

COMPLIANCE AUDIT

Dunmore Borough Police Pension Plan

Lackawanna County, Pennsylvania
For the Period
January 1, 2011 to December 31, 2014

September 2015



Commonwealth of Pennsylvania
Department of the Auditor General

Eugene A. DePasquale • Auditor General



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EUGENE A. DePASQUALE
AUDITOR GENERAL

The Honorable Mayor and Borough Council
Dunmore Borough
Lackawanna County
Dunmore, PA 18512

We have conducted a compliance audit of the Dunmore Borough Police Pension Plan for the period January 1, 2011 to December 31, 2014. We also evaluated compliance with some requirements subsequent to that period when possible. The audit was conducted pursuant to authority derived from Section 402(j) of Act 205 and in accordance with the standards applicable to performance audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The objectives of the audit were:

1. To determine if municipal officials took appropriate corrective action to address the findings contained in our prior audit report; and
2. To determine if the pension plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies.

Our audit was limited to the areas related to the objectives identified above. To determine if municipal officials took appropriate corrective action to address the findings contained in our prior audit report, we inquired of plan officials and evaluated supporting documentation provided by officials evidencing that the suggested corrective action has been appropriately taken. To determine whether the pension plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies, our methodology included the following:

- × We determined whether state aid was properly determined and deposited in accordance with Act 205 requirements by verifying the annual deposit date of state aid and determining whether deposits were made within 30 days of receipt for all years within the period under audit.

- × We determined whether annual employer contributions were calculated and deposited in accordance with the plan's governing document and applicable laws and regulations by examining the municipality's calculation of the plan's annual financial requirements and minimum municipal obligation (MMO) and comparing these calculated amounts to amounts actually budgeted and deposited into the pension plan as evidenced by supporting documentation.
- × We determined whether annual employee contributions were calculated, deducted, and deposited into the pension plan in accordance with the plan's governing document and applicable laws and regulations by testing members' contributions on an annual basis using the rates obtained from the plan's governing document in effect for all years within the period under audit and examining documents evidencing the deposit of these employee contributions into the pension plan.
- × We determined whether retirement benefits calculated for the 2 plan members who retired during the current audit period, and through the completion of our fieldwork procedures, represent payments to all those entitled to receive them and were properly determined and disbursed in accordance with the plan's governing document, applicable laws and regulations by recalculating the amount of the monthly pension benefit due to the retired individuals and comparing these amounts to supporting documentation evidencing amounts determined and actually paid to the recipients.
- × We determined whether the January 1, 2011 and January 1, 2013 actuarial valuation reports were prepared and submitted to the Public Employee Retirement Commission (PERC) by March 31, 2012 and 2014, respectively, in accordance with Act 205 and whether selected information provided on these reports is accurate, complete, and in accordance with plan provisions to ensure compliance for participation in the state aid program by comparing selected information to supporting source documentation.
- × We determined whether the terms and methodologies of the issuance of pension obligation bonds or notes by the municipality, and any restrictions, were in compliance with plan provisions and Act 205 through inquiry of plan officials and examination of supporting documentation for pension obligation bonds or notes issued during the current audit period and through the completion of our fieldwork procedures.

Dunmore Borough contracted with an independent certified public accounting firm for annual audits of its basic financial statements which are available at the borough's offices. Those financial statements were not audited by us and, accordingly, we express no opinion or other form of assurance on them.

Borough officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Dunmore Borough Police Pension Plan is administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies. In conducting our audit, we obtained an understanding of the borough's internal controls as they relate to the borough's compliance with those requirements and that we considered to be significant within the context of our audit objectives, and assessed whether those significant controls were properly designed and implemented. Additionally and as previously described, we tested transactions, assessed official actions, performed analytical procedures, and interviewed selected officials to provide reasonable assurance of detecting instances of noncompliance with legal and regulatory requirements or noncompliance with provisions of contracts, administrative procedures, and local ordinances and policies that are significant within the context of the audit objectives.

The results of our procedures indicated that, in all significant respects, the Dunmore Borough Police Pension Plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies, except as noted in the following findings further discussed later in this report:

- Finding No. 1 – Noncompliance With Prior Audit Recommendation – Pension Plan Not In Compliance With Act 600 Provisions
- Finding No. 2 – Noncompliance With Prior Audit Recommendation – Failure To Adopt Benefit Provisions Mandated By Act 30
- Finding No. 3 – Noncompliance With Prior Audit Recommendation – Improper Adjustment To Survivor's Pension Benefit
- Finding No. 4 – Noncompliance With Prior Audit Recommendation – Unauthorized Pension Benefits
- Finding No. 5 – Failure To Pay The Minimum Municipal Obligation Of The Plan
- Finding No. 6 – Unauthorized Provision For A Killed In Service Benefit

Four of the six findings contained in this audit report repeat conditions that were cited in our previous audit report that have not been corrected by borough officials. We are concerned by the borough's failure to correct those previously reported audit findings and strongly encourage timely implementation of the recommendations noted in this audit report.

