

COMPLIANCE AUDIT

Shenango Township Police Pension Plan Lawrence County, Pennsylvania For the Period January 1, 2011 to December 31, 2013

September 2014



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
Shenango Township
Lawrence County
New Castle, PA 16101

We have conducted a compliance audit of the Shenango Township Police Pension Plan for the period January 1, 2011 to December 31, 2013. 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 finding and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our finding 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. Our methodology addressed determinations about the following:

- Whether state aid was properly determined and deposited in accordance with Act 205 requirements.
- Whether employer contributions are determined and deposited in accordance with the plan's governing document and applicable laws and regulations.
- Whether employee contributions are required and, if so, are determined, deducted, and deposited into the pension plan and are in accordance with the plan provisions and applicable laws and regulations.

- Whether benefit payments, if any, represent payments to all (and only) those entitled to receive them and are properly determined in accordance with applicable laws and regulations.
- Whether obligations for plan benefits are accurately determined in accordance with plan provisions and based on complete and accurate participant data; and whether actuarial valuation reports are prepared and submitted to the Public Employee Retirement Commission (PERC) in accordance with state law and 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.
- Whether the terms of the contractual agreement with the Pennsylvania State Association of Boroughs are in accordance with the plan's governing document, if separately stated, and applicable laws and regulations.
- Whether benefit payments have only been made to living recipients, based on the Social Security numbers found in the pension records for retirees and beneficiaries.
- Whether transfers were properly authorized, accurate, timely, and properly recorded.

Shenango Township contracted with an independent certified public accounting firm for audits of its basic financial statements for the years ended December 31, 2011 and 2012, which are available at the township's offices. Those financial statements were not audited by us and, accordingly, we express no opinion or other form of assurance on them.

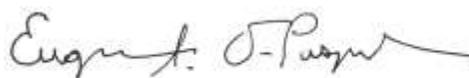
Township officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Shenango Township Police Pension Plan is administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies. In conducting our audit, we obtained an understanding of the township's internal controls as they relate to the township'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, 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 tests indicated that, in all significant respects, the Shenango Township 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 finding further discussed later in this report:

Finding – Noncompliance With Prior Audit Recommendation – Pension Benefits Not In Compliance With Act 600 Provisions

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 Shenango Township and, where appropriate, their responses have been included in the report. We would like to thank township officials for the cooperation extended to us during the conduct of the audit.



EUGENE A. DEPASQUALE
Auditor General

July 18, 2014

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ABBREVIATION

PSABMRT - Pennsylvania State Association of Boroughs Municipal Retirement Trust

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 Shenango Township 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 Shenango Township Police Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Ordinance No. 2-2008. The plan is also affected by the provisions of collective bargaining agreements between the township and its police officers. The plan was established December 1, 1982. Active members are required to contribute 5 percent of compensation to the plan; however, contributions were waived during the audit period. As of December 31, 2013, the plan had 7 active members, no terminated members eligible for vested benefits in the future, and 5 retirees receiving pension benefits from the plan.

BACKGROUND – (Continued)

As of December 31, 2013, selected plan benefit provisions per Ordinance No. 2-2008 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:

Benefit equals 50% of the average monthly pay based on the highest consecutive 60 months of service, plus an additional 2.0% of the retirement benefit multiplied by years of service in excess of 25 (maximum \$100).

Survivor Benefit:

Before Retirement Eligibility	If eligible for vesting, 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.
Killed in Service	If a member is killed in service, the monthly benefit would be 100% of the officer's salary at time of death.

Service Related Disability Benefit:

Benefit is 50% of the member's salary at the time the disability was incurred, offset by Social Security disability benefits received for the same injury.

SHENANGO TOWNSHIP POLICE PENSION PLAN
STATUS OF PRIOR FINDINGS

Compliance With Prior Audit Recommendations

Shenango Township has complied with the prior audit recommendations concerning the following:

- Pension Benefits In Excess of Act 600

During the current audit period, the township reimbursed \$64,339 to the Commonwealth for the excess state aid received for the years 2006 through 2011 due to the excess benefits provided. It was also determined that the township received excess state aid in the total amount of \$43,539 for the years 2012 and 2013, and the township reimbursed this amount to the Commonwealth in December 2013. The Department will continue to monitor the effect of the excess benefits being paid to the existing retiree and surviving spouse on the township's future state aid allocations.

