

# COMPLIANCE AUDIT

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## North Braddock Borough Police Pension Plan Allegheny County, Pennsylvania For the Period January 1, 2011 to December 31, 2013

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February 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  
North Braddock Borough  
Allegheny County  
North Braddock, PA 15104

We have conducted a compliance audit of the North Braddock Borough 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 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.

Borough officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the North Braddock 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, 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 North Braddock 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 finding further discussed later in this report:

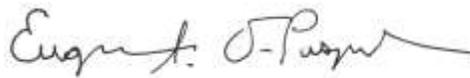
Finding – Noncompliance With Prior Audit Recommendation –  
Improper Lump-Sum Payments

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

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 the plan's funded ratio is 68.3% as of January 1, 2013**, which is the most recent date available. 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 North Braddock 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.

February 13, 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 North Braddock 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 581 - The Borough Code, Act of February 1, 1966 (P.L. 1656, No. 581), Article XI(f), Police Pension Fund in Boroughs Having a Police Force of Less Than Three Members, as amended, 53 P.S. § 46131 et seq.
- 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 North Braddock Borough Police Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Ordinance No. 1053, effective January 1, 2007, adopted pursuant to Act 581. Prior to the adoption of Ordinance No. 1053, the pension plan was controlled by the provisions of Ordinance No. 792, as amended, adopted pursuant to Act 600. The plan was established January 1, 1958. As of December 31, 2013, the plan had no active members, no terminated members eligible for vested benefits in the future, and 7 retirees receiving benefits from the plan.

## BACKGROUND – (Continued)

As of December 31, 2013, 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 the completion of 12 years of aggregate service.

### Retirement Benefit:

Benefit equals 50% of final 36 months average salary, plus a service increment of \$100 per month for 26 or more years of aggregate service.

### Survivor Benefit:

Before Retirement Eligibility	Refund of member contributions plus interest.
After Vesting but Before Retirement Eligibility	50% of the participant's accrued benefit as of the date of death payable from what would have been the participant's Normal Retirement date until the spouse's death or remarriage.
After Retirement Eligibility	50% of the amount the participant was receiving or entitled to receive payable for life.

### Disability Benefit:

Service Related	For total and permanent disability, a monthly benefit equal to 80% of Final Monthly Average Salary.
Non-service Related	None

NORTH BRADDOCK BOROUGH POLICE PENSION PLAN  
STATUS OF PRIOR FINDING

Noncompliance With Prior Audit Recommendation

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

- Improper Lump-Sum Payments

NORTH BRADDOCK BOROUGH POLICE PENSION PLAN  
FINDING AND RECOMMENDATION

**Finding – Noncompliance With Prior Audit Recommendation – Improper Lump-Sum Payments**

Condition: As disclosed in the prior audit report, the borough granted cost of living adjustments (COLAs) to 3 retirees who retired prior to January 1, 2007, that were in excess of Act 600 provisions. The COLAs were granted pursuant to Ordinance No. 1053, which provides for a monthly COLA of \$100 per month for 3 members who are receiving disability pension benefits from the plan. However, these members retired prior to the adoption of Ordinance No. 1053 and, therefore, remain governed by the provisions of Act 600, which limits COLAs to 75 percent of the salary used to determine their retirement benefits. The disability pension benefits were based on 80 percent of the member's final average salary over the last 36 months of employment. Therefore, the retirees are not eligible for a COLA due to the fact their pension benefits already exceed 75 percent of the salary used to determine their retirement benefits.

In March 2011, the 3 retirees, who retired with disability pensions between 1995 and 2001, agreed to receive lump-sum payments of \$9,500 each as a result of a Settlement Agreement entered into as of January 2011 by and between North Braddock Borough and the 3 officers, which eliminated the unauthorized COLAs prospectively.

Criteria: Act 600 does not provide for lump-sum payments to be made to retirees in addition to their monthly retirement benefits.

Cause: The borough made the lump-sum payments to the retirees to avoid further litigation regarding the COLAs previously awarded.

Effect: The plan paid \$9,500 to each of the 3 retirees totaling \$28,500 in excess benefits.

Paying excess pension benefits reduces the amount of funds available for investment purposes or for the payment of authorized benefits or administrative expenses. Furthermore, the borough's future state aid allocations may be withheld until the finding recommendation is complied with.

Recommendation: We again recommend that the municipality reimburse the pension plan for the excess lump-sum pension benefits paid to the 3 retirees, plus interest, at a rate earned by the plan.

NORTH BRADDOCK BOROUGH POLICE PENSION PLAN  
FINDING AND RECOMMENDATION

**Finding – (Continued)**

Management's Response: As previously disclosed by municipal officials in the prior audit, the borough contended that the payments to the 3 retired officers to settle the lawsuit they filed against the pension plan were an obligation of the pension plan and not the borough. The lawsuit claimed that the 3 retirees were entitled to additional post and future benefits worth more than \$300,000. While the municipality did not feel that they were legally correct, in order to protect the plan's assets and to avoid further legal expense, the decision was made to settle those claims rather than to litigate them and according to the borough, this decision was a reasonable and prudent decision, which eliminated a contingent liability and which, factoring the savings in legal expenses, cost the plan little or nothing.

Currently, the borough continues to disagree with the finding of the Auditor General regarding the alleged cost of living adjustments. The limitation identified in the report pertaining to Act 600 no longer applies to the Borough because it has not had three full-time police officers since 1995. In 2007, the Borough formally opted out of Act 600 pursuant to Ordinance No. 1053.

After opting out of Act 600, the Borough was no longer bound by the 75 percent of salary Act 600 limitation on disability pensions. The Borough believes it had the discretion to increase the Act 600 benefit, provided that by doing so, the fund remained actuarially sound.

Auditor's Conclusion: Since the plan was governed by Act 600 when the police officers retired, they remain bound by its provisions. Since both the COLAs and the lump-sum payments were not authorized by Act 600, the finding and recommendation remain as stated.

Furthermore, due to the potential withhold of the borough's future state aid allocations, compliance with the finding recommendation will be monitored subsequent to the release of the audit report.

NORTH BRADDOCK BOROUGH POLICE PENSION PLAN  
POTENTIAL WITHHOLD OF STATE AID

A condition of a repeat finding such as that reported by the finding contained in this audit report may lead to a total withholding of state aid in the future unless the 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, 316-D Finance Building, Harrisburg, PA 17120.

NORTH BRADDOCK 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)	(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	\$ 1,397,202	\$ 1,413,964	\$ 16,762	98.8%	None	N/A
01-01-11	1,092,524	1,321,162	228,638	82.7%	None	N/A
01-01-13	844,060	1,236,453	392,393	68.3%	None	N/A

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 4-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.

NORTH BRADDOCK 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.

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.

NORTH BRADDOCK 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
2008	None	N/A
2009	None	N/A
2010	None	N/A
2011	\$ 6,746	100.0%
2012	6,746	100.0%
2013	34,387	100.0%

NORTH BRADDOCK BOROUGH 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	Level dollar
Remaining amortization period	1 year
Asset valuation method	Fair value
Actuarial assumptions:	
Investment rate of return	6.25%
Projected salary increases *	5.0%

\* Includes inflation at 3.0%

NORTH BRADDOCK BOROUGH POLICE PENSION PLAN  
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom W. Wolf  
Governor  
Commonwealth of Pennsylvania

North Braddock Borough Police Pension Plan  
Allegheny County  
600 Anderson Street  
North Braddock, PA 15104

The Honorable Thomas Whyel	Mayor
Mr. Timothy Bridge	Council President
Mr. Douglas P. Marguriet	Borough Manager

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