

COMPLIANCE AUDIT

City of Warren Firefighter's Pension Plan Warren County, Pennsylvania For the Period January 1, 2020 to December 31, 2022

September 2023



Commonwealth of Pennsylvania
Department of the Auditor General

Timothy L. DeFoor • Auditor General



**Commonwealth of Pennsylvania
Department of the Auditor General
Harrisburg, PA 17120-0018
Facebook: Pennsylvania Auditor General
Twitter: @PAAuditorGen
www.PaAuditor.gov**

**TIMOTHY L. DEFOOR
AUDITOR GENERAL**

The Honorable Mayor and City Council
City of Warren
Warren County
Warren, PA 16365

We have conducted a compliance audit of the City of Warren Firefighter's Pension Plan for the period January 1, 2020 to December 31, 2022. We also evaluated compliance with some requirements subsequent to that period when possible. The audit was conducted pursuant to authority derived from the Municipal Pension Plan Funding Standard and Recovery Act (Act 205 of 1984, as amended, 53 P.S. § 895.402(j)), which requires the Auditor General, as deemed necessary, to audit every municipality which receives general municipal pension system state aid and every municipal pension plan and fund in which general municipal pension system state aid is deposited. The audit was not conducted, nor was it required to be, in accordance with Government Auditing Standards issued by the Comptroller General of the United States. We planned and performed the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our conclusions based on our audit objective.

The objective of the audit was 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 objective identified above. 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 total 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 plan members who retired and the plan member who elected to vest during the current audit 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 benefits due to the retired individuals and comparing these amounts to supporting documentation evidencing amounts determined and actually paid or payable to the recipients.
- We determined whether the January 1, 2021 actuarial valuation report was prepared and submitted by March 31, 2022 in accordance with Act 205 and whether selected information provided on this report 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 of the plan's unallocated insurance contract, including ownership and any restrictions, were in compliance with plan provisions, investment policies, and state regulations by comparing the terms of the contract with the plan's provisions, investment policies, and state regulations.

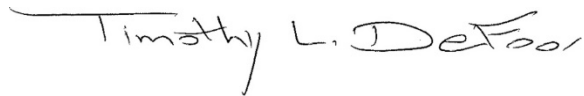
The City of Warren contracted with an independent certified public accounting firm for audits of its basic financial statements for the years ended December 31, 2020 and 2021, which are available at the city's offices. Those financial statements were not audited by us and, accordingly, we express no opinion or other form of assurance on them.

City officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the City of Warren Firefighter's Pension Plan is administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies. As previously described, we tested transactions, interviewed selected officials, and performed procedures to the extent necessary 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 objective.

The results of our procedures indicated that, in all significant respects, the City of Warren Firefighter's Pension Plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies.

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 report were discussed with officials of the City of Warren and, where appropriate, their responses have been included in the report. We would like to thank city officials for the cooperation extended to us during the conduct of the audit.

A handwritten signature in black ink that reads "Timothy L. DeFoor". The signature is written in a cursive style with a long horizontal line extending to the left of the first letter.

Timothy L. DeFoor
Auditor General
August 31, 2023

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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.

Annual state aid allocations are provided from a two (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 City of Warren Firefighter's Pension Plan is also governed by implementing regulations 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 67 - The Third Class City Code, Act of November 24, 2015 (P.L. 242, No. 67), as amended, 11 Pa. C.S. § 10101 et seq.

Act 177 - General Local Government Code, Act of December 19, 1996 (P.L. 1158, No. 177), as amended, 53 Pa.C.S. § 101 et seq.

The City of Warren Firefighter's Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Ordinance No. 1782, as amended. The plan is also affected by the provisions of collective bargaining agreements between the city and its firefighters. The plan was established September 1, 1974. Active members are required to contribute five (5) percent of base and longevity pay to the plan. As of December 31, 2022, the plan had 23 active members, 2 terminated members eligible for vested benefits in the future, 3 retirees receiving pension benefits from the plan, and 14 retirees receiving benefits funded through annuities purchased with plan assets.

