

# Exclusion of Officers of a Municipal Corporation

## Background

- Elected and Appointed Officers of a Municipal Corporation are normally excluded from coverage. This exclusion should be noted on the policy by attaching endorsement 65.
- WCL Section 54 Subdivision 6f permits a municipality to elect to bring some or all of those excluded officers under the coverage of the WCL by filing Form C-105.31 (U-435) specifying who is to be included. Any such inclusions are noted by attaching endorsement 67 with a schedule of those included.

## Who are the Officers of a Municipal Corporation?

- The NYCIRB New York Manual for Workers Compensation & Employers Liability specifies in Rule IX A. 1 that the “Executive officers of a corporation are the president, vice president, secretary, treasurer or any other officer appointed in accordance with the charter or by-laws of the corporation.
- **New York State Town Law** Article 3 Section 20 Town officers indicates:
  - Subdivision 1. Every town of the first class shall have a **Supervisor**, 4 (or 2 or 6) **Councilmen**, a **Town Clerk**, two **Town Justices**, a **Town Superintendent of Highways**, one **Assessor**, a **Receiver of Taxes**...
  - Subdivision 2. Except as otherwise provided by law, every town of the second class shall have a supervisor, two justices of the peace, two town councilmen, a town clerk, a town superintendent of highways, three assessors, a collector.
  - Other subdivisions of this section allow towns to establish the offices of **Town Attorney** or **Town Engineer**, or both.
- **New York State Village Law** Article 3 Section 3-301 Village officers indicates:
  - Every village shall have the following officers:
    - A **Mayor**
    - Four **Trustees** (unless otherwise authorized by section 3-304)
    - A **Treasurer**
    - A **Clerk**
  - Every village may have the following officers:
    - No more than two **Justices**
    - **Assessor** or assessors
    - Such other officers, including deputies as the board of trustees shall determine.
- **New York County Law** Article 8 Section 400 Officers indicates:
  - A **Sheriff**, **County Clerk**, **District Attorney** and **County Treasurer**.
  - **Coroners** (or Medical Examiner)
  - A **Clerk of the Board of Supervisors**, a **County Attorney**, **County Superintendent of Highways**, **Sealer of Weights and Measures** and a **County Historian**.

- Note: Instead of a board of supervisors which is composed of the individual town supervisors, a county may adopt an alternative form of government such as a county executive and county legislature.
- New York General City Law provides no specifics.
- New York Second Class City Law indicates:
  - City officers, within the meaning of this chapter, include all persons elected or appointed to any office of the city created or authorized by this chapter or otherwise by law
- Legal NYSIF - Buffalo offered the following definition:
  - **An officer of a municipal corporation is any person who holds a position:**
    - expressly created by law, rather than by general statutory or governmental authority, and
    - filled by election or appointment to a term fixed by law, rather than by contract, at will, at the pleasure of another or under civil service rules,
    - the duties of which are expected to be performed using independent judgment, rather than under the supervision of superiors, and
    - involve the exercise of a sovereign governmental function, rather than routine, subordinate, advisory, directed or ministerial tasks,
    - of a county, city, town or village.

## **Premium Determinations**

- The NYCIRB New York Manual for Workers Compensation & Employers Liability specifies in Rule IX A. 6 a 5 & 6 that the premiums for Executive Officers shall be based on their total payroll subject to the minimum and maximum payroll limitations which apply to executive officers serving with pay and assign \$100 for those serving without pay.

## **Assignment of Payroll**

- The regular rules for assignment of Executive Officer Payrolls apply to those individuals a municipality elects to cover.