

BROTHERSVALLEY TOWNSHIP NONUNIFORMED PENSION PLAN

SOMERSET COUNTY

COMPLIANCE AUDIT REPORT

FOR THE PERIOD

JANUARY 1, 2009, TO DECEMBER 31, 2009



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ABBREVIATION

PMRS - Pennsylvania Municipal Retirement System

BACKGROUND

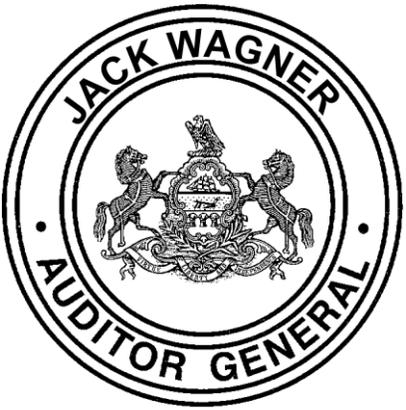
On December 18, 1984, the Pennsylvania Legislature adopted the Municipal Pension Plan Funding Standard and Recovery Act (P.L. 1005, No. 205, as amended, 53 P.S. § 895.101 et seq.). The act established mandatory actuarial reporting and funding requirements and a uniform basis for the distribution of state 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.

Pension plan aid is provided from a 2 percent foreign casualty insurance premium tax, a portion of the foreign 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 Brothersvalley Township Nonuniformed 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 15 - Pennsylvania Municipal Retirement Law, Act of February 1, 1974
(P.L. 34, No. 15), as amended, 53 P.S. § 881.101 et seq.

The Brothersvalley Township Nonuniformed Pension Plan is a single-employer cash balance pension plan locally controlled by the provisions of Ordinance No. 1-2006, as amended, adopted pursuant to Act 15. Active members are not required to contribute to the plan. Members may contribute up to, but not more than, 10 percent of compensation. For the calendar year 2009, the municipality was required to contribute \$750 quarterly to each member's account.



Board of Township Supervisors
Brothersvalley Township
Somerset County
Berlin, PA 15530

We have conducted a compliance audit of the Brothersvalley Township Nonuniformed Pension Plan for the period January 1, 2009, to December 31, 2009. The audit was conducted pursuant to authority derived from Section 402(j) of Act 205 and in accordance with *Government Auditing Standards* applicable to performance audits issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and 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. The Brothersvalley Township Nonuniformed Pension Plan participates in the Pennsylvania Municipal Retirement System (PMRS), which is an agent multiple-employer public employee retirement system that acts as a common investment and administrative agent for participating municipal pension plans. PMRS issues a separate Comprehensive Annual Financial Report, copies of which are available from the PMRS accounting office. PMRS's 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 Brothersvalley Township Nonuniformed 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 objective, 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 the extent necessary to satisfy the audit objective.

The results of our tests indicated that, in all significant respects, the Brothersvalley Township Nonuniformed 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 findings further discussed later in this report:

Finding No. 1 – Receipt Of State Aid In Excess Of Entitlement

Finding No. 2 – Pension Plan Benefit Changes For Supervisor-Employees
Implemented Without Approval Of Township Auditors

The accompanying supplementary information is presented for purposes of additional analysis. We did not audit the information and, accordingly, express no form of assurance on it.

The contents of this report were discussed with officials of Brothersvalley Township and, where appropriate, their responses have been included in the report.

December 15, 2010

JACK WAGNER
Auditor General

BROTHERSVALLEY TOWNSHIP NONUNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – Receipt Of State Aid In Excess Of Entitlement

Condition: The township received state aid in excess of the pension plan’s defined contribution pension costs in the year 2009, as illustrated below:

State aid allocation	\$ 21,896
Actual municipal pension costs	<u>(21,140)</u>
Excess state aid	<u>\$ 756</u>

The excess state aid remains in the PMRS Municipal Reserve account.

Criteria: Section 402(f)(2) of Act 205 states:

No municipality shall be entitled to receive an allocation of general municipal pension system State aid in an amount which exceeds the aggregate actual financial requirements of any municipal pension plans for police officers, paid firefighters or employees other than police officers or paid firefighters maintained by the municipality, less the amount of any aggregate annual member or employee contributions during the next succeeding plan year, as reported in the most recent complete actuarial report filed with the commission.

Cause: Township supervisors adopted a motion “for PMRS to distribute any extra money in the Township account to be divided equally among employees”.

Effect: It is this department’s opinion that because the entire proceeds of the insurance premium tax on foreign casualty insurance companies are distributed annually to each eligible recipient municipality, it is inappropriate to use state aid in one year to offset pension costs in other years. Consequently, the overpayment of state aid in the year 2009, in the total amount of \$756, must be returned to the Commonwealth for redistribution.