As previously noted, one of the objectives of our audit of the Dunmore Borough Police Pension Plan was to determine compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies. Act 205 was amended on September 18, 2009, through the adoption of Act 44 of 2009. Among several provisions relating to municipal pension plans, the act provides for the implementation of a distress recovery program. Three levels of distress have been established:

<u>Level</u>	<u>Indication</u>	<u>Funding Criteria</u>
I	Minimal distress	70-89%
II	Moderate distress	50-69%
III	Severe distress	Less than 50%

The accompanying supplementary information is presented for purposes of additional analysis. We did not audit the information or conclude on it and, accordingly, express no form of assurance on it. However, **we are extremely concerned about the historical trend information contained in the schedule of funding progress included in this report which indicates a continued decline of assets available to satisfy the long-term liabilities of the plan. The plan's funded ratio went from 47.8% as of January 1, 2011, to a ratio of 39.4% as of January 1, 2013, which is the most recent data available. Based on this information, and the funding status of the borough's firemen's and non-uniformed pension plans, based on Act 205 distress levels, the borough is currently in Level III severe distress status.** While we acknowledge that the borough deposited note proceeds in the amount of \$2,476,814 into the plan which will be reflected in the plan's January 1, 2015 actuarial valuation report, we encourage borough officials to monitor the funding of the police pension plan to ensure its long-term financial stability.

The contents of this report were discussed with officials of Dunmore Borough and, where appropriate, their responses have been included in the report. We would like to thank borough officials for the cooperation extended to us during the conduct of the audit.

August 7, 2015



EUGENE A. DEPASQUALE
Auditor General

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BACKGROUND

On December 18, 1984, the Pennsylvania Legislature adopted the Municipal Pension Plan Funding Standard and Recovery Act (P.L. 1005, No. 205, as amended, 53 P.S. § 895.101 et seq.). The act established mandatory actuarial reporting and funding requirements and a uniform basis for the distribution of state aid to Pennsylvania's public pension plans. Section 402(j) of Act 205 specifically requires the Auditor General, as deemed necessary, to make an audit of every municipality which receives general municipal pension system state aid and of every municipal pension plan and fund in which general municipal pension system state aid is deposited.

Annual state aid allocations are provided from a 2 percent foreign (out-of-state) casualty insurance premium tax, a portion of the foreign (out-of-state) fire insurance tax designated for paid firefighters and any investment income earned on the collection of these taxes. Generally, municipal pension plans established prior to December 18, 1984, are eligible for state aid. For municipal pension plans established after that date, the sponsoring municipality must fund the plan for three plan years before it becomes eligible for state aid. In accordance with Act 205, a municipality's annual state aid allocation cannot exceed its actual pension costs.

In addition to Act 205, the Dunmore Borough Police Pension Plan is also governed by implementing regulations adopted by the Public Employee Retirement Commission published at Title 16, Part IV of the Pennsylvania Code and applicable provisions of various other state statutes including, but not limited to, the following:

Act 600 - Police Pension Fund Act, Act of May 29, 1956 (P.L. 1804, No. 600), as amended, 53 P.S. § 761 et seq.

The Dunmore Borough Police Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Ordinance No. 2 of 1951, as amended, adopted pursuant to Act 600. The plan is also affected by the provisions of collective bargaining agreements between the borough and its police officers. The plan was established January 1, 1951. Active members hired prior to January 1, 2005 are required to contribute 1 percent of compensation to the plan and active full-time officers hired on or after January 1, 2005 are required to contribute 5 percent of compensation to the plan. As of December 31, 2014, the plan had 18 active members, no terminated members eligible for vested benefits in the future, and 19 retirees receiving pension benefits from the plan.

BACKGROUND – (Continued)

As of December 31, 2014, selected plan benefit provisions are as follows:

Eligibility Requirements:

Normal Retirement	Age 55 and 25 years of service.
Early Retirement	None
Vesting	A member is 100% vested after 12 years of service.

Retirement Benefit:

For officers who retire on or after January 1, 1993 - 70% of base pay, longevity and rank differential during the last full year of service. Excess benefits which have been awarded to certain retired members have been included in the actuarial valuation.

Survivor Benefit:

Before Retirement Eligibility	Refund of member contributions plus interest.
After Retirement Eligibility	A monthly benefit equal to 50% of the pension the member was receiving or was entitled to receive on the day of the member's death.

Service Related Disability Benefit:

Benefit equals 60% of the member's annual compensation at the date of disability.

DUNMORE BOROUGH POLICE PENSION PLAN
STATUS OF PRIOR FINDINGS

Compliance With Prior Audit Recommendations

Dunmore Borough has complied with the prior audit recommendations concerning the following:

- Failure To Fully Pay The Minimum Municipal Obligation Of The Plan

The municipality paid the interest due on the outstanding 2009 minimum municipal obligation (MMO) owed to the police pension plan in accordance with Act 205 requirements.

