
31 shared service agreement.

32 c. Pursuant to subsection b. of N.J.S.40A:9-146, municipalities
33 may designate newly-appointed tax assessors as professional service
34 contractors.

35 (cf: P.L.2013, c.166, s.15)

36

37 6. Section 8 of P.L.1967, c.44 (C.54:1-35.32) is amended to
38 read as follows:

39 8. On and after July 1, 1969 no assessor shall acquire tenure of
40 office under any law of this State unless he shall have received a tax
41 assessor certificate. Nothing herein contained shall be construed to
42 affect tenure of office theretofore acquired nor to affect in any way
43 the unexpired term of office of any assessor theretofore appointed
44 or elected, nor shall any provision herein make void or change any
45 provision of Title 11, Civil Service, nor any of the provisions of any
46 other tenure of office act, except with respect to the acquisition of
47 tenure by an assessor subsequent to June 30, 1969. However,
48 pursuant to subsection b. of N.J.S.40A:9-146, municipalities may

1 designate newly-appointed tax assessors as professional service
2 contractors.
3 (cf: P.L.1967, c.44, s.8)
4

5 7. This act shall take effect immediately.
6
7
8

9 STATEMENT
10

11 This bill permits municipalities to designate newly-appointed tax
12 assessors as professional service contractors.
13 Under current law, the ability of tax assessors to obtain tenure
14 makes it difficult for municipalities to replace ineffective tax
15 assessors with stronger employees. This bill permits municipalities,
16 by ordinance, to designate all tax assessors who are hired after the
17 ordinance's effective date as professional service contractors
18 pursuant to N.J.S.A.40A:11-5. This action would not impact the
19 employment terms of any tax assessor hired prior to that date who
20 has attained tenure. This bill also permits the municipality to
21 contract with a tax assessor for a term of employment different than
22 the four years required by current law. Under N.J.S.A.40A:11-15,
23 contracts for professional services cannot exceed 12 consecutive
24 months.