

# COMPLIANCE AUDIT

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## New Wilmington Firemen's Association Lawrence County, Pennsylvania For the Period January 1, 2013 to December 31, 2014

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March 2016



Commonwealth of Pennsylvania  
Department of the Auditor General

Eugene A. DePasquale • Auditor General



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EUGENE A. DePASQUALE  
AUDITOR GENERAL

Mr. David S. Cohen, President  
New Wilmington Firemen's Association  
Lawrence County

We have conducted a compliance audit of the New Wilmington Firemen's Association (relief association) pursuant to authority derived from Article VIII, Section 10 of the Constitution of the Commonwealth of Pennsylvania, Section 403 of The Fiscal Code, Act of April 9, 1929, (P.L. 343, No. 176), and mandated by the Volunteer Firefighters' Relief Association Act, as consolidated by the Act of November 23, 2010 (P.L. 1181, No. 118), at 35 Pa.C.S. § 7411 *et seq.*, for the period January 1, 2013 to December 31, 2014.

The objectives of the audit were:

1. To determine if the relief association took appropriate corrective action to address the finding contained in our prior audit report.
2. To determine if the relief association received state aid and expended state aid and accumulated relief funds in compliance with applicable state laws, contracts, bylaws, and administrative procedures.

Our audit was limited to the areas related to the objectives identified above.

Relief association officers are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the relief association's administration of state aid and accumulated relief funds complies with applicable state laws, contracts, bylaws, and administrative procedures, including the safeguarding of assets. Relief association officers are responsible for complying with applicable state laws, contracts, bylaws, and administrative procedures. It is our responsibility to perform procedures to obtain sufficient, appropriate evidence to the extent necessary to satisfy the audit objectives. We believe that our audit provides a reasonable basis for our conclusions.

Based on our audit procedures, we conclude that, for the period January 1, 2013 to December 31, 2014:

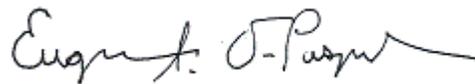
- The relief association did not take appropriate corrective action to address the finding contained in our prior audit report, as detailed below and discussed in the Status of Prior Finding section of this report.
- The relief association, in all significant respects, received state aid and expended state aid and accumulated relief funds in compliance with applicable state laws, contracts, bylaws, and administrative procedures, except as noted in the finding listed below and discussed later in this report.

Finding – Noncompliance With Prior Audit Finding – Inadequate Relief Association Bylaws

The supplementary financial information contained in this report is presented for purposes of additional disclosure and analysis. We performed only limited procedures on the supplementary financial information and, accordingly, express no form of assurance on it.

The contents of this report were discussed with the management of the relief association and, where appropriate, their response has been included in the report. We would like to thank the relief association officials for the cooperation extended to us during the conduct of the audit.

March 10, 2016



EUGENE A. DEPASQUALE  
Auditor General

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## BACKGROUND

Pursuant to Article VIII, Section 10 of the Constitution of the Commonwealth of Pennsylvania, Section 403 of The Fiscal Code, Act of April 9, 1929, (P.L. 343, No. 176), and the Volunteer Firefighters' Relief Association Act, as consolidated by the Act of November 23, 2010, (P.L. 1181, No. 118), at 35 Pa.C.S. § 7411 *et seq.*, the Department of the Auditor General's duty is to audit the accounts and records of every volunteer firefighters' relief association to determine that funds received under the Foreign Fire Insurance Tax Distribution Law, Act of December 18, 1984, (P.L. 1005, No. 205), as amended, 53 P.S. § 895.701 *et seq.* (commonly referred to as Act 205), are properly expended.

The relief association is a charitable organization that was formed primarily to afford financial protection to volunteer firefighters and to encourage individuals to participate in volunteer fire service.