CITY OF WARREN FIREFIGHTER'S 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, 2017, is as follows:

	(1)	(2)	(3)	(4)
Actuarial Valuation Date	Actuarial Value of Assets (a)	Actuarial Liability (AAL) - Entry Age (b)	Unfunded (Assets in Excess of) Actuarial Liability (b) - (a)	Funded Ratio (a)/(b)
01-01-17	\$ 2,642,410	\$ 3,180,804	\$ 538,394	83.1%
01-01-19	3,533,786	4,320,873	787,087	81.8%
01-01-21	5,288,647	5,479,626	190,979	96.5%

Note: The market value of the plan's assets at 01-01-21 has been adjusted to reflect the smoothing of gains and/or losses over a 4-year averaging period, which will be limited to a maximum of 120 percent and a minimum of 80 percent of the fair market value of assets. 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.

CITY OF WARREN FIREFIGHTER'S 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.

CITY OF WARREN FIREFIGHTER'S PENSION PLAN
 SUPPLEMENTARY INFORMATION
 (UNAUDITED)

SCHEDULE OF CONTRIBUTIONS

Year Ended December 31	Actuarially Determined Contribution	Actual Contributions	Contribution Deficiency (Excess)	Covered- Employee Payroll*	Contributions as a Percentage of Covered- Employee Payroll*
2013	\$ 300,800	\$ 300,800	\$ -		
2014	255,007	255,007	-	\$ 807,829	31.6%
2015	255,310	255,310	-	873,664	29.2%
2016	293,375	293,375	-	940,445	31.2%
2017	298,185	298,185	-	1,039,727	28.7%
2018	318,798	318,798	-	1,161,591	27.4%
2019	287,120	287,120	-	1,240,987	23.1%
2020	289,890	289,890	-	1,231,796	23.5%
2021	288,547	288,547	-	1,364,829	21.1%
2022	288,773	288,773	-	1,606,575	18.0%

* This schedule is presented pursuant to the implementation of GASB Statement No. 67, *Financial Reporting for Pension Plans* by reporting entities responsible for administering the pension plan to improve financial reporting by state and local governmental pension plans. Due to the statement being implemented only recently, the amount of Covered-Employee Payroll was not provided for years prior to 2014.

CITY OF WARREN FIREFIGHTER'S 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, 2021
Actuarial cost method	Entry age normal
Amortization method	Level dollar, closed
Remaining amortization period	3 years
Asset valuation method	4-year smoothing – the actuarial value of assets will be limited to a maximum of 120% and a minimum of 80% of the fair market value of assets
Actuarial assumptions:	
Investment rate of return	6.75%
Projected salary increases *	4.50%
Cost-of-living adjustments	None assumed

* Includes inflation at 2.5%

CITY OF WARREN FIREFIGHTER'S PENSION PLAN
COMMENT

The city adopted a home rule charter pursuant to the Home Rule Charter and Optional Plans Law, 53 Pa. C.S. §2901 et seq. (previously 53 P.S. §1-101 et seq.). The prior audits for the city's firefighter's pension plan covering the years 1997 through 2007, disclosed that the pension plan's governing document included provisions which were not in compliance with the Third Class City Code. It was noted in the prior audit reports that certain provisions were in excess of Third Class City Code requirements, while other provisions provided for lesser benefits than mandated by the Third Class City Code. It was recommended that the city restrict pension benefits to those authorized by the Third Class City Code for all employees who began full-time employment on or after January 24, 2001 (the date *Municipality of Monroeville v. Monroeville Police Department Wage Policy Committee* was issued as disclosed in the January 1, 2006 to December 31, 2007, audit report) upon the renewal, extension, or renegotiation of the collective bargaining agreement. To the extent that the city is not in compliance with the Third Class City Code and/or is contractually obligated to provide benefits in excess of those authorized by the Third Class City Code to employees who began employment on or after January 24, 2001, 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. Conversely, to the extent that the city failed to provide benefits mandated by the Third Class City Code, it was recommended that the city increase those benefits for all active plan members to the levels prescribed by the code at the earliest opportunity to do so.

