

**FRACKVILLE BOROUGH POLICE PENSION PLAN**

**SCHUYLKILL COUNTY**

**COMPLIANCE AUDIT REPORT**

**FOR THE PERIOD**

**JANUARY 1, 2004, TO DECEMBER 31, 2006**





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CONTENTS

	<u>Page</u>
Background.....	1
Letter from the Auditor General .....	3
Status of Prior Findings .....	5
Findings and Recommendations:	
Finding No. 1 – Noncompliance With Prior Audit Recommendation – Failure To Deposit The Full Amount Of State Aid Into An Eligible Pension Plan .....	6
Finding No. 2 – Noncompliance With Prior Audit Recommendation – Pension Benefits Not In Compliance With Act 600 Provisions .....	6
Finding No. 3 – Noncompliance With Prior Audit Recommendation – Pension Benefit Not Authorized By Act 600 .....	9
Finding No. 4 – Noncompliance With Prior Audit Recommendation – Improper Elimination Of Members’ Contributions .....	11
Finding No. 5 – Unauthorized Pension Benefits.....	12
Supplementary Information .....	15
Report Distribution List .....	19



## 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 Frackville 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 600 - Police Pension Fund Act, Act of May 29, 1956 (P.L. 1804, No. 600), as amended, 53 P.S. § 761 et seq.

The Frackville Borough Police Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Ordinance No. 76-1, as amended, adopted pursuant to Act 600. The plan is also affected by the provisions of collective bargaining agreements between the borough and its police officers.





The Honorable Mayor and Borough Council  
Frackville Borough  
Schuylkill County  
Frackville, PA 17931

We have conducted a compliance audit of the Frackville Borough Police Pension Plan for the period January 1, 2004, to December 31, 2006. 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 our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings 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.

Borough officials are responsible for establishing and maintaining an internal control structure to provide reasonable assurance that the Frackville Borough Police Pension Plan is administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies. To assist us in planning and performing our audit, we obtained an understanding of the borough's internal control structure as it relates to the borough's compliance with those requirements. Additionally, we tested transactions, assessed official actions, performed analytical procedures and interviewed selected officials to the extent necessary to satisfy the audit objectives.

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

Finding No. 1 – Noncompliance With Prior Audit Recommendation – Failure To Deposit The Full Amount Of State Aid Into An Eligible Pension Plan

Finding No. 2 – Noncompliance With Prior Audit Recommendation – Pension Benefits Not In Compliance With Act 600 Provisions

Finding No. 3 – Noncompliance With Prior Audit Recommendation – Pension Benefit Not Authorized By Act 600

Finding No. 4 – Noncompliance With Prior Audit Recommendation – Improper Elimination Of Members' Contributions

Finding No. 5 – Unauthorized Pension Benefit

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 Frackville Borough and, where appropriate, their responses have been included in the report.

March 6, 2008

JACK WAGNER  
Auditor General

FRACKVILLE BOROUGH POLICE PENSION PLAN  
STATUS OF PRIOR FINDINGS

Noncompliance With Prior Audit Recommendations

Frackville Borough has not complied with the prior audit recommendations concerning the following as further discussed in the Findings and Recommendations section of this report:

- Failure To Deposit The Full Amount Of State Aid Into An Eligible Pension Plan
- Pension Benefits Not In Compliance With Act 600 Provisions
- Pension Benefit Not Authorized By Act 600
- Improper Elimination Of Members' Contributions

FRACKVILLE BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – Noncompliance With Prior Audit Recommendation – Failure To Deposit The Full Amount Of State Aid Into An Eligible Pension Plan

Condition: As disclosed in our prior audit report, the municipality did not deposit the full amount of its 2002 state aid allocation into an eligible pension plan. The municipality received its 2002 state aid allocation in the amount of \$54,439 on October 1, 2002, but, as of the date of this report, only \$53,484 was deposited into an eligible pension plan.

Criteria: Section 402(g) of Act 205 states, in part:

. . . the total amount of the general municipal pension system State aid received by the municipality shall, within 30 days of receipt by the treasurer of the municipality, be deposited in the pension funds or the alternate funding mechanisms applicable to the respective pension plans.

Cause: Municipal officials failed to establish adequate internal control procedures to ensure compliance with the prior audit recommendation.

