

# COMPLIANCE AUDIT

---

## Bally Borough Non-Uniformed Pension Plan Berks County, Pennsylvania For the Period January 1, 2018 to December 31, 2021

---

March 2023



Commonwealth of Pennsylvania  
Department of the Auditor General

Timothy L. DeFoor • Auditor General



**Commonwealth of Pennsylvania  
Department of the Auditor General  
Harrisburg, PA 17120-0018  
Facebook: Pennsylvania Auditor General  
Twitter: @PAAuditorGen  
www.PaAuditor.gov**

**TIMOTHY L. DEFOOR  
AUDITOR GENERAL**

The Honorable Mayor and Borough Council  
Bally Borough  
Berks County  
Bally, PA 19503-0217

We have conducted a compliance audit of the Bally Borough Non-Uniformed Pension Plan for the period January 1, 2018 to December 31, 2021. We also evaluated compliance with some requirements subsequent to that period when possible. The audit was conducted pursuant to authority derived from the Municipal Pension Plan Funding Standard and Recovery Act (Act 205 of 1984, as amended, 53 P.S. § 895.402(j)), which requires the Auditor General, as deemed necessary, to audit every municipality which receives general municipal pension system state aid and every municipal pension plan and fund in which general municipal pension system state aid is deposited. The audit was not conducted, nor was it required to be, in accordance with Government Auditing Standards issued by the Comptroller General of the United States. We planned and performed the 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 finding contained in our prior 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. To determine if municipal officials took appropriate corrective action to address the finding contained in our prior report, we inquired of plan officials and evaluated supporting documentation provided by officials evidencing that the suggested corrective action has been appropriately taken. To determine whether the pension plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies, our methodology included the following:

- We determined whether state aid was properly determined and deposited in accordance with Act 205 requirements by verifying the annual deposit date of state aid and determining whether deposits were made within 30 days of receipt for all years within the period under audit.
- We determined whether annual employer contributions were calculated and deposited in accordance with the plan's governing document and applicable laws and regulations by examining the municipality's calculation of the plan's annual financial requirements and minimum municipal obligation (MMO) and comparing these calculated amounts to amounts actually budgeted and deposited into the pension plan as evidenced by supporting documentation.
- We determined that there were no employee contributions required for the years covered by our audit period due to the fact that employee contributions were appropriately waived by the municipality.
- We determined whether annual employee contributions were calculated, deducted, and deposited into the pension plan in accordance with the plan's governing document and applicable laws and regulations by testing total members' contributions on an annual basis using the rates obtained from the plan's governing document in effect for all years within the period under audit and examining documents evidencing the deposit of these employee contributions into the pension plan.
- We determined that there were no benefit calculations prepared for the years covered by our audit period.
- We determined whether the January 1, 2017, January 1, 2019 and January 1, 2021 actuarial valuation reports were prepared and submitted by March 31, 2018, 2020 and 2022, respectively, in accordance with Act 205 and whether 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 by comparing selected information to supporting source documentation.

The Bally Borough Non-Uniformed 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 Annual Comprehensive 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.

Borough officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Bally Borough Non-Uniformed Pension Plan is administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and

local ordinances and policies. As previously described, we tested transactions, interviewed selected officials, and performed procedures to the extent necessary 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.

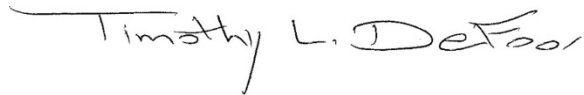
The results of our procedures indicated that, in all significant respects, the Bally Borough Non-Uniformed Pension Plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies, except as noted in the following findings further discussed later in this report:

Finding No. 1 – Failure To Deposit State Aid Into An Eligible Pension Plan

Finding No. 2 – Ordinance Improperly Amended By Resolution

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.

The contents of this report were discussed with officials of Bally 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.



