

LIMITED PROCEDURES ENGAGEMENT

Butler Township Non-Uniformed Pension Plan Schuylkill County, Pennsylvania For the Period January 1, 2012 to December 31, 2014

April 2016



Commonwealth of Pennsylvania
Department of the Auditor General

Eugene A. DePasquale • Auditor General



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EUGENE A. DePASQUALE
AUDITOR GENERAL

Board of Township Supervisors
Butler Township
Schuylkill County
Ashland, PA 17921

We conducted a Limited Procedures Engagement (LPE) of the Butler Township Non-Uniformed Pension Plan for the period January 1, 2012 to December 31, 2014 to determine its compliance with certain relevant state laws, regulations, policies, and administrative procedures. We also evaluated compliance with some requirements subsequent to that period when possible. The LPE was conducted pursuant to authority derived from Section 402(j) of the Municipal Pension Plan Funding Standard and Recovery Act (P.L. 1005, No. 205, as amended, 53 P.S. § 895.101 *et seq.*) but was not conducted in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States. 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. We believe that the evidence obtained provides a reasonable basis to support our LPE results.

Our LPE was limited to determining the following:

- × 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 engagement period.
- × 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.
- × Whether annual employee contributions were required during the engagement period and, if so, 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 engagement period and examining documents evidencing the deposit of these employee contributions into the pension plan.

- × Whether retirement benefits calculated for plan members who retired during the engagement period represent payments to all (and only) 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 retired individuals and comparing these amounts to supporting documentation evidencing amounts determined and actually paid to recipients.
- × 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.

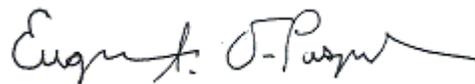
Based on the results of our procedures performed during our LPE, nothing came to our attention indicating that the Butler Township Non-Uniformed Pension Plan was not being administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies, except as noted in the following finding further discussed subsequent to this letter:

Finding – Improper Pension Benefit Revision

Our determination to perform a LPE for this engagement period does not preclude the Department from conducting an audit in accordance with *Government Auditing Standards* of the pension plan in subsequent periods. The township should continue to maintain documentation related to this pension plan.

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.

The contents of this letter were discussed with officials of Butler Township Non-Uniformed Pension Plan and, where appropriate, their responses have been included in this letter. We would like to thank township officials for the cooperation extended to us during the conduct of this LPE.



EUGENE A. DEPASQUALE
Auditor General

February 12, 2016

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BUTLER TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDING AND RECOMMENDATION

Finding – Improper Pension Benefit Revision

Condition: A non-uniformed employee retired on April 1, 2012 and began receiving a pension benefit of \$1,034 per month. The retiree’s benefit was subsequently increased to \$1,063 per month effective August 1, 2013, based on a revised number of years of service pursuant to Resolution No. 2013-4, which amended the definition of accrual service to incorporate months and years worked into the calculation of years of service. The member also received a retroactive lump sum payment of \$459 to cover the months of April 2012 through July 2013.

Criteria: In *Thelin v. Borough of Warren*, 544 A.2d 1135 (Pa. Commonwealth. 1988), a former chief of police asserted that his retirement benefits should be computed under an ordinance enacted after his separation from service. Citing *Koehnlein v. Allegheny County Employees’ Retirement System*, 97 A.2d 88 (Pa. 1953), the *Thelin* Court concluded that a municipality may not increase a former employee’s retirement benefits after the employee’s municipal service has ended. “To do so could adversely affect a plan’s actuarial soundness, thus depriving contributing members of their pension benefits.” 544 A.2d at 1136.

In *Koehnlein*, the Court held that an Allegheny County ordinance raising retirees’ pensions violated Article III, §11 of the Pennsylvania Constitution, which then provided that “No bill shall be passed giving any extra compensation to any public officer [or]employee...after services shall have been rendered or contract made....” In 1955, however, Section 11 was amended by the addition of the following proviso: “That nothing in this Constitution shall be construed to prohibit the General Assembly from authorizing the increase of retirement allowances or pensions of members of a retirement or pension system now in effect or hereafter legally constituted by the Commonwealth, its political subdivisions, agencies or instrumentalities, after the termination of the services of said member.” In 1967, Section 11 was renumbered as Section 26.

Although *Thelin* was decided 33 years after Section 11 was amended to permit legislatively sanctioned increases in the pensions of terminated employees, the Court nonetheless considered *Koehnlein* to be good law with respect to municipalities. Indeed, a year after *Thelin* was decided, Commonwealth Court relied on both it and *Koehnlein* to reiterate the proposition that:

A municipality cannot raise a former employee’s retirement benefits after that employee’s service to the municipality has ended because to do so could adversely affect the actuarial soundness of a pension plan, thus depriving contributing members of the pension benefits to which they are entitled.

