



**WEST HAZLETON BOROUGH POLICE  
PENSION PLAN**

**LUZERNE COUNTY**

**COMPLIANCE AUDIT REPORT**

**FOR THE PERIOD**

**JANUARY 1, 2009, To DECEMBER 31, 2011**

**COMMONWEALTH OF PENNSYLVANIA**

**EUGENE A. DEPASQUALE - AUDITOR GENERAL**

**DEPARTMENT OF THE 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.

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 West Hazleton 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 147 - Special Ad Hoc Municipal Police and Firefighter Postretirement Adjustment Act, Act of December 14, 1988 (P.L. 1192, No. 147), as amended, 53 P.S. § 896.101 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 West Hazleton Borough Police Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Ordinance No. 30 of 1976, 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.





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**EUGENE A. DePASQUALE**  
**AUDITOR GENERAL**

The Honorable Mayor and Borough Council  
West Hazleton Borough  
Luzerne County  
West Hazleton, PA 18202

We have conducted a compliance audit of the West Hazleton Borough Police Pension Plan for the period January 1, 2009, to December 31, 2011. 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 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. 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 the terms of the unallocated insurance contract, including ownership and any restrictions, are in compliance with plan provisions, investment policies and state regulations.
- Whether the special ad hoc postretirement adjustment granted to eligible pensioners is in accordance with applicable laws and regulations and whether the ad hoc reimbursement received by the municipality was treated in accordance with applicable laws and regulations.
- 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.

West Hazleton 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 effective internal controls to provide reasonable assurance that the West Hazleton 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 West Hazleton 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 – Failure To Adopt Benefit Provisions Mandated By Act 30

As previously noted, one of the objectives of our audit of the West Hazleton Borough Police 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 historical trend information contained in the schedule of funding progress included in this report which indicates a continued decline of assets available to satisfy the long-term liabilities of the plan. For example, **the plan's funded ratio went from 85.7% as of January 1, 2007, to a ratio of 55.2% as of January 1, 2011**, which is the most recent date available. Based on this information, the Public Employee Retirement Commission issued a notification that the borough is currently in Level II moderate distress status. 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 West Hazleton Borough and, where appropriate, their responses have been included in the report.



EUGENE A. DEPASQUALE  
Auditor General

April 5, 2013



WEST HAZLETON BOROUGH POLICE PENSION PLAN  
STATUS OF PRIOR FINDINGS

Compliance With Prior Audit Recommendations

West Hazleton Borough has complied with the prior audit recommendations concerning the following:

- Incorrect Data Supplied To Actuary For Actuarial Valuation Report Preparation

The plan's current actuarial valuation report properly reflected the status of the pension plan.

- Pension Benefits Modified Without Prior Cost Estimate

Municipal officials implemented adequate internal control procedures to ensure that all future benefit modifications are preceded by a cost study in accordance with Act 205 requirements.

Status Of Prior Audit Recommendation

- Pension Benefits In Excess Of Act 600

The prior audit report for the period January 1, 2007, to December 31, 2008, contained a finding that cited the borough for providing benefits in excess of Act 600 provisions in their collective bargaining agreement. The excess benefit provisions included a normal retirement benefit at age 50 with 20 years of service based upon 50 percent of the police officer's highest 12 months of compensation earned during the last 5 years of employment for police officers hired prior to January 1, 1995. It was noted in the prior audit report that a police officer retired on June 1, 2007, pursuant to the excess benefit provisions contained in the collective bargaining agreement. In addition, during the current audit period, another police officer retired on April 1, 2012, pursuant to the excess benefit provisions contained in the collective bargaining agreement. The police officer who retired on June 1, 2007, was receiving excess benefits of \$2,022 per month (June 1, 2007 to April 1, 2012), which totaled approximately \$119,298 and beginning May 1, 2012, is receiving excess benefits of \$392 per month which totaled approximately \$4,704, for a combined amount of \$124,002 from the date of his retirement through April of 2013. Furthermore, the police officer who began receiving a retirement benefit on April 1, 2012, is receiving excess benefits of \$68 per month, which totaled approximately \$884, from the date of his retirement through April of 2013.

WEST HAZLETON BOROUGH POLICE PENSION PLAN  
STATUS OF PRIOR FINDINGS

Status Of Prior Audit Recommendation – (Continued)

Providing unauthorized pension benefits increases the plan's pension costs and reduces the amount of funds available for investment purposes or for the payment of authorized benefits or administrative expenses. Since the borough received state aid based on unit value for its pension plans during the current audit period, it did not receive state aid allocations attributable to the excess pension benefits provided. However, the increased costs to the pension plan as a result of the excess pension benefits could result in the receipt of excess state aid in the future and increase the municipal contributions necessary to fund the plan in accordance with Act 205 funding standards.

Since the borough no longer employs any police officers hired prior to January 1, 1995, the borough's current police officers are not eligible to retire under the excess benefit provisions cited in the prior audit report and contained in the collective bargaining agreement. However, the Department will continue to monitor the effect of the excess benefits being provided to existing retirees on the borough's state aid allocations during future audits of the plan.

