

COMPLIANCE AUDIT

Brookhaven Borough Police Pension Plan Delaware County, Pennsylvania For the Period January 1, 2015 to December 31, 2018

August 2019



Commonwealth of Pennsylvania
Department of the Auditor General

Eugene A. DePasquale • Auditor General



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EUGENE A. DePASQUALE
AUDITOR GENERAL

The Honorable Mayor and Borough Council
Brookhaven Borough
Delaware County
Brookhaven, PA 19015

We have conducted a compliance audit of the Brookhaven Borough Police Pension Plan for the period January 1, 2015 to December 31, 2018. We also evaluated compliance with some requirements subsequent to that period when possible. 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 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. To determine if municipal officials took appropriate corrective action to address the finding contained in our prior audit 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 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 whether retirement benefits calculated for the two plan members who retired 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 benefit due to retired individuals and comparing these amounts to supporting documentation evidencing amounts determined and actually paid to recipients.
- We determined whether the January 1, 2015 and January 1, 2017 actuarial valuation reports were prepared and submitted by March 31, 2016 and 2018, 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.

Borough officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Brookhaven 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 and as previously described, 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 procedures indicated that, in all significant respects, the Brookhaven 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 – Provision For A Killed In Service Benefit Inconsistent Among
Plan Documents

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 Brookhaven 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.

August 6, 2019



EUGENE A. DEPASQUALE
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.

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 Brookhaven Borough Police Pension Plan is also governed by implementing regulations adopted by the former 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. § 767 et seq.

The Brookhaven Borough Police Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Ordinance No. 589, 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 plan was established July 15, 1965. Active members are required to contribute 5 percent to the plan. As of December 31, 2018, the plan had 7 active members, a terminated member eligible for vested benefits in the future, and 12 retirees receiving pension benefits from the plan.

BACKGROUND – (Continued)

As of December 31, 2018, selected plan benefit provisions are as follows:

Eligibility Requirements:

Normal Retirement	Age 50 and 25 years of service.
Early Retirement	None
Vesting	100% vesting available after 12 years of service.

Retirement Benefit:

Benefit equals 50% of final 36 months average salary, plus a service increment of \$30 per month for each year of service in excess of 25 years, up to a maximum of \$100 per month.

Survivor Benefit:

Before Retirement Eligibility	Refund of member contributions plus interest.
After Retirement Eligibility	A monthly benefit equal to 50% of the pension the member was receiving or was entitled to receive on the day of the member's death.

Service Related Disability Benefit:

Benefit equals 70% of the member's salary at the time the disability was incurred, offset by Social Security disability benefits received for the same injury.

BROOKHAVEN BOROUGH POLICE PENSION PLAN
STATUS OF PRIOR FINDING

Status Of Prior Finding

· Unauthorized Provision For A Killed In Service Benefit

During the current audit period, on September 14, 2015, the borough enacted Ordinance No. 784, effectively eliminating the killed in service benefit from the police pension provisions of the borough code in accordance with Act 600 (amended by Act 51). However, since the police pension plan is also governed by a separately executed plan document, Ordinance No 589 of 1994, as amended, which established the revised and restated pension plan and trust for the police officers of the Borough of Brookhaven, we recommend plan officials also ensure consistency between the plan provisions contained in this separately executed plan document and the provisions in the newly amended and codified borough code to avoid any confusion over the administration of pension benefits in the future.

In addition, it also appears that the most recently executed collective bargaining agreement, covering the period January 1, 2017 to December 31, 2019, executed after the passage of Ordinance No. 784, contains a killed in service provision that is contrary to Act 600 and inconsistent with the newly enacted borough ordinance as further discussed in the finding and recommendation of this report.

BROOKHAVEN BOROUGH POLICE PENSION PLAN
FINDING AND RECOMMENDATION

Finding – Provision For A Killed In Service Benefit Inconsistent Among Plan Documents

Condition: Brookhaven Borough maintains a police pension plan governed by the provisions of Act 600, as amended. As disclosed in the Status of Prior Finding section of this report, during the current audit period, the borough enacted Ordinance No. 784 to comply with a prior audit recommendation, which effectively eliminated the killed in service benefit from the police pension provisions of the Brookhaven Borough Code. However, it appears that the current collective bargaining agreement (CBA) between the borough and its police officers, covering the period January 1, 2017 to December 31, 2019 and executed after the passage of Ordinance No. 784, provides for a killed in service benefit that is not authorized by Act 600 and is inconsistent with the provisions of the newly enacted borough ordinance.