The City of Warren has maintained that pension benefits are subject to collective bargaining and interest arbitration processes. In addition, the city has argued that these matters have been the subject of litigation, which included an appeal and Memorandum Opinion issued by the Commonwealth Court. In particular, certain retired firefighters and the International Association of Firefighters appealed the fact that retired firefighters were receiving benefits below the levels established by the Third Class City Code. In concluding that the pension benefits below those required by the Third Class City Code were not void as against public policy, the Court concluded that the retirees and the Union, "through collective bargaining, bargained away their pension rights." This is particularly true, according to the Court when the parties, as here, negotiated the issue of compliance with the Third Class City Code and, ultimately agreed to lesser benefits which cost less than if the plan were entirely Third Class City Code compliant. Furthermore, the City of Warren had an actuarial cost study performed of its plan provisions and the cost to bring them into compliance with the Third Class City Code. That cost study revealed that for the police and firefighter plans it would be more expensive to comply with the Third Class City Code (*and the Department's recommendations*) than it would to leave the benefits unchanged.

It was also previously disclosed that the City enacted Ordinance No. 1782, which restated the firefighter's pension plan, effective January 1, 2010, which made changes to the following provisions which are now in compliance with the Third Class City Code: Normal Retirement Benefit; Service Requirement for Vesting; Return of Employee Contributions; and the Elimination of the Early Retirement Benefit. In addition, the City previously adopted Ordinance No. 1855, which changed provisions for terminations after January 1, 2015, in accordance with the code.

CITY OF WARREN FIREFIGHTER'S PENSION PLAN
COMMENT

Moreover, most recently during the prior audit period, the City of Warren and the firefighters entered into an arbitration agreement for the period January 1, 2018 to December 31, 2021, to amend the collective bargaining agreement between the city and the firefighters that expired December 31, 2017. And again, during the current audit period, the City and the firefighters agreed to terms of a collective bargaining agreement for the period January 1, 2022 to December 31, 2024. Specifically, Article 15 of the agreement details the pension plan provisions that became effective January 1, 2020. Among the provisions, the normal retirement, age 50 with 20 years of service, brought the collective bargaining agreement into compliance with the Third Class City Code. However, the City has not formally amended the plan to adopt the agreed-upon provisions via ordinance as of the date of this report. We therefore recommend that plan officials amend the plan's governing document, at its earliest opportunity to do so, to properly reflect the revised benefits of the plan.

The Department recognizes that all of the benefit provisions that deviate from the Third Class City Code do not result in increased pension costs and, to the extent that the city has provided pension benefits less than those mandated by the Third Class City Code, it has consequently resulted in lower annual pension costs for the city. However, it remains the Department's position that the city restrict pension benefits to those authorized by the Third Class City Code for all employees who began full-time employment on or after January 24, 2001 (the date *Monroeville* was issued) and to the extent that the city has failed to provide benefits mandated by the Third Class City Code, we again recommend that the city increase those benefits for all active plan members to the levels prescribed by the code at the earliest opportunity to do so.

Since the city received its state aid allocations based on unit value during the current audit period, the city did not receive any state aid attributable to pension benefits that deviate from the Third Class City Code. We will continue to monitor the city's efforts to comply with the department's continuing recommendations and the effect of providing pension benefits not in compliance with the Third Class City Code on the city's state aid allocations during future audits of the plan.

CITY OF WARREN FIREFIGHTER'S PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Joshua D. Shapiro
Governor
Commonwealth of Pennsylvania

The Honorable David Wortman
Mayor

Mr. Michael A. Holtz
City Manager

Ms. Jessica Byler
Finance Director

This report 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, 229 Finance Building, Harrisburg, PA 17120; via email to: news@PaAuditor.gov.