



**CITY OF WILKES-BARRE NON-UNIFORMED
PENSION PLAN**

LUZERNE COUNTY

COMPLIANCE AUDIT REPORT

FOR THE PERIOD

JANUARY 1, 2011 TO DECEMBER 31, 2013

COMMONWEALTH OF PENNSYLVANIA

EUGENE A. DEPASQUALE - AUDITOR GENERAL

DEPARTMENT OF THE AUDITOR GENERAL



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**EUGENE A. DePASQUALE
AUDITOR GENERAL**

The Honorable Mayor and City Council
City of Wilkes-Barre
Luzerne County
Wilkes-Barre, PA 18711

We have conducted a compliance audit of the City of Wilkes-Barre Non-Uniformed 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 finding 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 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 the terms and methodologies of the issuance of bonds by the municipality, and any restrictions are in compliance with plan provisions and state regulations.

The City of Wilkes-Barre contracted with an independent certified public accounting firm for audits of the City of Wilkes-Barre Non-Uniformed Pension Plan's financial statements for the years ended December 31, 2011 and 2012, 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 Wilkes-Barre Non-Uniformed 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 city's internal controls as they relate to the city'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 City of Wilkes-Barre Non-Uniformed 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 –
Unauthorized Service Buyback Provision

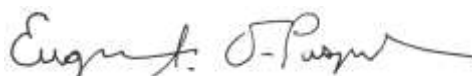
This finding repeats a condition that was cited in our previous audit report that has not been corrected by city officials. We are concerned by the city's failure to correct this previously reported audit finding and strongly encourage timely implementation of the recommendation noted in this audit report.

As previously noted, one of the objectives of our audit of the City of Wilkes-Barre Non-Uniformed 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 funded status of the plan contained in the schedule of funding progress included in this report which indicates a decline of assets available to satisfy the long-term liabilities of the plan. For example, **the plan's funded ratio went from 69.7% as of January 1, 2009, to a ratio of 62.2% as of January 1, 2013. Based in part on this information and when combined with the funded status of the city's other pension plans, this places the city currently in Level II moderate distress status.** We encourage city officials to monitor the funding of the non-uniformed pension plan to ensure its long-term financial stability.

The contents of this report were discussed with officials of the City of Wilkes-Barre 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.



EUGENE A. DEPASQUALE
Auditor General

June 2, 2014

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

Act 317 - The Third Class City Code, Act of June 23, 1931 (P.L. 932, No. 317), as amended, 53 P.S. § 35101 et seq.

The City of Wilkes-Barre Non-Uniformed Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of File of Council No. 43 of 1976, as amended, adopted pursuant to Act 317. The plan is also affected by the provisions of collective bargaining agreements between the city and its non-uniformed employees. The plan was established July 19, 1927. Active members are required to contribute 5 percent of compensation to the plan. As of December 31, 2013, the plan had 117 active members, 3 terminated members eligible for vested benefits in the future and 170 retirees receiving pension benefits from the plan.

BACKGROUND – (Continued)

As of December 31, 2013, selected plan benefit provisions are as follows:

Eligibility Requirements:

Normal Retirement	Age 50 and 20 years of service; age 62 and 10 years of service. If hired after January 24, 2001, age 60 and the completion of 20 years of service.
Early Retirement	None
Vesting	20 years of service before age 50; 10 years of service before age 62.

Retirement Benefit:

If hired before January 24, 2001, 50% of final average salary with at least 20 years of service, otherwise, 2.5% per year multiplied by the member's final average salary. If hired after January 24, 2001, 50% of the member's average monthly salary for the 5 years of employment which produces the highest such average. For members hired before January 24, 2001, for each year of service in excess of 20 years a member will receive an additional benefit equal to 1.25% of final average salary provided that such additional pension shall not, in total, exceed 10% of final average salary.

Survivor Benefit:

Before Retirement Eligibility	Refund of members' accumulated contributions.
After Retirement Eligibility	Hired before January 24, 2001 and completed 28 years of service will automatically receive a monthly benefit equal to 100% of the pension the member was receiving or was entitled to receive on the day of the member's death.