- Failure To Timely Prepare, Budget And Pay The Minimum Municipal Obligation Of The Plan

During the current audit period, municipal officials paid the outstanding minimum municipal obligations due to the police pension plan for the years 2008 and 2009 in accordance with Act 205 requirements.

- Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid

During the current audit period, the township reimbursed \$16,738 to the Commonwealth for the overpayment of state aid received in 2010.

Noncompliance With Prior Audit Recommendation

Shenango Township has not complied with the prior audit recommendation concerning the following as further discussed in the Finding and Recommendation section of this report:

- Pension Benefits Not In Compliance With Act 600 Provisions

SHENANGO TOWNSHIP POLICE PENSION PLAN
FINDING AND RECOMMENDATION

Finding - Noncompliance With Prior Audit Recommendation – Pension Benefits Not In Compliance With Act 600 Provisions

Condition: As disclosed in the prior audit report, the pension plan’s governing document, Ordinance No. 2-2008, contains benefit provisions that are not in compliance with Act 600, as amended. The specific unauthorized provisions are noted below:

<u>Benefit Provision</u>	<u>Governing Document</u>	<u>Act 600 (as amended)</u>
Refund of members’ contributions for non-vested employees	A participant who terminates employment for causes other than death or disability prior to becoming vested in a vested benefit shall be entitled to receive the refund of the total amount of the contributions paid into the pension fund with interest.	Requires the refund of member’s contributions, plus interest, to terminating members ineligible for pension benefits.
Survivor’s benefit for disability retiree	No survivor’s pension benefit shall be payable as a result of any eligible employee being eligible or receiving a disability retirement benefit hereunder.	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.)

SHENANGO TOWNSHIP POLICE PENSION PLAN
FINDING AND RECOMMENDATION

Finding - (Continued)

Benefit Provision	Governing Document	Act 600 (as amended)
Forfeitures	Upon the forfeiture of any non-vested portion of a participant's accrued benefit, the amount of such forfeiture shall be credited against the future contributions of the employer under the plan.	No provision for the credit of forfeitures against future employer contributions.
Benefit calculation – final average monthly pay	A normal retirement benefit is calculated at 50% of the participant's Average Monthly Pay, which is defined as a participant's compensation paid by the township during the highest 60 consecutive months 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 <u>last</u> sixty nor less than the <u>last</u> thirty-six months of employment. (Emphasis added)
Intervening military service	No provision	Any member of police force employed by a municipality for at least 6 months and enters military service shall have credited to employment records for pension benefits all of the time spent in such military service, if such member returns to his employment within six months after his separation from military service.
Killed-in-service	The surviving spouse of a Participant who is killed in the line of duty shall receive during his or her lifetime a pension equal to one-hundred percent (100%) of the Participant's Final Average Monthly Earnings.	None provided. (The killed-in-service provision in Act 600 was repealed by act 51 of 2009. The benefit is now provided by the Commonwealth of Pennsylvania.)

SHENANGO TOWNSHIP POLICE PENSION PLAN
FINDING AND RECOMMENDATION

Finding - (Continued)

Benefit Provision	Governing Document	Act 600 (as amended)
Vesting	Where a Participant has completed twelve (12) continuous years of Service or more, and his/her tenure of office or employment shall be terminated before the expiration of twenty-five (25) years of Service, he/she in such event, after attaining the age of fifty-five (55) years, during the remainder of his/her life, be entitled to receive such portion of the full pension as the period of his/her Service to the date its termination bears to the full twenty-five year period of Service for a Normal Retirement Pension....	Where a participant has completed twelve continuous years of service or more, and his employment shall terminate prior to normal retirement date, be entitled to receive benefit on the date that would have been the member's superannuation retirement date if he had continued to be employed.

We also note that on May 8, 2014, a joinder agreement with PSABMRT, with an effective date of January 1, 2012, was signed by the pension plan's chief administrative officer (CAO); however, evidence that this agreement was approved by the Board of Township Supervisors could not be found, making the agreement not legally binding. This joinder agreement appears to comply with the provisions of Act 600 and, had it been properly adopted, would have effected compliance with this finding.