Act 118 governs the overall operation of the volunteer firefighters' relief association. The relief association's bylaws define the specific operational procedures by which the volunteer firefighters' relief association conducts business. To fulfill its primary purpose, Act 118 authorizes specific types of expenditures and prescribes appropriate volunteer firefighters' relief association investment options. Within the parameters established by Act 118, it is the responsibility of the volunteer firefighters' relief association to choose investments in a proper and prudent manner.

Volunteer firefighters' relief associations receive public tax monies, and the association officers therefore have a responsibility to the public to conduct the association's financial affairs in a businesslike manner and to maintain sufficient financial records to support the propriety of all association transactions. Volunteer firefighters' relief association officers are also responsible for ensuring that the association operates in accordance with applicable state laws, contracts, bylaws and administrative procedures.

Act 205 sets forth the computation of the Foreign Fire Insurance Tax Distribution paid to each applicable municipality throughout the Commonwealth of Pennsylvania. The amount of the distribution is based upon the population of each municipality and the market value of real estate within the municipality. Upon receipt of this distribution, the municipality must allocate the funds to the volunteer firefighters' relief association of the fire service organization or fire service organizations, which is or are recognized as providing the service to the municipality.

**BACKGROUND – (Continued)**

The relief association was allocated state aid from the following municipalities:

<u>Municipality</u>	<u>County</u>	<u>2013</u>	<u>2014</u>
New Wilmington Borough	Lawrence	\$12,055	\$11,441
Wilmington Township	Lawrence	\$ 8,770	\$ 8,338
East Lackawannock Township	Mercer	\$ 2,165	\$ 2,048
Lackawannock Township	Mercer	\$ 4,777	\$ 4,529
Wilmington Township	Mercer	\$ 8,791	\$ 8,333

The volunteer firefighters' relief association and the affiliated fire service organization are separate, legal entities. The relief association is affiliated with the following fire service organization:

New Wilmington Volunteer Fire Department

NEW WILMINGTON FIREMEN'S ASSOCIATION  
STATUS OF PRIOR FINDING

NONCOMPLIANCE WITH PRIOR AUDIT FINDING AND RECOMMENDATION

The relief association has not complied with the following prior audit finding. This finding is noted below and discussed in detail in the Finding and Recommendation section of this report:

- Inadequate Relief Association Bylaws

We are concerned by the relief association's continued failure to correct this previously reported audit finding. The association management should strive to implement the recommendation and corrective action noted in this audit report.

NEW WILMINGTON FIREMEN'S ASSOCIATION  
FINDING AND RECOMMENDATION

**Finding – Noncompliance With Prior Audit Recommendation – Inadequate Relief Association Bylaws**

Condition: As cited in our prior five audit reports, the bylaws do not clearly distinguish the relief association as a separate and distinct entity from the affiliated fire department; and, although the relief association previously amended its bylaws in 2008, these amended bylaws still do not clearly distinguish the relief association as a separate and distinct entity from the affiliated fire department. Furthermore, the relief association's bylaws do not contain all of the provisions required by Act 118 at 35 Pa.C.S. § 7415(c). Specifically, the bylaws do not address:

- The voting rights of various classes of members.
- The procedures to be followed in calling meetings, special meetings, and the quorum requirements.
- The procedures to be followed in nominating and in electing officers, trustees, directors, and members of the executive committee, as applicable.
- The procedures for the approval and payment of expenditures and for the investment of funds and the sales of investments.

In addition, the bylaws do not state the name, purpose, and form of organization. The existing bylaws are for the New Wilmington Volunteer Firemen's Association, which is a combination of the relief association and affiliated fire department.

Criteria: The relief association and affiliated fire department are two separate legal entities. Act 118 at 35 Pa.C.S. § 7415(a) states, in part:

A volunteer firefighters' relief association may be a body corporate, governed by a charter and bylaws or an unincorporated association of individuals governed by bylaws and constitution.

Therefore, the relief association must have its bylaws separate from the bylaws of affiliated fire department.

Furthermore, Act 118 at 35 Pa.C.S. § 7415(c)(1,2,5, and 6) states, that the relief association's bylaws shall:

- (1) Specify the requirements for securing membership, voting rights of different classes of members, if there be different classes, and conditions under which membership may be terminated.