Effect: When state aid is not deposited into a pension plan account, the funds are not available to pay operating expenses or for investment and the risk of misapplication is increased.

Recommendation: We again recommend that the municipality deposit the borough's remaining 2002 state aid allocation of \$955, plus interest earned during the period beyond the 30 day grace period allowed by Act 205, compounded annually, into the police pension plan. A copy of the interest calculation must be maintained by the borough for examination during our next audit of the plan.

We also recommend that municipal officials develop and implement adequate internal control procedures to ensure that future state aid is deposited into an eligible pension plan within 30 days of receipt by the municipal treasurer.

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

Finding No. 2 – Noncompliance With Prior Audit Recommendation – Pension Benefits Not In Compliance With Act 600 Provisions

Condition: As disclosed in our prior audit report, the pension plan's governing document, Ordinance No. 76-1, as amended, contains benefit provisions that conflict with the collective bargaining agreement between the police officers and the borough and are not in compliance with Act 600.

FRACKVILLE BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

Also, on April 17, 2002, Act 600 was amended by Act 30, which made significant changes to the statutorily prescribed benefit structure of police pension plans subject to Act 600. Municipal officials have not amended the police pension plan’s benefit structure to adopt all of the changes mandated by Act 30. The specific inconsistencies are as follows:

<u>Benefit Provision</u>	<u>Governing Document</u>	<u>Collective Bargaining Agreement</u>	<u>Act 600 (as amended)</u>
Service-related disability benefit	100% of monthly compensation.	75% of highest monthly compensation.	The benefit must be in conformity with a uniform scale and fixed by the plan’s governing document at no less than 50% of the member’s salary at the time the disability was incurred, reduced by the amount of Social Security disability benefits received for the same injury.
Killed in service benefit	If member dies as a result of illness or injury incurred in service, the member’s survivor shall receive a pension calculated at the rate of 100% of the member’s highest monthly compensation.	If member dies as a result of illness or injury incurred in service, the member’s survivors shall receive a pension calculated at the rate of 100% of the member’s highest monthly compensation.	Pensions for the families of members killed in service shall be calculated at 100% of the member’s salary at the time of death.

FRACKVILLE BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

<u>Benefit Provision</u>	<u>Governing Document</u>	<u>Collective Bargaining Agreement</u>	<u>Act 600 (as amended)</u>
Normal retirement age	A member who has served in the police force for an aggregate total of at least 25 years and has attained the age of 55 years.	Upon completion of 25 years of aggregate total service (20 years of service when allowed by Act 600) in the municipal police force and attainment of the age of fifty (50) years old.	Each ordinance or resolution establishing a police pension fund shall prescribe a minimum period of total service in the aggregate of twenty-five years in the same borough, town, township or regional police department and shall fix the age of the members of the force at fifty-five years, or, if an actuarial study of the cost shows that such reduction in age is feasible, may fix the age of the members of the force at fifty years.
Survivor's benefit	50% of the pension that the member was receiving or would have been received had he been eligible and retired at the time of his death, payable to the surviving spouse until death or remarriage. Upon the death or remarriage of the surviving spouse, or if there is no surviving spouse, the benefit is payable to the surviving child or children until age 18.	50% of the pension that the member was receiving or would have been received had he been eligible and retired at the time of his death, payable to the surviving spouse until death or remarriage. Upon the death or remarriage of the surviving spouse, or if there is no surviving spouse, the benefit is payable to the surviving child or children until age 18.	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.)

FRACKVILLE BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

Criteria: A governing document which contains clearly defined and updated benefit provisions is a prerequisite for the consistent, sound administration of retirement benefits. In addition, the police pension plan's benefit structure should be in compliance with Act 600, as amended.

Cause: Municipal officials failed to establish adequate internal control procedures to ensure compliance with the prior audit recommendation.

Effect: Inconsistent plan documents could result in inconsistent or improper benefit calculations and incorrect benefit payments from the pension plan. In addition, 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.

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.

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

Finding No. 3 – Noncompliance With Prior Audit Recommendation – Pension Benefit Not  
Authorized By Act 600

Condition: As disclosed in our prior audit report, the collective bargaining agreement between the borough and its police officers grants a benefit that is not authorized by Act 600. Article 14 of the collective bargaining agreement for the period January 1, 2004, to December 31, 2008, states, in part:

All full time Police Officers will be entitled to paid sick leave up to (15) fifteen days per year for injuries or illness not covered by the Heart & Lung Act. The Officer may accumulate the sick days with no cap.