Timothy L. DeFoor  
Auditor General  
March 10, 2023

## CONTENTS

|  | <u>Page</u> |
|--|-------------|
| Background.....  | 1           |
| Status of Prior Finding.....   | 2           |
| Findings and Recommendations:  |             |
| Finding No. 1 –Failure To Deposit State Aid Into An Eligible Pension Plan..... | 3           |
| Finding No. 2 – Ordinance Improperly Amended By Resolution .....               | 4           |
| Supplementary Information .....  | 5           |
| Report Distribution List .....   | 9           |

## 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.

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 Bally Borough Non-Uniformed Pension Plan is also governed by implementing regulations 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 Bally Borough Non-Uniformed Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Resolution No. 2020-8 and a separately executed plan agreement with the plan custodian effective November 1, 2020, adopted pursuant to Act 15. Prior to November 1, 2020, the plan was locally controlled by the provisions of Ordinance No. 286 and an agreement effective January 1, 2013, adopted pursuant to Act 15. The plan was established February 1, 1972. Active members are required to contribute four and one-half (4.5) percent of compensation to the plan.; however, member contributions were eliminated during the audit period. As of December 31, 2021, the plan had four active members, no terminated members eligible for vested benefits in the future, and five retirees receiving pension benefits.

BALLY BOROUGH NON-UNIFORMED PENSION PLAN  
STATUS OF PRIOR FINDING

Compliance With Prior Recommendation

Bally Borough has complied with the prior recommendation concerning the following:

- Incorrect Data On Certification Form AG 385 Resulting In An Underpayment Of State Aid

During the current audit period, the borough complied with the instructions that accompany Certification Form AG 385 to assist them in accurately reporting the required pension data. However, plan officials failed to deposit the additional state aid received during 2018, because of the prior certification error, into an eligible pension plan, as further discussed in Finding No. 1 of this report.

BALLY BOROUGH NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 1 – Failure To Deposit State Aid Into An Eligible Pension Plan**

Condition: During the current audit period, the borough received an additional allocation of state aid for 2015 amounting to \$2,360, as a result of a prior year’s AG 385 underpayment. However, as of the date of this audit report, this additional allocation has not been deposited into either of the borough’s eligible pension plans in accordance with Act 205.

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: Plan officials failed to ensure that the additional allocation of state aid received by the borough was deposited timely into an eligible pension plan in accordance with the act.

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

Recommendation: We recommend that the municipality immediately deposit the additional 2015 state aid allocation, \$2,360, plus interest earned during the period beyond the 30-day grace period allowed by Act 205, compounded annually, into an eligible pension plan. A copy of the interest calculation must be maintained by the borough for examination during our next audit of the plan.

Management’s Response: Municipal officials agreed with the finding without exception and indicated that they will deposit the state aid into their pension plans as soon as they have the interest calculated.

Auditor’s Conclusion: Based on the management response, it appears that municipal officials intend to comply with the finding recommendation. Compliance will be evaluated during our next audit of the plan.



BALLY BOROUGH NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 2 – Ordinance Improperly Amended By Resolution**

Condition: The pension plan governing document, Ordinance No. 286, which adopted a separately executed plan agreement effective January 1, 2013, was restated in its entirety by Resolution No. 2020-8 which adopted a separately executed plan agreement effective November 1, 2020.

Criteria: In Wynne v. Lower Merion Township, 181 Pa. Superior Ct., 524, the Pennsylvania Superior Court held that an ordinance may be amended only by another ordinance and not by a resolution.

Cause: Municipal officials were not aware that a resolution cannot amend an ordinance.

Effect: The failure to properly adopt the restated plan document could result in inconsistent or improper benefit calculations and incorrect benefit payments from the pension plan.

Recommendation: We recommend that the borough amend the plan's governing document with a properly executed ordinance.

Management's Response: Municipal officials agreed with the finding without exception and indicated that the Borough would pass a new ordinance to replace the resolutions passed in 2020.

Auditor's Conclusion: Based on the management response, it appears that municipal officials intend to comply with the finding recommendation. Compliance will be evaluated during our next audit of the plan.