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

Cause: Plan officials have failed to adopt 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. In addition, because the municipality's state aid allocations were based on pension costs, provision of unauthorized pension benefits may have resulted in the receipt of excess state aid and could also increase the municipal contributions necessary to fund the plan in accordance with Act 205 funding standards.

SHENANGO TOWNSHIP POLICE PENSION PLAN
FINDING AND RECOMMENDATION

Finding - (Continued)

In addition, 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 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, at their earliest opportunity to do so.

To the extent that the township is not in compliance with Act 600 and 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 Act 205 funding standards. Furthermore, the excess 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 unauthorized and excess benefits provided had an impact on the township's state aid allocations received during and subsequent to the audit period, 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: Municipal officials agreed with the finding without exception.

Auditor Conclusion: Compliance will be evaluated during our next audit of the plan.

SHENANGO TOWNSHIP 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)	(5)	(6)
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)	Covered Payroll (c)	Unfunded (Assets in Excess of) Actuarial Accrued Liability as a % of Payroll [(b-a)/(c)]
01-01-09	\$ 939,595	\$ 714,682	\$ (224,913)	131.5%	\$ 239,391	(94.0%)
01-01-11	944,392	730,440	(213,952)	129.3%	266,010	(80.4%)
01-01-13	921,700	846,663	(75,037)	108.9%	290,565	(25.8%)

SHENANGO TOWNSHIP 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.

Trends in unfunded (assets in excess of) actuarial accrued liability and annual covered payroll are both affected by inflation. Expressing the unfunded (assets in excess of) actuarial accrued liability as a percentage of annual covered payroll (Column 6) approximately adjusts for the effects of inflation and aids analysis of the plan's progress made in accumulating sufficient assets to pay benefits when due. Generally, where there is an unfunded actuarial accrued liability, the smaller this percentage, the stronger the plan. When assets are in excess of the actuarial accrued liability, the higher the bracketed percentage, the stronger the plan.

SHENANGO TOWNSHIP POLICE PENSION PLAN
SUPPLEMENTARY INFORMATION
(UNAUDITED)

SCHEDULE OF CONTRIBUTIONS FROM EMPLOYER
AND OTHER CONTRIBUTING ENTITIES

Year Ended December 31	Annual Required Contribution	Percentage Contributed
2008	\$ 17,205	100.0%
2009	17,205	100.0%
2010	6,993	100.0%
2011	17,984	100.0%
2012	18,916	144.0%
2013	29,329	100.0%

SHENANGO TOWNSHIP POLICE PENSION PLAN
SUPPLEMENTARY INFORMATION
NOTES TO SUPPLEMENTARY SCHEDULES
(UNAUDITED)

The information presented in the required 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	N/A
Remaining amortization period	N/A
Asset valuation method	Market value
Actuarial assumptions:	
Investment rate of return	6.0%
Projected salary increases	4.0%
Cost-of-living adjustments	None assumed

SHENANGO TOWNSHIP POLICE PENSION PLAN
COMMENT

Township Officials Continued Granting Of Pension Benefits In Excess of Act 600 Provisions

Over the last 18 years, our audits of the Shenango Township Police Pension Plan have disclosed repeated instances of benefits awarded to plan members that have not been in compliance with the police pension plan's governing documents and have been in excess of Act 600 provisions.

A summary of these prior audit findings and their excess costs to the township are noted below:

The audit for the period January 1, 1996 to December 31, 1998, cited the township for paying benefits to a retired police officer in excess of the plan's governing document and in excess of Act 600 provisions. The officer retired in March of 1998 with twelve years of credited service and was granted a normal retirement benefit at the date of his retirement instead of a reduced vested benefit upon reaching his superannuation retirement eligibility date. This unauthorized pension benefit resulted in the retired police officer receiving a monthly benefit of \$1,148 from April 1, 1998, through his superannuation retirement eligibility date of April 1, 2011, totaling \$179,088, to which he was not entitled. In addition, beginning April 1, 2011, the retiree is only entitled to a reduced vested benefit of \$561 per month which is \$587 per month less than what he is currently receiving. In 1997 and 1998, the township purchased annuity contracts at a total cost to the pension plan of \$178,359 to fund this benefit. During the 2002 through 2004 audit period, the township reimbursed the pension plan \$91,197 from the township's general fund for the portion of the annuity's cost to fund the excess portion of the benefit.