Noncompliance With Prior Audit Recommendation

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

- Failure To Adopt Benefit Provisions Mandated By Act 30

WEST HAZLETON BOROUGH POLICE PENSION PLAN  
FINDING AND RECOMMENDATION

Finding – Noncompliance With Prior Audit Recommendation – Failure To Adopt Benefit Provisions Mandated By Act 30

Condition: As disclosed in the prior audit report, 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:

Benefit Provision	Governing Document	Collective Bargaining Agreement	Act 600 (as amended)
Survivor’s benefit	A joint and 50% contingent annuity if the officer is married. This would provide post-retirement death benefits to a widow who has not remarried, or else to the children under age 18 of a policeman who dies after having obtained eligibility to receive a pension benefit. The amount of the benefit is to be set at one-half of the pension the officer was receiving or would have been entitled to receive had he been retired when he died.	The spouse of a member of the police force or a member who retires on pension who dies or if no spouse survives or if such person survives and subsequently dies or remarries, then the child or children under the age of 18 years of the deceased member, shall, during said spouse’s lifetime or so long as such surviving spouse does not remarry, or until reaching the age of 18 years in the case of a child or children, be entitled to receive a pension calculated at the rate of 50% of the pension that the member was receiving or would have been receiving had he been eligible and retired at the time of his death.	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.)

WEST HAZLETON BOROUGH POLICE PENSION PLAN  
FINDING AND RECOMMENDATION

Finding – (Continued)

<u>Benefit Provision</u>	<u>Governing Document</u>	<u>Collective Bargaining Agreement</u>	<u>Act 600 (as amended)</u>
Service-related disability benefit	<p>Benefits shall be equal to 100% of the pension the member would have received if the date of disability had been the member's normal retirement date.</p> <p>Normal retirement benefits shall be computed at one-half the monthly average salary of such member during the last 36 months of employment.</p>	Police officers who become unable to perform police duties shall be eligible for immediate retirement benefits calculated at 100% of his or her 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.

WEST HAZLETON BOROUGH POLICE PENSION PLAN  
FINDING AND RECOMMENDATION

Finding – (Continued)

<u>Benefit Provision</u>	<u>Governing Document</u>	<u>Collective Bargaining Agreement</u>	<u>Act 600 (as amended)</u>
Pre-vesting death benefit	If such ineligibility is due to death, such monies shall be paid to his designated beneficiary or, in the absence thereof, to his estate.	If such discontinuance is due to death, such monies shall be paid to his designated beneficiary or, in the absence thereof, to his estate.	The surviving spouse of a member of the police force who dies before his pension has vested or if no spouse survives or if he or she survives and subsequently dies, the child or children under the age of eighteen years, or, if attending college, under or attaining the age of twenty-three years, of the member of the police force shall be entitled to receive repayment of all money which the member invested in the pension fund plus interest or other increases in value of the member's investment in the pension fund, unless the member has designated another beneficiary for this purpose.

Criteria: The police pension plan's benefit structure should be in compliance with Act 600, as amended by Act 30.

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

WEST HAZLETON BOROUGH POLICE PENSION PLAN  
FINDING AND RECOMMENDATION

Finding – (Continued)

Effect: 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 by Act 30, at their earliest opportunity to do so.

Management's Response: Municipal officials agreed with the finding without exception. The borough will work with the solicitor to ensure the amendments are incorporated into the plan's ordinance in an effort to satisfy the plan's prior and current audit finding.

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

WEST HAZLETON 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, 2007, 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)]
01-01-07	\$ 1,132,250	\$ 1,321,732	\$ 189,482	85.7%	\$ 48,517	390.5%
01-01-09	875,194	1,499,134	623,940	58.4%	51,531	1,210.8%
01-01-11	833,953	1,511,579	677,626	55.2%	134,327	504.5%

Note: The market values of the plan's assets at 01-01-09 and 01-01-11 have been adjusted to reflect the smoothing of gains and/or losses over a 5-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.

WEST HAZLETON 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.

WEST HAZLETON 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
2006	\$ 34,001	100.0%
2007	33,927	100.0%
2008	10,618	100.0%
2009	6,287	100.0%
2010	47,425	100.0%
2011	41,211	100.0%

WEST HAZLETON 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, 2011
Actuarial cost method	Entry age normal
Amortization method	Level dollar
Remaining amortization period	Undeterminable
Asset valuation method	Fair value, 5-year smoothing
Actuarial assumptions:	
Investment rate of return	7.0%
Projected salary increases	5.0%
Includes inflation at	Not disclosed
Cost-of-living adjustments	None assumed

WEST HAZLETON BOROUGH POLICE PENSION PLAN  
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom Corbett  
Governor  
Commonwealth of Pennsylvania

West Hazleton Borough Police Pension Plan  
Luzerne County  
100 South Fourth Street  
West Hazleton, PA 18202

The Honorable Frank A. Schmidt	Mayor
Mr. Mark Yeager	Council President
Ms. Jane Mikulca	Borough Manager

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).