SICK LEAVE BUY-BACK: An officer separating (sic) from service with the Borough of Frackville shall be compensated for unused and accumulated sick days at a rate of 25% of the Officers (sic) salary at the time of his separation (sic) for the first (150) one hundred fifty such unused and accumulated sick days and 50% of the Officers (sic) said salary for all unused and accumulated days in excess of (150) one hundred fifty. This payment will be averaged into said Officers (sic) final 36 months salary for retirement pay calculations.

FRACKVILLE BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

Finding No. 3 – (Continued)

Criteria: Section 5(c) of Act 600 states, in part:

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 sixty nor less than the last thirty-six months of employment.

Although Act 600 does not define “salary,” the department has concluded, based on a line of court opinions, that the term does not encompass lump-sum payments for leave that was not earned during the pension computation period.

Cause: Municipal officials indicated that the benefit contained in the collective bargaining agreement was awarded by arbitration.

Effect: Providing unauthorized pension benefits could increase the plan’s pension costs and reduce the amount of funds available for investment purposes or for the payment of authorized benefits or administrative expenses. The provision of unauthorized pension benefits could also increase the municipal contributions necessary to fund the plan in accordance with Act 205 funding standards.

Recommendation: We again recommend that the borough comply with Act 600 upon the renewal, extension, or renegotiation of the collective bargaining agreement. Although no plan member has had the excess benefit provision included in a pension benefit determination since the expiration of the prior collective bargaining agreement, if, in the future, a plan member receives excess pension benefits, then 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, the plan’s actuary may be required to determine the impact, if any, of the excess benefits on the plan’s future state aid allocations and submit this information to the department.

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



FRACKVILLE BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

Finding No. 4 – Noncompliance With Prior Audit Recommendation – Improper Elimination Of Members’ Contributions

Condition: Municipal officials failed to eliminate members’ contributions for the years 2002 through 2007 in accordance with Act 600 provisions.

Criteria: Section 6(a) of Act 600 states, in part:

Members shall pay into the fund, monthly, an amount equal to not less than five per centum nor more than eight per centum of monthly compensation.

However, Section 6(c) of Act 600 permits the elimination or reduction of member contributions, as follows:

The governing body of the borough, town, township or regional police department may, on an annual basis, by ordinance or resolution, reduce or eliminate payments into the fund by members.

Cause: Municipal officials failed to establish adequate internal control procedures to ensure compliance with the prior audit recommendation.

Effect: Members’ contributions were not properly eliminated.

Recommendation: We again recommend that the borough either eliminate members’ contributions in accordance with Act 600, or reinstate the collection of members’ contributions in accordance with rate contained in the plan’s governing document.

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

FRACKVILLE BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

Finding No. 5 – Unauthorized Pension Benefit

Condition: The borough granted full-time service credit to a police officer for previous part-time employment with the borough. The police officer was hired as a part-time officer on July 1, 1976, and became full-time on June 13, 1983. Credit for part-time years of service for pension purposes is not authorized by Act 600. On November 16, 2006, the police officer was granted an unauthorized normal retirement pension benefit. However, the since the police officer failed to complete 25 years of full-time service, he was only entitled to a vested pension benefit in accordance with Act 600 provisions.

Criteria: Act 600 makes repeated references to full-time service as a basis for receiving pension benefits. Section 1(a) of Act 600 states that boroughs, towns, and townships with police forces of three or more full-time members must establish a police pension plan. Given Section 1(a), the service referred to could only be full-time service. This conclusion is supported by the 12-year vesting provision contained in Section 5(h) of Act 600, under which vested benefits are not payable until the date which would have been the member's superannuation retirement date if he/she had continued to be employed as a full-time police officer.

Moreover, Section 4 of Act 600 identifies situations in which previous service may be credited for retirement purposes. Other than service in the military, these situations involve full-time service as a police officer.

In addition, Act 600 at Section 3, states, in part:

Each ordinance or resolution establishing a police pension fund shall prescribe a minimum period of total service in the aggregate of twenty-five years in the same borough, town, township or regional police department and shall fix the age of the members of the force at fifty-five years, or, if an actuarial study of the cost shows that such reduction in age is feasible, may fix the age of the members of the force at fifty years.