BALLY BOROUGH NON-UNIFORMED 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, 2017, is as follows:

|                                | (1)                                    | (2)  | (3)  | (4)                        |
|--------------------------------|--|--|--|----------------------------|
| Actuarial<br>Valuation<br>Date | Actuarial<br>Value of<br>Assets<br>(a) | Actuarial<br>Accrued<br>Liability<br>(AAL) -<br>Entry Age<br>(b) | Unfunded<br>(Assets in<br>Excess of)<br>Actuarial<br>Accrued<br>Liability<br>(b) - (a) | Funded<br>Ratio<br>(a)/(b) |
| 01-01-17                       | \$ 838,516                             | \$ 635,665   | \$ (202,851)   | 131.9%                     |
| 01-01-19                       | 889,845                                | 579,289  | (310,556)  | 153.6%                     |
| 01-01-21                       | 928,604                                | 689,121  | (239,483)  | 134.8%                     |

BALLY BOROUGH NON-UNIFORMED 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.

BALLY BOROUGH NON-UNIFORMED PENSION PLAN  
 SUPPLEMENTARY INFORMATION  
 (UNAUDITED)

SCHEDULE OF CONTRIBUTIONS

| Year Ended<br>December 31 | Actuarially<br>Determined<br>Contribution | Actual<br>Contributions | Contribution<br>Deficiency<br>(Excess) | Covered-<br>Employee<br>Payroll* | Contributions<br>as a<br>Percentage of<br>Covered-<br>Employee<br>Payroll* |
|---------------------------|---|-------------------------|--|----------------------------------|--|
| 2014                      | \$ 10,693                                 | \$ 14,512               | \$ (3,819)                             | \$ 242,422                       | 5.99%  |
| 2015                      | 14,842                                    | 15,336                  | (494)                                  | 208,116                          | 7.37%  |
| 2016                      | 8,797                                     | 11,669                  | (2,872)                                | 222,576                          | 5.24%  |
| 2017                      | 11,491                                    | 12,111                  | (620)                                  | 232,303                          | 5.21%  |
| 2018                      | 14,101                                    | 14,161                  | (60)                                   | 177,854                          | 7.96%  |
| 2019                      | -   | 480                     | (480)                                  | 190,988                          | 0.25%  |
| 2020                      | -   | 40                      | (40)                                   | 205,363                          | 0.02%  |
| 2021                      | -   | 403                     | (403)                                  |                                  |  |

\* Due to the timing of this audit, covered-employee payroll for 2021 was not provided in this schedule.

BALLY BOROUGH NON-UNIFORMED PENSION PLAN  
 SUPPLEMENTARY INFORMATION  
 NOTES TO SUPPLEMENTARY SCHEDULES  
 (UNAUDITED)

The information presented in the 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, 2021   |
| Actuarial cost method         | Entry age normal  |
| Amortization method           | Not applicable  |
| Remaining amortization period | None  |
| Asset valuation method        | Not available   |
| Actuarial assumptions:        |   |
| Investment rate of return *   | 5.25%, compounded annually, net of investment and administration expenses |
| Projected salary increases *  | 4.1%  |
| * Includes inflation at       | 2.2%  |
| Cost-of-living adjustments    | 2.2% per year, subject to plan limitations                                |

*The information reported above was extracted from the Pennsylvania Municipal Retirement System Experience Study Results Report dated September 2020 which is the basis for the 01-01-2021 actuarial valuation. The report did not specify the actuarial or market value methodologies often contained in the Notes to Supplementary Schedules and will be added going forward when readily available.*

BALLY BOROUGH NON-UNIFORMED PENSION PLAN  
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

**The Honorable Joshua D. Shapiro**

Governor  
Commonwealth of Pennsylvania

**The Honorable David Schott**

Mayor

**Mr. Glenn Mutter**

Council President

**Mr. Michael Moll**

Council Vice-President

**Mr. Michael Bauman**

Council Member

**Mr. Joshua Sloan**

Council Member

**Mr. Paul Gehringer**

Council Member

**Mr. Matthew Gehman**

Council Member

**Mr. Joel Pilgert**

Council Member

**Ms. Wendy Mutter**

Borough Manager

**Mr. Richard Cardamone, CPA, CGMA**  
Pennsylvania Municipal Retirement System

This report is a matter of public record and is available online at [www.PaAuditor.gov](http://www.PaAuditor.gov). Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 229 Finance Building, Harrisburg, PA 17120; via email to: [news@PaAuditor.gov](mailto:news@PaAuditor.gov).