NEW WILMINGTON FIREMEN'S ASSOCIATION  
FINDING AND RECOMMENDATION

**Finding - (Continued)**

- (2) State the notice requirements and procedure to be followed in calling meetings, as well as quorum requirements for regular and special meetings of the membership and for regular and special meetings of the body which governs the operations of the association between membership meetings, and shall designate that body, whether it be a board of directors, trustees or any similar body such as an executive committee. Unless otherwise provided for in the bylaws, powers and duties of officers, directors and trustees shall be those which normally pertain to such positions in nonprofit corporations.
- (5) State the procedure to be followed in nominating and in electing officers, trustees, directors, and members of the executive committee, according to the provisions which have been made for establishment of those positions.
- (6) Establish procedures for the approval and payment of expenditures, investment of funds and sale of investments.

Cause: Even though notified of this condition during our prior five audits, relief association officials again failed to establish separate, relief association only bylaws that meet the provisions required by Act 118.

Effect: Commingling the relief association and its affiliated fire department's operating procedures within the same bylaws causes confusion and does not present the two organizations as separate legal entities, independent of one another. As a result of the bylaws, the relief association may have conducted its affairs without proper authorization. In addition, the inadequate bylaws increase the likelihood that the relief association's assets are not adequately protected and could become commingled with those of the affiliated fire department.

Recommendation: We again recommend that the relief association officials review and update the bylaws governing their organization so that the bylaws meet the requirements set forth in Act 118 and properly authorize the operating procedures of the relief association. For further guidance, please refer to the Auditor General's publication, MANAGEMENT GUIDELINES FOR VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATIONS.

Management's Response: Current relief association management agreed with the finding as presented at the audit exit conference and indicated they will take action to comply with the recommendation.

Auditor's Conclusion: We are concerned by the relief association's continued failure to correct this previously reported audit finding and strongly encourage timely implementation of the recommendation noted in this audit report.

NEW WILMINGTON FIREMEN'S ASSOCIATION  
SUPPLEMENTARY FINANCIAL INFORMATION  
FOR THE PERIOD JANUARY 1, 2013 TO DECEMBER 31, 2014

Cash Balance:	\$ 36,956
Fair Value of Investment Balance:	\$ 506,363
Expenditures:	
Benefit Services:	
Insurance premiums	<u>\$ 33,165</u>
Administrative Services:	
Bond premiums	<u>\$ 100</u>
Total Investments Purchased	<u><u>\$ 150,000</u></u>

NEW WILMINGTON FIREMEN'S ASSOCIATION  
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

**The Honorable Tom W. Wolf**  
Governor  
Commonwealth of Pennsylvania

New Wilmington Firemen's Association Governing Body:

**Mr. David S. Cohen**  
President

**Mr. James R. Cameron**  
Vice President

**Mr. Peter Grittie, III**  
Treasurer

**Mr. Gary Huff**  
Director

**Mr. Bryan K. Jones**  
Director

**Mr. Todd M. Willson**  
Director

NEW WILMINGTON FIREMEN'S ASSOCIATION  
REPORT DISTRIBUTION LIST

The following municipalities allocated foreign fire insurance tax monies to this relief association and received a copy of this report:

**Ms. Sharonn Edmiston**  
Secretary  
New Wilmington Borough

**Ms. Tracey L. Deal**  
Secretary  
Wilmington Township

**Ms. Linda Hittie**  
Secretary  
East Lackawannock Township

**Ms. Jody Scopack**  
Secretary  
Lackawannock Township

**Ms. Cindy Black**  
Secretary  
Wilmington Township

This report is a matter of public record and is available online at [www.PaAuditor.gov](http://www.PaAuditor.gov). Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 229 Finance Building, Harrisburg, PA 17120; via email to: [news@PaAuditor.gov](mailto:news@PaAuditor.gov).