

COMPLIANCE AUDIT

Bally Borough Police 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



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**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 Police 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 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. 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 retirement benefits calculated for the plan member who retired and the plan member who elected to vest during the current audit period represent payments to all (and only) those entitled to receive them and were properly determined and disbursed in accordance with the plan's governing document, applicable laws, and regulations by recalculating the amount of the monthly pension benefits due to the retired individual and comparing these amounts to supporting documentation evidencing amounts determined and actually paid or payable to the recipient.
- 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 Police 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 Police 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 objective.

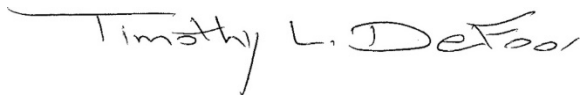
The results of our procedures indicated that, in all significant respects, the Bally Borough Police Pension Plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies except as noted in the following findings further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

Finding No. 1 – 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.

A handwritten signature in black ink that reads "Timothy L. DeFoor". The signature is written in a cursive style with a long horizontal line extending from the start of the name.

Timothy L. DeFoor
Auditor General
March 9, 2023

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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.

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 Police 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 Police Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Resolution No. 2020-9 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. 286A and an agreement effective January 1, 2013, adopted pursuant to Act 15. The plan is also affected by the provisions of collective bargaining agreements between the borough and its police officers. The plan was established January 1, 1977. 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 two active members, one terminated member eligible for vested benefits in the future, and two retirees receiving pension benefits.

BALLY BOROUGH POLICE 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 POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – Ordinance Improperly Amended By Resolution

Condition: The pension plan governing document, Ordinance No. 286A which adopted a separately executed plan agreement effective January 1, 2013, was restated in its entirety by Resolution No. 2020-9 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 will 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 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, 2017, is as follows:

	(1)	(2)	(3)	(4)
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)
01-01-17	\$ 439,611	\$ 390,373	\$ (49,238)	112.6%
01-01-19	659,109	541,581	(117,528)	121.7%
01-01-21	676,595	570,934	(105,661)	118.5%

BALLY 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.

BALLY BOROUGH POLICE PENSION PLAN
 SUPPLEMENTARY INFORMATION
 (UNAUDITED)

SCHEDULE OF CONTRIBUTIONS

Year Ended December 31	Actuarially Determined Contribution	Actual Contributions	Contribution Deficiency (Excess)	Covered- Employee Payroll*	Contributions as a Percentage of Covered- Employee Payroll*
2014	\$ 4,395	\$ 8,346	\$ (3,951)	\$ 110,046	7.58%
2015	9,228	9,518	(290)	107,427	8.86%
2016	9,887	9,887	-	111,300	8.88%
2017	14,043	14,613	(570)	88,207	16.57%
2018	13,069	13,089	(20)	100,190	13.06%
2019	8,506	8,506	-	114,350	7.44%
2020	10,865	10,865	-	121,574	8.94%
2021	5,249	5,250	(1)		

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

BALLY BOROUGH POLICE 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 POLICE 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

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Ms. Wendy Mutter

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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. 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.