Section 16 of the CBA covering January 1, 2017 through December 31, 2019, states, in part:

In the event that a police officer is killed in service, officer's spouse...shall, during spouse's lifetime or so long as spouse does not remarry in the case of a widow(er), or until reaching the age of eighteen (18) years in the case of a child or children, be entitled to receive a pension calculated at the rate of one hundred percent (100%) of the pension the member would have been receiving had the officer been retired at the time of officer's death [Emphasis added].

The aforementioned provision in the CBA more closely resembles a lifetime survivor's benefit which is also mandatorily required under Act 600. Act 600 was amended previously by Act 30 of 2002 to provide a lifetime benefit 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 at least 50 percent of the pension the member was receiving or would have been entitled to receive had he been retired at the time of death, and the remarriage clause was effectively eliminated. This survivor benefit provision is separate and distinct from the killed in service benefit provision that was repealed from Act 600 by Act 51 of 2009.

Criteria: Section 1(a) of Act 51 of 2009 states, in part:

In the event a law enforcement officer, ambulance service or rescue squad member, firefighter, certified hazardous material response team member or National Guard member dies as a result of the performance of his duties, such political subdivision, Commonwealth agency or, in the case of National Guard members, the Adjutant General, or, in the case of a member of a Commonwealth law enforcement agency, the authorized survivor or the agency head, within 90 days from the date of death, shall submit certification of such death to the Commonwealth.

BROOKHAVEN BOROUGH POLICE PENSION PLAN
FINDING AND RECOMMENDATION

Finding – (Continued)

In addition, Section 1(d) of Act 51 of 2009 states, in part:

... the Commonwealth shall, from moneys payable out of the General Fund, pay to the surviving spouse or, if there is no surviving spouse, to the minor children of the paid firefighter, ambulance service or rescue squad member or law enforcement officer who died as a result of the performance of his duty the sum of \$100,000, adjusted in accordance with subsection (f) of this section, and an amount equal to the monthly salary, adjusted in accordance with subsection (f) of this section, of the deceased paid firefighter, ambulance service or rescue squad member or law enforcement officer, less any workers' compensation or pension or retirement benefits paid to such survivors, and shall continue such monthly payments until there is no eligible beneficiary to receive them. For the purpose of this subsection, the term "eligible beneficiary" means the surviving spouse or the child or children under the age of eighteen years or, if attending college, under the age of twenty-three years, of the firefighter, ambulance service or rescue squad member or law enforcement officer who died as a result of the performance of his duty. When no spouse or minor children survive, a single sum of \$100,000, adjusted in accordance with subsection (f) of this section, shall be paid to the parent or parents of such firefighter, ambulance service member, rescue squad member or law enforcement officer. [Emphasis added]

Furthermore, Section 2 of Act 51 of 2009 states:

Repeals are as follows:

- (1) The General Assembly declares that the repeals under paragraph (2) are necessary to effectuate the amendment of section 1 of the act.
- (2) The following parts of acts are repealed:
 - (i) Section 5(e)(2) of the act of May 29, 1956 (1955 P.L.1804, No. 600), referred to as the Municipal Police Pension Law.
 - (ii) Section 202(b)(3)(vi) and (4)(vi) of the act of December 18, 1984 (P.L.1005, No. 205), known as the Municipal Pension Plan Funding Standard and Recovery Act.

Therefore, since Act 51 specifically repealed the killed in service provision of Act 600 and the funding provisions for the killed in service benefit that were contained in Act 205, the provision of a killed in service benefit is no longer authorized.

BROOKHAVEN BOROUGH POLICE PENSION PLAN
FINDING AND RECOMMENDATION

Finding – (Continued)

Cause: Although the borough adopted an ordinance to repeal the killed in service provision as previously recommended, plan officials failed to implement adequate internal control procedures to ensure that pension benefits prescribed among varying plan documents were consistent and in compliance with Act 600.