- Incorrect Data On Certification Form AG 385 Resulting In A Net Underpayment Of State Aid

During the years 2013 and 2014, plan officials accurately reported the required pension data for the police pension plan on Certification Form AG 385.

Noncompliance With Prior Audit Recommendations

Dunmore Borough has not complied with the prior audit recommendations concerning the following as further discussed in the Findings and Recommendations section of this report:

- Pension Plan Not In Compliance With Act 600 Provisions
- Failure To Adopt Benefit Provisions Mandated By Act 30
- Improper Adjustment To Survivor's Pension Benefit
- Unauthorized Pension Benefits

DUNMORE BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – Noncompliance With Prior Audit Recommendation – Pension Plan Not In Compliance With Act 600 Provisions

Condition: As disclosed in the prior audit report, the pension plan’s governing document includes benefit provisions awarded through collective bargaining which are contrary to Act 600. The inconsistencies between the governing document and Act 600 are as follows:

<u>Provision</u>	<u>Governing Document</u>	<u>Act 600</u>
Member contribution Rate	One percent (1%); Five percent (5%) - Active reserve officers who became full-time police officers after January 1, 2005	Where members do not participate in Social Security - 5% to 8%. May be reduced annually by ordinance or resolution.
Interest on refunds of terminated member contributions	Not provided	Refunds of moneys paid are to include all interest earned by such moneys while in the police pension fund.
Retirement benefit	For officers who retire on or before December 31, 1992 - 80% of base pay during the last full year of service; For officers who retire on or after January 1, 1993 - 70% of base pay, longevity and rank differential during the last full year of service.	Monthly pension or retirement benefits other than length of service increments shall be computed at one-half the monthly average salary of such member during not more than the last 60 nor less than the last 36 months of employment.
Fund to be charged for pension payments	For retirement benefits calculated at 80%: 70% payable from the police pension fund and 10% from the general fund.	Payments made under the provisions of this act shall not be a charge on any other fund in the treasury of any borough, town, township or regional police department, or under its control, save the police pension fund.

DUNMORE BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

Provision	Governing Document	Act 600
Cost-of-living increases	Does not limit total benefits to 75% of the salary used for computing retirement benefits.	Limits total benefits to 75% of the salary used for computing retirement benefits.
Credit for intervening military service	Not provided	Provided for members who were employed for at least 6 months prior to their military service and who return to employment within 6 months after separation from military service.
Mandatory retirement age	70 years	Not provided
Early retirement benefit	No minimum period of service is listed. Benefit is the projected retirement benefit multiplied by the quotient of the number of years of service completed divided by the number of years of service which would have been completed at normal retirement.	20 years of service required. Benefit is the actuarial equivalent of the gross pension amount calculated using the monthly average salary during the appropriate period prior to termination multiplied by the quotient of the number of years of service completed divided by the number of years of service which would have been completed at normal retirement.
Contributions by and eligibility of terminated members	Members dismissed for any reason with 25 years of service, but not having reached age 55 may continue to contribute to the plan until normal retirement age, at which time they are entitled to a pension.	Not provided

DUNMORE BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

Provision	Governing Document	Act 600
Retirement incentive	Members who retire when first eligible for normal retirement receive \$100 per month in addition to the normal retirement allowance.	Not provided

Furthermore, although the plan’s governing document provides for a normal retirement benefit at age 55 with 25 years of service in accordance with Act 600 provisions, the 1993-1994 collective bargaining agreement provides for officers to retire at age 50 with 20 years of service.

In addition, a side agreement to the 1992 Dunmore Police Collective Bargaining Agreement provides for pensions calculated based on base pay, longevity pay, rank differential and 50 percent of severance pay.

Regarding refunds of members’ contributions, the 1995 Dunmore Police Collective Bargaining Agreement properly provides for payment of interest on these refunds; however, this provision of the agreement has not been officially incorporated into the plan’s governing document.

Finally, regarding the fund to be charged for pension payments, the 1995 Dunmore Police Collective Bargaining Agreement provides for the payment of all benefits found to be unauthorized from the borough’s general fund.

Criteria: A governing document which contains clearly defined and updated benefit provisions is a prerequisite for the consistent, sound administration of retirement benefits. In addition, the pension plan’s benefit structure should be in compliance with the provisions of Act 600, as amended.

Cause: The inconsistent and/or unauthorized benefit provisions occurred as a result of collective bargaining between the borough and the police association. In addition, municipal officials failed to comply with the prior audit recommendation through subsequent collective bargaining and failed to establish adequate internal control procedures to ensure compliance with the prior audit recommendation.

Effect: As a result, 9 retired members of the plan are currently receiving pension benefit payments in excess of those authorized by Act 600.