McVay v. City of Washington, 566 A.2d 367, 369 (Pa. Commonwealth. 1989).

Therefore, it is the opinion of this Department that a municipality cannot increase a former employee’s retirement benefits after that employee’s service to the municipality has ended.

BUTLER TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDING AND RECOMMENDATION

Finding – (Continued)

Cause: Plan officials were unaware that an employee’s pension benefits could not be increased after the employee’s service to the municipality has ended.

Effect: The plan is paying excess pension benefits of \$29 per month to the retiree, which totaled approximately \$1,358 through the date of this report.

Recommendation: We recommend that municipal officials review the referenced retiree’s pension benefit determination with their municipal solicitor and adjust the benefit to be in accordance with the plan document that was in effect at the time of his retirement.

If municipal officials determine that the township remains obligated to continue paying the unauthorized pension benefit to the retiree, the excess benefits must be reflected in the Act 205 actuarial valuation reports for the plan and funded in accordance with Act 205 funding standards. Furthermore, such benefits will be deemed ineligible for funding with state pension aid. In such case, municipal officials should consult with the plan’s actuary to determine if Supplemental Actuarial Information Form AG-MP-1 should be prepared. If it is determined the excess benefits had an impact on the township’s state aid allocations received in 2014 and 2015, the form should be submitted to the Department. Furthermore, after the submission of the form, the plan’s actuary should contact the Department to verify the overpayment of state aid received and plan officials should then reimburse the overpayment to the Commonwealth.

Management’s Response: The plan’s actuary, on behalf of township, disagreed with the finding and indicated their opposition was due to the following:

1. First, the Township had a document in place for many years with an insurance company and was not aware on how benefit service was calculated. As you know, the original document based the calculation on the number of hours worked in a given year. The intention of the Township was to use years and completed months and this was reflected in the historical actuarial valuations and was used as the basis of benefit service.
2. As a result of using years and completed months in the actuarial valuation process, there was no actuarial cost increase for the amendment effective January 1, 2012 changing the definition of credited service to years and completed months.
3. The amendment was made retroactive to January 1, 2012 to cover [the retiree] and does not harm any participant of the plan. In the past, the Auditor General’s department has allowed retroactive amendments in other municipalities which affected the benefits of certain participants. Please be advised that this amendment is nothing more than a codification of the intent of the Township.

BUTLER TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDING AND RECOMMENDATION

Finding – (Continued)

Auditor's Conclusion: It is the responsibility of township officials as plan fiduciaries to be aware of the provisions contained in the plan's governing document. The retiree's pension benefit was originally determined pursuant to the plan's governing document in effect at the time of the member's retirement and while the provisions that were amended by Resolution No. 2013-4 would be applicable to subsequent retirees, it remains the position of the Department that they are not applicable to members who retired prior to the adoption of the resolution. Consequently, the finding and recommendation remain as stated. Compliance will be evaluated during our next audit of the plan.

BUTLER TOWNSHIP NON-UNIFORMED 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	\$ 189,975	\$ 318,548	\$ 128,573	59.6%
01-01-11	286,910	405,399	118,489	70.8%
01-01-13	361,907	484,318	122,411	74.7%

Note: The market value of the plan's assets at 01-01-09 has 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.

BUTLER TOWNSHIP NON-UNIFORMED 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.

BUTLER TOWNSHIP NON-UNIFORMED PENSION PLAN
SUPPLEMENTARY INFORMATION
(UNAUDITED)

SCHEDULE OF CONTRIBUTIONS FROM EMPLOYER
AND OTHER CONTRIBUTING ENTITIES

Year Ended December 31	Annual Required Contribution	Percentage Contributed
2009	\$ 43,785	100.0%
2010	44,753	100.0%
2011	40,297	100.0%
2012	32,301	100.0%
2013	30,888	100.0%
2014	32,705	114.4%

BUTLER TOWNSHIP NON-UNIFORMED 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	7 years
Asset valuation method	Fair value
Actuarial assumptions:	
Investment rate of return	7.0%
Projected salary increases	4.0%

BUTLER TOWNSHIP NON-UNIFORMED PENSION PLAN
DISTRIBUTION LIST

This letter was initially distributed to the following:

The Honorable Tom W. Wolf
Governor
Commonwealth of Pennsylvania

Mr. David Kessler
Chairman, Board of Township Supervisors

Mr. Paul Fetterolf
Vice Chairman, Board of Township Supervisors

Mr. Robert Burns
Supervisor

Ms. Kathleen Staudenmeir
Secretary

This letter is a matter of public record and is available online at www.PaAuditor.gov. Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 231 Finance Building, Harrisburg, PA 17120; via email to: news@PaAuditor.gov.