Effect: Since Section 1 of Act 51 provides that the Commonwealth is obligated to pay the killed in service benefit less any pension or retirement benefits paid to eligible survivors, the continued provision of a killed in service benefit in the CBA which conflicts with the provision in the borough ordinance could result in the improper administration of pension benefits and/or the pension plan being obligated to pay a benefit that is no longer authorized by Act 600, and would have been paid entirely by the Commonwealth absent such provision.

Recommendation: We recommend that the municipality review the killed in service benefit provision contained in the CBA with its solicitor in conjunction with Act 51 and the recently enacted borough ordinance, and eliminate this unauthorized benefit provision or modify such provision if it is determined that this provision, as described in the condition above, is supposed to represent a lifetime survivor's benefit to adhere to Act 600 at its earliest opportunity to do so.

Management's Response: Municipal officials indicated that the current CBA ends in 2019 and the borough will try and replace the current killed in service provision with the killed in service provision contained in Act 51 during the next collective bargaining.

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

BROOKHAVEN BOROUGH POLICE PENSION PLAN
SUPPLEMENTARY INFORMATION
(UNAUDITED)

The supplementary information contained on pages 7 through 10 reflects the implementation of GASB Statement No. 67, *Financial Reporting for Pension Plans*. The objective of this statement is to improve financial reporting by state and local governmental pension plans.

SCHEDULE OF CHANGES IN THE NET PENSION
LIABILITY AND RELATED RATIOS
FOR THE YEARS ENDED DECEMBER 31, 2014 AND 2015

	<u>2014</u>	<u>2015</u>
Total Pension Liability		
Service cost	\$ 72,676	\$ 105,251
Interest	458,140	469,821
Difference between expected and actual experience	-	(157,317)
Changes of assumptions	-	122,135
Benefit payments, including refunds of member contributions	(380,947)	(383,465)
Net Change in Total Pension Liability	<u>149,869</u>	<u>156,425</u>
Total Pension Liability – Beginning	5,844,551	5,994,420
Total Pension Liability – Ending (a)	<u>\$ 5,994,420</u>	<u>\$ 6,150,845</u>
Plan Fiduciary Net Position		
Contributions – employer	\$ 363,480	\$ 452,876
Contributions – state aid	58,008	67,430
Contributions – member	34,671	38,243
Net investment income	207,948	(65,386)
Benefit payments, including refunds of member contributions	(380,947)	(383,465)
Administrative expense	(5,780)	(9,820)
Net Change in Plan Fiduciary Net Position	<u>277,380</u>	<u>99,878</u>
Plan Fiduciary Net Position – Beginning	3,565,708	3,843,088
Plan Fiduciary Net Position – Ending (b)	<u>\$ 3,843,088</u>	<u>\$ 3,942,966</u>
Net Pension Liability – Ending (a-b)	<u>\$ 2,151,332</u>	<u>\$ 2,207,879</u>
Plan Fiduciary Net Position as a Percentage of the Total Pension Liability	64.1%	64.1%
Estimated Covered Employee Payroll	\$ 570,086	\$ 708,102
Net Pension Liability as a Percentage of Covered Employee Payroll	377.4%	311.8%

BROOKHAVEN BOROUGH POLICE PENSION PLAN
SUPPLEMENTARY INFORMATION
(UNAUDITED)

SCHEDULE OF CHANGES IN THE NET PENSION
LIABILITY AND RELATED RATIOS
FOR THE YEARS ENDED DECEMBER 31, 2016, 2017, AND 2018