DUNMORE BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

Providing unauthorized benefits increases the plan's pension costs and reduces the amount of funds available for investment purposes or the payment of authorized benefits or administrative expenses. Since the borough received its state aid allocations based on unit value during the audit period, the borough did not receive excess state aid allocations attributable to the unauthorized benefits provided. However, the plan's actuary determined that the increased costs to the pension plan as a result of the unauthorized pension benefits provided resulted in a \$923,243 increase in the plan's actuarial accrued liability. Beginning January 1, 2003, this increased liability was amortized over a ten-year period, resulting in annual amortization contributions of \$127,399.

Recommendation: We again recommend that the borough comply with Act 600 upon the renewal, extension, or renegotiation of the collective bargaining agreement and update the plan's governing document accordingly, for all benefits authorized. To the extent that the borough is not in compliance with Act 600 and/or is contractually obligated to pay benefits to existing retirees in excess of those authorized by Act 600, the excess benefits must be reflected in the Act 205 actuarial valuation reports for the plan and funded in accordance with the Act 205 funding standards. Furthermore, the excess benefits will be deemed ineligible for funding with state pension aid. In such case, the plan's actuary may be required to determine the impact, if any, of the excess benefits on the plan's future state aid allocations and submit this information to the Department.

Management's Response: Municipal officials indicated that the borough will adopt (sic) at a public meeting and follow Act 600 which will include the Act 30 amendments/provisions of 2002. If at any time the borough chooses to deviate from the Act 600 member contribution provision, the borough will do so through resolution at a public meeting. Currently the 2 active officers contributing 1 percent is the result of an Act 111 court award from 1992. All other police members contribute 5 percent.

Auditor's Conclusion: We are concerned by the borough's failure to comply with the prior audit recommendation and encourage compliance at the earliest opportunity to do so.

DUNMORE BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – Noncompliance With Prior Audit Recommendation – Failure To Adopt Benefit Provisions Mandated By Act 30

Condition: As disclosed in the prior audit report, Act 600 was amended by Act 30 on April 17, 2002, which made significant changes to the statutorily prescribed benefit structure of police pension plans subject to Act 600. Municipal officials have not amended the police pension plan’s benefit structure to adopt all of the changes mandated by Act 30. The specific inconsistencies are as follows:

Benefit Provision	Governing Document	Act 600 (as amended)
Survivor’s benefit	The surviving spouse of a member who dies subsequent to retiring on pension, or if subsequently the spouse dies or remarries, then the child or children under the age of 18, shall during his/her lifetime or as long as she/he does not remarry, be entitled to receive 50% of the pension the member was receiving or would have been receiving had he been retired at the time of death.	A lifetime survivor’s benefit must be provided to the surviving spouse (or if no spouse survives or if he or she subsequently dies, the child or children under 18 years of age or if attending college, under or attaining the age of 23) of no less than 50% of the pension the member was receiving or would have been entitled to receive had he been retired at the time of death. (“Attending college” shall mean the eligible children are registered at an accredited institution of higher learning and are carrying a minimum course load of 7 credit hours per semester.)
Pre-vesting death benefit	None provided	The surviving spouse of a member of the police force who dies before his pension has vested or if no spouse survives or if he or she survives and subsequently dies, the child or children under the age of 18 years, or, if attending college, under or attaining the age of 23 years, of the member of the police force shall be entitled to receive repayment of all money which the member invested in the pension fund plus interest or other increases in value of the member’s investment in the pension fund, unless the member has designated another beneficiary for this purpose.

DUNMORE BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

Benefit Provision	Governing Document	Act 600 (as amended)
Service-related disability benefit	50% of the average monthly salary during the last 36 months of employment.	The benefit must be in conformity with a uniform scale and fixed by the plan's governing document at no less than 50% of the member's salary at the time the disability was incurred, reduced by the amount of Social Security disability benefits received for the same injury.

Criteria: The police pension plan's benefit structure should be in compliance with Act 600, as amended by Act 30.

Cause: Plan officials failed to establish adequate internal control procedures to ensure compliance with the prior audit recommendation.

Effect: Maintaining a benefit structure which is not in compliance with Act 600 could result in plan members or their beneficiaries receiving incorrect benefit amounts or being denied benefits to which they are statutorily entitled.

Recommendation: We again recommend that municipal officials, after consulting with their solicitor, take whatever action is necessary to bring the police pension plan's benefit structure into compliance with Act 600, as amended, by Act 30, at their earliest opportunity to do so.

Management's Response: As previously noted, municipal officials indicated that the borough will adopt (sic) at a public meeting and follow Act 600 which will include the Act 30 amendments/provisions of 2002.

Auditor's Conclusion: We are concerned by the borough's failure to comply with the prior audit recommendation and encourage compliance at the earliest opportunity to do so.

DUNMORE BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

**Finding No. 3 – Noncompliance With Prior Audit Recommendation – Improper Adjustment
To Survivor’s Pension Benefit**

Condition: As disclosed in the prior audit report, in 2004, municipal officials improperly recalculated the pension benefit due to the surviving spouse of a police officer who retired on December 31, 1988, and subsequently died on September 24, 1999. This improperly revised benefit calculation determined that the surviving spouse was due \$192 more per month in pension benefits and \$54,984 in total back pension payments. The revised benefit calculation included payments the police officer had received in 1988 pursuant to arbitration awards granting back pay for time worked in the years 1980 through 1985. However, only compensation earned in the officer’s last 36 months of employment was authorized to be included in the officer’s pension benefit calculation and, therefore, in his spouse’s survivor’s benefit.