Service Related Disability Benefit:

After 10 years of service but before age 62; 50% of the member's final salary, with no offset for Social Security benefits.

CITY OF WILKES-BARRE NON-UNIFORMED PENSION PLAN
STATUS OF PRIOR FINDING

Noncompliance With Prior Audit Recommendation

The City of Wilkes-Barre has not complied with the prior audit recommendation concerning the following as further discussed in the Finding and Recommendation section of this report:

- Unauthorized Service Buyback Provision

CITY OF WILKES-BARRE NON-UNIFORMED PENSION PLAN
FINDING AND RECOMMENDATION

Finding - Noncompliance With Prior Audit Recommendation – Unauthorized Service Buyback Provision

Condition: As disclosed in our prior audit report, the city enacted an unauthorized service buyback provision. File of Council No. 13 of 2001, Section I, states:

Effective January 1, 2002, City employees are permitted to buy back all of the time which represents time served as a City of Wilkes-Barre employee and a participant in another City Pension Fund into the City Pension Fund in which they currently participate.

The buyback amount shall be calculated by the City and shall include an amount equal to the employee's contributions, plus interest at a rate established by the City at the time of the buyback.

The buyback must be initiated at the time of hire into another City job classification or after the effective date of this ordinance, whichever is later.

Criteria: The Third Class City Code does not authorize buybacks of prior service credits from another pension fund.

Cause: City officials have been unable to effect compliance with the prior audit recommendation through the collective bargaining process.

Effect: The provision of 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 city received its state aid allocations based on unit value during the current audit period, it did not received excess state aid allocations attributable to the unauthorized benefits provided. However, providing unauthorized pension benefits could result in the receipt of state aid in excess of the city's entitlement in the future, or increase required municipal contributions to the plan.

CITY OF WILKES-BARRE NON-UNIFORMED PENSION PLAN
FINDING AND RECOMMENDATION

Finding – (Continued)

Recommendation: We again recommend that the city eliminate the unauthorized service buyback provision at its earliest opportunity to do so. To the extent that the city has already obligated itself to pay benefits to existing retirees in excess of those authorized by the Third Class City Code, 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, the plan's actuary may be required to determine the impact, if any, of the unauthorized benefits on the city's future state aid allocations and submit this information to the department.

Management's Response: Municipal officials agreed with the finding without exception. The City will make any and all necessary efforts to work with Local #1310 and Teamsters Local #401 during contract negotiations. The current contracts are set to expire December 31, 2016.

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

CITY OF WILKES-BARRE 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)	(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	\$ 25,870,863	\$ 37,142,021	\$ 11,271,158	69.7%	\$ 5,318,773	211.9%
01-01-11	25,163,729	39,198,215	14,034,486	64.2%	5,591,968	251.0%
01-01-13	24,168,698	38,870,907	14,702,209	62.2%	5,201,829	282.6%

Note: 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 subject to a corridor between 70 to 130 percent of the 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 WILKES-BARRE 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.

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.

CITY OF WILKES-BARRE 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
2008	\$ 564,262	100.0%
2009	580,180	100.0%
2010	615,564	100.0%
2011	916,790	100.0%
2012	528,275	100.0%
2013	631,200	100.0%

CITY OF WILKES-BARRE NON-UNIFORMED 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	Average years to assigned retirement
Remaining amortization period	Not determinable
Asset valuation method	Plan assets are valued using the method described in Section 210 of Act 205, as amended, subject to a corridor between 70-130% of the market value of assets.
Actuarial assumptions:	
Investment rate of return	8.0% compounded annually
Projected salary increases	3.5% compounded annually

CITY OF WILKES-BARRE NON-UNIFORMED PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom Corbett
Governor
Commonwealth of Pennsylvania

City of Wilkes-Barre Non-Uniformed Pension Plan
Luzerne County
40 East Market Street
Wilkes-Barre, PA 18711

The Honorable Thomas M. Leighton	Mayor
Mr. William Barrett	Council Chairperson
Mr. James Ryan	City Clerk
Ms. Kathleen Kane	City Controller
Ms. Laura Brace	City Pension Coordinator

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