The audit for the period January 1, 1999 to December 31, 2001, cited the township for paying benefits to its former police chief in excess of the plan's governing document and in excess of Act 600 provisions. The former police chief retired on November 15, 1991, with 15 years of credited service. The township awarded him a normal retirement benefit of \$858 per month to commence on his superannuation retirement eligibility date of November 15, 2001, instead of a reduced vested benefit of \$515 per month to commence on his superannuation retirement eligibility date. In 2001, the township purchased an annuity contract at a total cost of \$217,601 to fund this retirement benefit. Subsequently, the township reimbursed the pension plan \$86,940 from the township's general fund for the portion of the annuity's cost to fund the excess portion of the benefit.

SHENANGO TOWNSHIP POLICE PENSION PLAN
COMMENT

Comment – (Continued)

The audit for the period January 1, 2002 to December 31, 2004, cited the township for paying benefits to a surviving spouse in excess of the plan's governing document and in excess of Act 600 provisions. In this case, municipal officials failed to appeal a grievance arbitration award that was granted to a surviving spouse. The arbitration award granted the surviving spouse a lifetime monthly benefit of \$767, retroactive to her husband's death in January 2005. Act 600 and the plan's governing document provide for a deferred survivor benefit to be paid to the surviving spouse on the date which would have been her husband's superannuation retirement eligibility date, had he survived. The officer's superannuation retirement eligibility date was September 10, 2017, resulting in the surviving spouse receiving 115 payments, totaling \$88,205 in excess benefits through the date of this audit report.

The audit for the period January 1, 2008 to December 31, 2010, cited the township for paying benefits to a terminated member in excess of Act 600 provisions. The member was eligible for a vested reduced pension benefit payable on his superannuation retirement eligibility date of April 2014 pursuant to Act 600 provisions and Ordinance No. 1-2007, the plan's governing document in effect at the time of the member's retirement. However, the retiree began receiving his pension benefit of \$1,348 on May 16, 2008, when he turned age 55. The township subsequently adopted Ordinance No. 2-2008 on August 27, 2008, and made it effective on January 1, 2008, to justify the pension benefit determination. This excess benefit resulted in the retiree receiving \$95,708 in excess benefit payments prior to eligibility.

Municipal officials have repeatedly failed to comply with provisions of Act 600 and the plan's governing document. In addition, in relation to the benefits which the municipality has not been contractually obligated to pay, we have previously recommended that municipal officials consult with their solicitor to determine if the benefits can be adjusted to conform with Act 600 provisions; however, none of the excess pension benefits have been adjusted to conform with Act 600 provisions.

SHENANGO TOWNSHIP POLICE PENSION PLAN
COMMENT

Comment – (Continued)

The excess benefit granted in March of 1998 cost the township \$91,197 to reimburse the plan for the cost of the annuity attributable to the excess pension benefit granted. The excess benefit granted in November of 2001 cost the township an additional \$86,940 to reimburse the plan for the cost of the annuity attributable to the excess pension benefit granted. In addition, because the excess benefits granted in January 2005 and May 2008 may not be funded with state aid allocations, the township was required to reimburse excess state aid received in the years 2006 through 2013 in the amount of \$107,878, to the Commonwealth. Therefore, the provision of excess pension benefits has cost the township \$286,015 through the date of this audit report. In addition, the plan's actuary will be required to determine the effect that the excess benefits have on the township's future state aid allocations.

We continue to recommend that the township review the plan's benefit structure and ensure that all pension benefit provisions are in compliance with Act 600, as amended. In addition, we recommend that the township establish and implement strict internal control procedures, including having its solicitor review all pension benefit determinations, to ensure that all pension benefits are determined and paid in accordance with Act 600 provisions.

SHENANGO TOWNSHIP POLICE PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom Corbett
Governor
Commonwealth of Pennsylvania

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Mr. Russell J. Riley Chairman, Board of Township Supervisors

Mr. Albert Burick, III Secretary/Treasurer

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