Criteria: Section 1(a)(4) of Act 600 states, in part:

The surviving spouse of a member of the police force or a member who retires on pension who dies. . . shall during her lifetime . . . be entitled to receive a pension calculated at no less than fifty per centum of the pension the member was receiving. . . at the time of his death.

Section 5(c) of Act 600 states, in part:

Monthly pension or retirement benefits other than length of service increments shall be computed at one-half the monthly average salary of such member during not more than the last sixty nor less than the last thirty-six months of employment.

Furthermore, in *Czekanski v. Ford City Borough*, 611 A.2d 791, 148 Pa.Cmwlth. 417, (Pa.Cmwlth 1992), Commonwealth Court concluded that a back pay settlement award *received* within the 36 months immediately preceding retirement was properly excluded from the calculation of a police officer’s pension benefit because the back pay was not *earned* during that period.

Cause: Municipal officials at the time felt the additional compensation from the arbitration awards reported on the member’s 1988 W-2 form should have been included in his original pension benefit calculation. In addition, current municipal officials failed to establish adequate procedures to ensure compliance with the prior audit recommendation.

DUNMORE BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 3 – (Continued)

Effect: Providing unauthorized benefits increases the plan’s pension costs and reduces the amount of funds available for investment purposes or the payment of authorized benefits or administrative expenses. Since the borough received its state aid allocations based on unit value during the audit period, the borough did not receive excess state aid allocations attributable to the unauthorized benefits provided. However, the provision of unauthorized pension benefits could result in the receipt of excess state aid in the future, and also increase the municipal contributions necessary to fund the plan in accordance with Act 205 funding standards.

Recommendation: We again recommend that the surviving spouse’s pension benefit be adjusted prospectively to the originally determined amount. In addition, all improper payments made from the pension plan will be deemed ineligible for funding with state pension aid. Accordingly, the pension plan’s actuary may be required to determine the impact, if any, of the improper payments on the plan’s future state aid allocations and submit this information to the department.

Management’s Response: Municipal officials disagree with the recommendation. The improper pension benefit will continue to be paid and be reported on the actuarial valuation report.

Auditor’s Conclusion: As previously disclosed, the benefit paid to the surviving spouse is not in accordance with the provisions of Act 600; and therefore, based on the criteria previously cited, the finding remains as stated. In addition, we are concerned by the borough’s failure to comply with the prior audit recommendation and encourage compliance at the earliest opportunity to do so.

Finding No. 4 – Noncompliance With Prior Audit Recommendation – Unauthorized Pension Benefits

Condition: As disclosed in the prior audit report, two police officers were granted unauthorized pension benefits in 2006. These police officers were given credit for part-time service in order to complete the requirement of 20 years of service to qualify for normal retirement benefits. As disclosed in Finding No. 1 contained in this report, the plan’s governing document and prior collective bargaining agreements contain unauthorized benefit provisions that exceed provisions prescribed in Act 600.

DUNMORE BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 4 – (Continued)

Criteria: Act 600 at Section 3, states, in part:

Each ordinance or resolution establishing a police pension fund shall prescribe a minimum period of total service in the aggregate of twenty-five years in the same borough, town, township or regional police department and shall fix the age of the members of the force at fifty-five years, or, if an actuarial study of the cost shows that such reduction in age is feasible, may fix the age of the members of the force at fifty years.

The 1993-1994 collective bargaining agreement, in effect at the time, provides officers the opportunity to retire at age 50 with 20 years of service. However, File of Council 3 of 1992 also contains a provision for early retirement (see Finding No. 1 for details) which sets no minimum period of service but does establish a formula to determine the fraction of the pension benefits to be paid. In addition, it does not provide for an early retirement benefit to be determined and received in the same manner as a normal retirement benefit.

Furthermore, Act 600 does not authorize the crediting of part-time service in pension benefit determinations.

Cause: Municipal officials at the time believed that a member may be granted service credit for part-time years of service. In addition, current municipal officials failed to establish adequate procedures to ensure compliance with the prior audit recommendation.

Effect: The plan is paying an additional \$675 in monthly pension benefits to 2 retirees in excess of those authorized by Act 600. Providing unauthorized benefits increases the plan's pension costs and reduces the amount of funds available for investment purposes or the payment of authorized benefits or administrative expenses. Since the borough received its state aid allocations based on unit value during the audit period, the borough did not receive excess state aid allocations attributable to the unauthorized benefits provided. However, the provision of unauthorized pension benefits could result in the receipt of excess state aid in the future, and also increase the municipal contributions necessary to fund the plan in accordance with Act 205 funding standards.

