

**PEN ARGYL BOROUGH NONUNIFORMED PENSION PLAN**

**NORTHAMPTON COUNTY**

**COMPLIANCE AUDIT REPORT**

**FOR THE PERIOD**

**JANUARY 1, 2005, TO DECEMBER 31, 2007**





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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 Pen Argyl Borough 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 Pen Argyl Borough Nonuniformed Pension Plan is a single-employer defined contribution pension plan locally controlled by the provisions of Ordinance No. 573, adopted pursuant to Act 15. Active members are not required to contribute to the plan. The municipality is required to contribute 7 percent of each member's compensation.



The Honorable Mayor and Borough Council  
Pen Argyl Borough  
Northampton County  
Pen Argyl, PA 18072

We have conducted a compliance audit of the Pen Argyl Borough Nonuniformed Pension Plan for the period January 1, 2005, to December 31, 2007. 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 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. Pen Argyl Borough contracted with an independent certified public accounting firm for annual audits of its basic financial statements which are available at the borough's offices. Those financial statements were not audited by us and, accordingly, we express no opinion or other form of assurance on them.

Borough officials are responsible for establishing and maintaining an internal control structure to provide reasonable assurance that the Pen Argyl Borough Nonuniformed 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 Pen Argyl Borough 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 finding further discussed later in this report:

Finding – Receipt Of State Aid In Excess Of Entitlement

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

December 3, 2008

JACK WAGNER  
Auditor General

PEN ARGYL BOROUGH NONUNIFORMED PENSION PLAN  
STATUS OF PRIOR FINDING

Compliance With Prior Audit Recommendation

Pen Argyl Borough has complied with the prior audit recommendation concerning the following:

- Receipt Of State Aid In Excess Of Entitlement And Municipal Contributions Made In Excess Of Contributions Required To Fund The Plan

The borough reimbursed \$416 to the Commonwealth for the excess state aid received in 2003. In addition, the excess municipal contributions were used to pay the 2004 administrative expenses of the plan.

PEN ARGYL BOROUGH NONUNIFORMED PENSION PLAN  
FINDING AND RECOMMENDATION

Finding – Receipt Of State Aid In Excess Of Entitlement

Condition: In 2007, the borough received a state aid allocation in excess of the plan’s defined contribution pension costs, as illustrated below:

State aid allocation	\$ 25,543
Actual municipal pension costs	<u>(24,639)</u>
Excess state aid	<u><u>\$ 904</u></u>

Furthermore, although the excess state aid allocation has not been deposited into the pension plan, the plan’s governing document allows for the allocation of excess state aid to plan members. Section 13 of the pension plan agreement with PMRS states, in part:

If funds exist within the plan due to the allocation of General Municipal Pension System State Aid, as provided by Act 205 of 1984, being more than anticipated...the borough may annually elect to contribute all or a portion of such unanticipated assets to the members’ accounts in a given calendar year by adopting a resolution and filing it with the board.

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.

Additionally, the borough filed actuarial valuation report form 203A for the nonuniformed pension plan with the Public Employee Retirement Commission identifying the plan as a defined contribution plan.

PEN ARGYL BOROUGH NONUNIFORMED PENSION PLAN  
FINDING AND RECOMMENDATION

Finding – (Continued)

Section 102 of Act 205 defines a defined contribution pension plan, as follows:

A type of pension benefit plan which provides for a fixed contribution rate or amount and which provides for periodic benefit payments calculable at retirement dependent on the accumulated contributions, investment income, experience gains and losses credited to the member and the expected mortality of the member.  
(Emphasis added)

Accordingly, Section V, B, of the actuarial valuation report form 203A provides for reporting a defined contribution rate either at a specified percentage of payroll or as a specified flat dollar amount. No other types of reporting are provided for defined contribution pension plans.

Cause: Plan officials were unaware of the need to annually reconcile the amount of state aid allocated to the pension plan with the plan's actual defined contribution pension costs.

Furthermore, plan officials were unaware that the provision contained in the plan's governing document relating to the optional allocation of excess state aid is inconsistent with the Act 205 definition of a defined contribution pension plan.

Effect: The municipality received a \$904 excess state aid allocation in 2007. Since 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. Therefore, the excess state aid must be returned to the Commonwealth for redistribution.

Recommendation: We recommend that the municipality return the \$904 of excess state aid received in the year 2007 to the Commonwealth. 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, 1205 Pittsburgh State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222. A copy of the interest calculation must be submitted along with evidence of payment.

We also recommend that the municipality amend the plan's governing document to remove the discretionary employer contribution provision as it relates to allocating excess state aid allocations to plan members.

PEN ARGYL BOROUGH NONUNIFORMED PENSION PLAN  
FINDING AND RECOMMENDATION

Finding – (Continued)

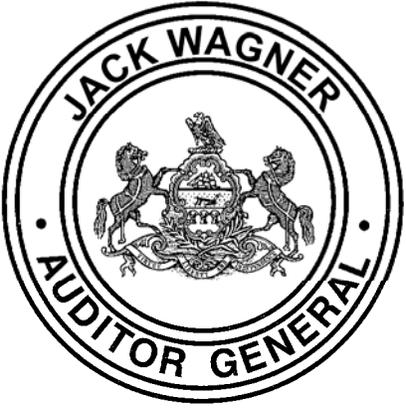
Finally, we recommend that, in the future, plan officials reconcile the amount of state aid allocated to the nonuniformed pension plan with the plan's actual defined contribution pension costs.

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

PEN ARGYL BOROUGH NONUNIFORMED PENSION PLAN  
SUPPLEMENTARY INFORMATION  
(UNAUDITED)

SCHEDULE OF STATE AID  
AND EMPLOYER CONTRIBUTIONS

Year Ended December 31	State Aid Deposited	Employer Contributions
2002	\$ 21,608	\$ 1,008
2003	22,024	None
2004	20,057	60
2005	22,383	1,670
2006	23,618	2,166
2007	24,639	None



PEN ARGYL BOROUGH NONUNIFORMED PENSION PLAN  
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Edward G. Rendell  
Governor  
Commonwealth of Pennsylvania

Pen Argyl Borough Nonuniformed Pension Plan  
Northampton County  
11-13 North Robinson Avenue  
Pen Argyl, PA 18072

The Honorable Judith A. Piper    Mayor

Mr. Michael Nasatka                Council President

Ms. Robin L. Zmoda                Borough Manager

Mr. Benjamin F. Mader            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](http://www.auditorgen.state.pa.us).