FRACKVILLE BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

Finding No. 5 – (Continued)

With regard to vested pension benefits, Section 5(h) of Act 600 states:

The ordinance or resolution establishing the police pension fund may provide for a vested benefit provided that such would not impair the actuarial soundness of the pension fund. Under the provisions of such benefit, should a police officer, before completing superannuation retirement age and service requirements but after having completed twelve years of total service, for any reason cease to be employed as a full-time police officer by the municipality or regional police department in whose pension fund he has been a member, he shall be entitled to vest his retirement benefits by filing with the governing body within ninety days of the date he ceases to be a full-time police officer a written notice of his intention to vest. Upon reaching the date which would have been his superannuation retirement date if he had continued to be employed as a full-time police officer he shall be paid a partial superannuation retirement allowance determined by applying the percentage his years of service bears to the years of service which he would have rendered had he continued to work until his superannuation retirement date to the gross pension, using however the monthly average salary during the appropriate period prior to his termination of employment. Such pension or retirement benefits for any month shall be the sum of clauses (1), (2) and (3) of subsection (c) of such benefits from the police pension fund established pursuant to this act to the extent necessary to bring the total benefits in any month up to his partial superannuation retirement allowance outlined above.

Furthermore, the plan's governing document, Ordinance No. 90-6, states, in part:

A retired member who has served in the police force for an aggregate total of at least 25 years and has attained the age of 55 years.

Also, the collective bargaining agreement, for the period January 1, 2004, to December 31, 2008, at Article 19, Section 3, states, in part:

Normal retirement – upon completion of twenty-five (25) years aggregate total service (twenty (20) years of service when allowed by Act 600) in the municipal police force and attainment of the age of fifty (50) years old.

Cause: Borough officials believed that a member may be granted service credit for part-time years of service.

FRACKVILLE BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

Finding No. 5 – (Continued)

Effect: Providing 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. It could also have an impact on the plan's future state aid allocations and could increase the municipal contributions necessary to fund the plan in accordance with Act 205 funding standards.

Recommendation: We recommend municipal officials review the pension benefit determination with the borough's solicitor and adjust the retired officer's pension benefit prospectively pursuant to Section 5(h) of Act 600 at its earliest opportunity to do so. If the borough continues to make unauthorized benefit payments, all unauthorized benefit payments made from the plan will be deemed ineligible for funding with state pension aid. Accordingly, the plan's actuary may have to determine the impact, if any, of the improper benefit payments on the plan's future state aid allocations and submit this information to the department.

Management's Response: Municipal officials agreed with the finding without exception. Borough officials intend to discontinue the officer's unauthorized pension benefit pending the ultimate resolution of the situation.

Auditor's Conclusion: Compliance will be subject to verification through our next audit.

FRACKVILLE 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, except for distressed pension plans, for which annual reporting was required through January 1, 2003. The historical information, beginning as of January 1, 2001, 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)]
01-01-01	\$ 1,500,675	\$ 1,361,724	\$ (138,951)	110.2%	\$ 215,796	(64.4%)
01-01-03	1,199,605	1,494,477	294,872	80.3%	249,861	118.0%
01-01-05	1,298,771	2,022,458	723,687	64.2%	227,501	318.1%

FRACKVILLE 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. However, when assets are in excess of the actuarial accrued liability, the higher the bracketed percentage, the stronger the plan.

FRACKVILLE 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
2001	None	N/A
2002	\$ 14,266	270.8%
2003	37,404	100.0%
2004	34,238	100.0%
2005	61,942	100.0%
2006	74,236	100.0%

FRACKVILLE 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, 2005
Actuarial cost method	Entry age normal
Amortization method	Level dollar
Remaining amortization period	19 years
Asset valuation method	Fair value
Actuarial assumptions:	
Investment rate of return	7.0%
Projected salary increases	5.0%
Cost-of-living adjustments	4.0%



FRACKVILLE BOROUGH POLICE PENSION PLAN  
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Edward G. Rendell  
Governor  
Commonwealth of Pennsylvania

Frackville Borough Police Pension Plan  
Schuylkill County  
219 South Balliet Street  
Frackville, PA 17931

The Honorable Delmar Phillips	Mayor
Mr. Stephen Bobiak	Council President
Ms. Brenda Deeter	Secretary

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](http://www.auditorgen.state.pa.us).