DUNMORE BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 4 – (Continued)

Recommendation: We again recommend that the borough review the pension benefit determinations with the borough solicitor to determine whether the retirees' pension benefits should be adjusted prospectively. To the extent that the borough is not in compliance with Act 600 and/or is contractually obligated to pay benefits to existing retirees in excess of those authorized by Act 600, the excess benefits must be reflected in the Act 205 actuarial valuation reports for the plan and funded in accordance with the Act 205 funding standards. Furthermore, the excess benefits will be deemed ineligible for funding with state pension aid. In such case, the plan's actuary may be required to determine the impact, if any, of the excess benefits on the plan's future state aid allocations and submit this information to the Department.

Management's Response: Municipal officials disagree with the recommendation. The unauthorized pension benefits will continue to be paid and be reported on the actuarial valuation report.

Auditor's Conclusion: The benefits paid to the two police officers are not in accordance with the provisions of Act 600, therefore, based on the criteria previously cited, the finding remains as stated. In addition, we are concerned by the borough's failure to comply with the prior audit recommendation and encourage compliance at the earliest opportunity to do so.

Finding No. 5 – Failure To Pay The Minimum Municipal Obligation Of The Plan

Condition: Plan officials did not pay the minimum municipal obligation (MMO) of the police pension plan for the year 2014, as required by Act 205. The borough issued a \$5,000,000 General Obligation Note on February 5, 2013 under the act of July 12, 1972 (P.L. 781, No. 185), known as the Local Government Unit Debt Act to fund its pension obligations, and subsequently deposited \$2,476,814 into the plan on March 14, 2013. The borough considered this deposit as a payment of the balance due on the 2012, and the full payment of the 2013, 2014, and subsequent minimum municipal obligations (MMOs) and did not make any additional municipal contributions to the plan in 2013 or 2014. The note proceeds fully funded the \$571,369 balance of the 2012 MMO, plus interest, and the 2013 MMO of \$607,397; however, pursuant to Act 205 provisions, since the deposit of the note proceeds was made in 2013, the borough cannot use these funds towards their 2014 MMO. Therefore, based on the borough's original 2014 MMO determination, the borough has an unpaid 2014 MMO balance of \$618,113.

DUNMORE BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 5 – (Continued)

Criteria: Regarding the proper determination of the MMO, Section 302(c) of Act 205 states, in part:

Annually, the chief administrative officer of the pension plan shall determine the minimum obligation of the municipality with respect to the pension plan for the following plan year. (Emphasis added)

Furthermore, in regards to funding the MMO, Section 302(d) of Act 205 states:

Annually the municipality shall provide for the full amount of the minimum obligation of the municipality in the budget of the municipality. The minimum obligation of the municipality shall be payable to the pension plan from the revenue of the municipality. Payment of the minimum obligation of the municipality shall be made by the municipality prior to December 31. (Emphasis added)

In addition, Section 302(e) of Act 205 also states:

Any amount of the minimum obligation of the municipality which remains unpaid as of December 31 of the year in which the minimum obligation is due shall be added to the minimum obligation of the municipality for the following year, with interest from January 1 of the year in which the minimum obligation was first due until the date the payment is paid at a rate equal to the interest assumption used for the actuarial valuation report or the discount rate applicable to treasury bills issued by the Department of Treasury of the United States with a six-month maturity as of the last business day in December of the plan year in which the obligation was due, whichever is greater, expressed as a monthly rate and compounded monthly.

Cause: The failure to pay the MMO occurred because borough officials were unaware that the deposit of the proceeds from the note issuance in 2013 could not be used to fund subsequent MMOs due to the plan.

Effect: The proper determination of the plan's MMO ensures plan officials can properly allocate the necessary resources to the pension plan for the upcoming year. The failure to pay the MMO could result in the plan not having adequate resources to meet current and future benefit obligations to its members. Furthermore, the borough's future state aid allocations may be withheld until the finding recommendation is complied with.

DUNMORE BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 5 – (Continued)

Recommendation: We recommend that the municipality pay the MMO due to the police pension plan for the year 2014, with interest, in accordance with Section 302(e) of Act 205. A copy of the interest calculation must be maintained by the borough for examination during our next audit of the plan.

Management's Response: In December 2012, Borough Council passed a resolution to borrow \$5,000,000 in a proactive effort to shore up our pension plans. Our goal was to bring outstanding liabilities of the plan to present, while providing future obligations adequate funding as to not be burdensome to a challenging budget process. Further, the note would serve to spread the rising cost of the pension obligations (both past and future) over a 10-year amortization period. This information was subsequently communicated to our plan actuary and the Public Employee Retirement Commission. The Commission agreed at the time to allow us to hold the \$5,000,000 proceeds as a contribution receivable in the respective plans.

It is important to note that this was the intent of the Borough. We most certainly could have placed the \$5,000,000 proceeds in the general fund and transfer the money when the MMOs became due. With the very competitive interest rates that were offered to us, Council chose to put the entire amount into the funds with the hopes that our new investment managers would yield higher rates of return, while reducing future obligations at the same time.