Recommendation: We recommend that the municipality return the \$756 of excess state aid received in the year 2009 to the Commonwealth from the PMRS Municipal Reserve account. A check in this amount, with interest compounded annually from date of receipt to date of repayment, at a rate earned by the plan, should be made payable to: Commonwealth of Pennsylvania and mailed to: Department of the Auditor General, Municipal Pension & Fire Relief Programs Unit, 11 Stanwix Street, Suite 1450, Pittsburgh, PA 15222. A copy of the interest calculation must be submitted along with evidence of payment.

BROTHERSVALLEY TOWNSHIP NONUNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

Furthermore, we recommend that plan officials reconcile the amount of state aid and municipal contributions allocated to the pension plan with the plan’s annual defined contribution pension costs.

Management’s Response: Municipal officials agreed with the finding without exception.

Finding No. 2 – Pension Plan Benefit Changes For Supervisor-Employees Implemented Without Approval Of Township Auditors

Condition: Effective January 1, 2006, Brothersvalley Township established a nonuniformed pension plan with PMRS. On January 24, 2006, the Brothersvalley Township Board of Auditors approved the pension plan “to be funded by the township employees healthcare savings with a base amount of \$500 for 3 years, after which the State will reimburse the Township for contributions ... Supervisors-Laborers and Secretary (shall) be granted the pension plan”.

The plan’s defined contribution rate was repeatedly amended by the township supervisors without the required approval of the township’s board of auditors. Resolution No. 6-2007 increased the township’s contribution from \$125 per quarter to \$750 per quarter for calendar year 2007 only. Resolution No. 4-2008 increased the township’s \$750 contribution from quarterly to monthly beginning in April 2008 through December 2008. Resolution No. 52008 decreased the township’s \$750 monthly contribution to \$750 quarterly beginning January 2009 through December 2009. Resolution No. 62009 retained the \$750 quarterly contribution for the calendar year 2010. Finally, Resolution No. 62010 increased the township’s \$750 quarterly contribution back to \$750 monthly beginning in October 2010.

Criteria: Section 606(b)(3) of Act 69 states:

No change in the nature or rate of the contributions of a defined contribution plan and no change in the benefit formula of a defined benefit plan shall be initiated by the board of supervisors with respect to a supervisor-employee without auditor approval.

Cause: Plan officials were unaware that the township’s board of auditors had to approve the plan’s defined contribution provisions since supervisor-employees participate in the pension plan.

BROTHERSVALLEY TOWNSHIP NONUNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

Effect: The amendments of the plan’s defined contribution provisions without the township’s board of township auditors approval could result in unauthorized pension benefits being paid to plan members.

The Brothersvalley Township Nonuniformed Pension Plan was established effective January 1, 2006. The following schedule reflects the pension contributions as a percentage of the member’s payroll since its inception:

Year	Number of Employees	Total Payroll	General Fund Contributions	State Aid Contributions	Percent of Payroll Contributed
2006	7	\$ 63,549	\$ 3,640	\$ -	2.2%
2007	7	83,489	21,140	-	11.5%
2008	7	95,667	52,640	-	26.9%
2009	7	85,879	-	21,896	11.8%

Recommendation: We recommend that the express approval of the township’s board of auditors be obtained for all amendments to the plan’s defined contribution provisions.

Furthermore, we recommend that the township establish adequate internal control procedures to ensure that all future benefit changes receive prior approval from the township’s board of auditors in accordance with Act 69 provisions.

Management’s Response: Municipal officials stated that future changes would be approved by the township’s board of auditors.

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

BROTHERSVALLEY TOWNSHIP NONUNIFORMED PENSION PLAN
SUPPLEMENTARY INFORMATION
(UNAUDITED)

SCHEDULE OF STATE AID
AND EMPLOYER CONTRIBUTIONS

Year Ended December 31	State Aid Deposited	Employer Contributions
2006	None	\$ 3,640
2007	None	21,140
2008	None	52,640
2009	\$ 21,896	None

BROTHERSVALLEY TOWNSHIP NONUNIFORMED PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom Corbett
Governor
Commonwealth of Pennsylvania

Brothersvalley Township Nonuniformed Pension Plan
Somerset County
589 Mason Dixon Highway
Berlin, PA 15530

Mr. Jason D. Ickes	Chairman, Board of Township Supervisors
Ms. Marilyn Baker	Chief Administrative Officer
Ms. Kristine M. Cline	Pennsylvania Municipal Retirement System

This report is a matter of public record. Copies of this report may be obtained from the Pennsylvania Department of the Auditor General, Office of Communications, Room 318 Finance Building, Harrisburg, PA 17120. If you have any questions regarding this report or any other matter, you may contact the Department of the Auditor General by accessing our website at www.auditorgen.state.pa.us.