	<u>2016</u>	<u>2017</u>	<u>2018</u>
Total Pension Liability			
Service cost	\$ 110,514	\$ 93,751	\$ 98,439
Interest	482,490	484,797	496,037
Change of benefit terms	-	(35,588)	-
Difference between expected and actual experience	-	(78,101)	-
Changes of assumptions	-	18,444	-
Benefit payments, including refunds of member contributions	(460,461)	(443,875)	(441,583)
Net Change in Total Pension Liability	<u>132,543</u>	<u>39,428</u>	<u>152,893</u>
Total Pension Liability – Beginning	6,150,845	6,283,388	6,322,816
Total Pension Liability – Ending (a)	<u>\$ 6,283,388</u>	<u>\$ 6,322,816</u>	<u>\$ 6,475,709</u>
Plan Fiduciary Net Position			
Contributions – employer	\$ 378,566	\$ 369,138	\$ 281,125
Contributions – state aid	93,041	90,495	100,870
Contributions – member	34,657	39,463	40,601
Net investment income	316,070	690,958	(320,747)
Benefit payments, including refunds of member contributions	(460,461)	(443,875)	(441,583)
Administrative expense	(7,320)	(8,300)	(5,000)
Net Change in Plan Fiduciary Net Position	<u>354,553</u>	<u>737,879</u>	<u>(344,734)</u>
Plan Fiduciary Net Position – Beginning	3,942,966	4,297,519	5,035,398
Plan Fiduciary Net Position – Ending (b)	<u>\$ 4,297,519</u>	<u>\$ 5,035,398</u>	<u>\$ 4,690,664</u>
Net Pension Liability – Ending (a-b)	<u>\$ 1,985,869</u>	<u>\$ 1,287,418</u>	<u>\$ 1,785,045</u>
Plan Fiduciary Net Position as a Percentage of the Total Pension Liability	68.4%	79.6%	72.4%
Estimated Covered Employee Payroll	\$ 747,792	\$ 630,162	\$ 721,154
Net Pension Liability as a Percentage of Covered Employee Payroll	265.6%	204.3%	247.5%

BROOKHAVEN BOROUGH POLICE PENSION PLAN
 SUPPLEMENTARY INFORMATION
 (UNAUDITED)

Sensitivity of the Net Pension Liability to Changes in the Discount Rate

The following presents the net pension liability of the borough as of December 31, 2015, 2016, 2017 and 2018, calculated using the discount rate of 8.0%, as well as what the borough's net pension liability would be if it were calculated using a discount rate that is 1 percentage-point lower or 1 percentage-point higher than the current rate:

	<u>1% Decrease (7.0%)</u>	<u>Current Discount Rate (8.0%)</u>	<u>1% Increase (9.0%)</u>
Net Pension Liability – 12/31/15	\$ 2,788,155	\$ 2,207,879	\$ 1,677,945
Net Pension Liability – 12/31/16	2,523,399	1,985,869	1,447,449
Net Pension Liability – 12/31/17	1,928,353	1,287,418	744,752
Net Pension Liability – 12/31/18	2,432,198	1,785,045	1,236,771

SCHEDULE OF CONTRIBUTIONS

<u>Year Ended December 31</u>	<u>Actuarially Determined Contribution</u>	<u>Actual Contributions</u>	<u>Contribution Deficiency (Excess)</u>	<u>Covered- Employee Payroll</u>	<u>Contributions as a Percentage of Covered- Employee Payroll</u>
2014	\$ 421,488	\$ 421,488	\$ -	\$ 570,086	73.93%
2015	520,306	520,306	-	708,102	73.48%
2016	471,607	471,607	-	747,792	63.07%
2017	459,633	459,633	-	630,162	72.94%
2018	381,995	381,995	-	721,154	52.97%

BROOKHAVEN BOROUGH POLICE PENSION PLAN
SUPPLEMENTARY INFORMATION
(UNAUDITED)

SCHEDULE OF INVESTMENT RETURNS

Annual Money-Weighted Rate of Return, Net of Investment Expense:

2018	(6.59%)
2017	16.74%
2016	8.17%
2015	(1.75%)
2014	6.04%

BROOKHAVEN 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, 2013, 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)
01-01-13	\$ 3,797,953	\$ 5,708,792	\$ 1,910,839	66.5%
01-01-15	4,448,025	5,959,238	1,511,213	74.6%
01-01-17	5,157,023	6,188,143	1,031,120	83.3%

Note: The market value of the plan's assets at 01-01-13 has been adjusted to reflect the smoothing of gains and/or losses at 130 percent of market value and the market values of the plan's assets at 01-01-15 and 01-01-17 have been adjusted to reflect the smoothing of gains and/or losses at 120 percent of market value. 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.

BROOKHAVEN 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.

BROOKHAVEN 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, 2017
Actuarial cost method	Entry age normal
Amortization method	Level dollar
Remaining amortization period	6 years
Asset valuation method	Plan assets are valued using the method described in Section 210 (a) of Act 44, as amended, subject to a ceiling of 120% of the market value of assets.
Actuarial assumptions:	
Investment rate of return	8.0%
Projected salary increases	5.0%
Cost-of-living adjustments	3.0% per year

BROOKHAVEN BOROUGH POLICE PENSION PLAN
REPORT DISTRIBUTION LIST

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