Auditor's Conclusion: Act 205 does not provide for prepayment of MMOs, as each municipality is required to annually budget, determine, and pay the MMO due to the plan. The proceeds from the note deposited in 2013 can be applied towards the 2012 and 2013 MMOs due and the additional funds are considered an additional municipal contribution which will reduce the plan's unfunded actuarial accrued liability. The effect of the deposit of the note proceeds will be reflected in the plan's January 1, 2015, actuarial valuation report. Therefore, based on the criteria previously cited, the finding and recommendation remain as stated. We further recommend that the borough seek guidance from their solicitor to determine an acceptable means to resolve the finding.

Due to the potential withhold of state aid, the borough's compliance with the finding recommendation will be monitored subsequent to the release of the audit report and through our next audit of the plan.

DUNMORE BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 6 – Unauthorized Provision For A Killed In Service Benefit

Condition: Dunmore Borough maintains a police pension plan governed by the provisions of Act 600, as amended. Prior to the adoption of Act 51 of 2009, Act 600 contained a mandatory killed in service benefit provision; however, Act 51 specifically repealed the section of Act 600 that referenced the mandatory killed in service benefit. During the prior audit period, a verbal observation was given to plan officials notifying them of the passage of Act 51. It was recommended that plan officials review the act's implications for the police pension plan with their municipal solicitor. During the current audit period, it has been determined that the pension plan's governing document continues to provide for a killed in service benefit that is no longer authorized by Act 600.

A resolution dated May 25, 1971 at section 2(a), subsection (2)(b) states:

If an active member shall be killed in the line of duty his survivors entitlement shall be computed using the salary which he was receiving at the date of his death as a base figure, adding to it maximum increment payment as provided for in the pension plan.

Criteria: Section 1(a) of Act 51 of 2009 states, in part:

In the event a law enforcement officer, ambulance service or rescue squad member, firefighter, certified hazardous material response team member or National Guard member dies as a result of the performance of his duties, such political subdivision, Commonwealth agency or, in the case of National Guard members, the Adjutant General, or, in the case of a member of a Commonwealth law enforcement agency, the authorized survivor or the agency head, within 90 days from the date of death, shall submit certification of such death to the Commonwealth.

DUNMORE BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 6 – (Continued)

In addition, Section 1(d) of Act 51 of 2009 states, in part:

. . . the Commonwealth shall, from moneys payable out of the General Fund, pay to the surviving spouse or, if there is no surviving spouse, to the minor children of the paid firefighter, ambulance service or rescue squad member or law enforcement officer who died as a result of the performance of his duty the sum of \$100,000, adjusted in accordance with subsection (f) of this section, and an amount equal to the monthly salary, adjusted in accordance with subsection (f) of this section, of the deceased paid firefighter, ambulance service or rescue squad member or law enforcement officer, less any workers' compensation or pension or retirement benefits paid to such survivors, and shall continue such monthly payments until there is no eligible beneficiary to receive them. For the purpose of this subsection, the term "eligible beneficiary" means the surviving spouse or the child or children under the age of eighteen years or, if attending college, under the age of twenty-three years, of the firefighter, ambulance service or rescue squad member or law enforcement officer who died as a result of the performance of his duty. When no spouse or minor children survive, a single sum of \$100,000, adjusted in accordance with subsection (f) of this section, shall be paid to the parent or parents of such firefighter, ambulance service member, rescue squad member or law enforcement officer. (Emphasis added)

Furthermore, Section 2 of Act 51 of 2009 states:

Repeals are as follows:

- (1) The General Assembly declares that the repeals under paragraph (2) are necessary to effectuate the amendment of section 1 of the act.
- (2) The following parts of acts are repealed:
 - (i) Section 5(e)(2) of the act of May 29, 1956 (1955 P.L.1804, No. 600), referred to as the Municipal Police Pension Law.
 - (ii) Section 202(b)(3)(vi) and (4)(vi) of the act of December 18, 1984 (P.L.1005, No. 205), known as the Municipal Pension Plan Funding Standard and Recovery Act.

Therefore, since Act 51 specifically repealed the killed in service provision of Act 600 and the funding provisions for the killed in service benefit that were contained in Act 205, the provision of a killed in service benefit is no longer authorized.

DUNMORE BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 6 – (Continued)

Cause: Plan officials failed to establish adequate internal control procedures to ensure the plan's governing document is in compliance with Act 600, as amended.

Effect: Since Section 1 of Act 51 provides that the Commonwealth is obligated to pay the killed in service benefit less any pension or retirement benefits paid to eligible survivors, the continued provision of a killed in service benefit could result in the pension plan being obligated to pay a benefit that is no longer authorized by Act 600, and would have been paid entirely by the Commonwealth absent such provision.

Recommendation: We recommend that the municipality review the plan's killed in service benefit with its solicitor in conjunction with Act 51 of 2009, and eliminate this unauthorized benefit provision at its earliest opportunity to do so.

Management's Response: Municipal officials agreed with the finding without exception.

Auditor's Conclusion: Considering the plan's funded status and the liability for delinquent employer contributions owed by the municipality, we again urge borough officials to comply with the finding recommendation at their earliest opportunity to do so, especially in light of the fact that the Commonwealth has assumed the responsibility of paying the mandated killed in service benefit and the elimination of this benefit would improve the funding status of the plan going forward. Compliance will be evaluated during our next audit of the plan.

DUNMORE BOROUGH POLICE PENSION PLAN
POTENTIAL WITHHOLD OF STATE AID

A condition such as that reported by Finding No. 5 contained in this audit report may lead to a total withholding of state aid in the future unless that finding is corrected. However, such action will not be considered if sufficient written documentation is provided to verify compliance with this department's recommendation. Such documentation should be submitted to: Department of the Auditor General, Bureau of Municipal Pension & Liquor Control Audits, 314 Finance Building, Harrisburg, PA 17120.

DUNMORE BOROUGH POLICE PENSION PLAN
 SUPPLEMENTARY INFORMATION
 (UNAUDITED)

SCHEDULE OF FUNDING PROGRESS

Historical trend information about the plan is presented herewith as supplementary information. It is intended to help users assess the plan's funding status on a going-concern basis, assess progress made in accumulating assets to pay benefits when due, and make comparisons with other state and local government retirement systems.

The actuarial information is required by Act 205 biennially. The historical information, beginning as of January 1, 2009, is as follows:

	(1)	(2)	(3)	(4)
Actuarial Valuation Date	Actuarial Value of Assets (a)	Actuarial Accrued Liability (AAL) - Entry Age (b)	Unfunded (Assets in Excess of) Actuarial Accrued Liability (b) - (a)	Funded Ratio (a)/(b)
01-01-09	\$ 2,739,469	\$ 6,360,184	\$ 3,620,715	43.1%
01-01-11	3,192,255	6,684,947	3,492,692	47.8%
01-01-13	2,815,979	7,154,801	4,338,822	39.4%

The market values of the plan's assets at 01-01-09, 01-01-11 and 01-01-13 have been adjusted to reflect the smoothing of gains and/or losses over a 5-year averaging period. This method will lower contributions in years of less than expected returns and increase contributions in years of greater than expected returns. The net effect over long periods of time is to have less variance in contribution levels from year to year.

The January 1, 2013 actuarial data is from the revised actuarial valuation report submitted to PERC in July of 2015.

DUNMORE BOROUGH POLICE PENSION PLAN
SUPPLEMENTARY INFORMATION
(UNAUDITED)

The comparability of trend information is affected by changes in actuarial assumptions, benefit provisions, actuarial funding methods, accounting policies, and other changes. Those changes usually affect trends in contribution requirements and in ratios that use the actuarial accrued liability as a factor.

Analysis of the dollar amount of the actuarial value of assets, actuarial accrued liability, and unfunded (assets in excess of) actuarial accrued liability in isolation can be misleading. Expressing the actuarial value of assets as a percentage of the actuarial accrued liability (Column 4) provides one indication of the plan's funding status on a going-concern basis. Analysis of this percentage, over time, indicates whether the system is becoming financially stronger or weaker. Generally, the greater this percentage, the stronger the plan.

DUNMORE BOROUGH POLICE PENSION PLAN
SUPPLEMENTARY INFORMATION
(UNAUDITED)

SCHEDULE OF CONTRIBUTIONS FROM EMPLOYER
AND OTHER CONTRIBUTING ENTITIES

Year Ended December 31	Annual Required Contribution	Percentage Contributed
2009	\$ 416,583	100.0%
2010	434,106	100.0%
2011	565,968	100.0%
2012	571,369	100.0%
2013	607,397	100.0%
2014	618,113	0.0%

DUNMORE BOROUGH POLICE PENSION PLAN
SUPPLEMENTARY INFORMATION
NOTES TO SUPPLEMENTARY SCHEDULES
(UNAUDITED)

The information presented in the supplementary schedules was determined as part of the actuarial valuation at the date indicated. Additional information as of the latest actuarial valuation date follows:

Actuarial valuation date	January 1, 2013
Actuarial cost method	Entry age normal
Amortization method	Level dollar
Remaining amortization period	11 years
Asset valuation method	Fair value, 5-year smoothing
Actuarial assumptions:	
Investment rate of return	8.0%
Projected salary increases	6.0%
Cost-of-living adjustments	3.0%

DUNMORE BOROUGH POLICE PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom W. Wolf
Governor
Commonwealth of Pennsylvania

Dunmore Borough Police Pension Plan
Lackawanna County
400 South Blakely Street
Dunmore, PA 18512

The Honorable Patrick W. Loughney	Mayor
Mr. Michael F. McHale	Council President
Mr. Vito P. Ruggerio	Administrator
Ms. Denise M. Moran	Treasurer

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