

COMPLIANCE AUDIT

Dunmore Borough Firemen's Pension Plan Lackawanna County, Pennsylvania For the Period January 1, 2019 to December 31, 2022

November 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
Dunmore Borough
Lackawanna County
Dunmore, PA 18512

We have conducted a compliance audit of the Dunmore Borough Firemen's Pension Plan for the period January 1, 2019 to December 31, 2022. 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 finding and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our finding 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 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 plan members who retired during the current audit period, and through the completion of our fieldwork procedures, 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, 2019, and January 1, 2021, actuarial valuation reports were prepared and submitted by March 31, 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.
- We determined whether the terms and methodologies of the issuance of pension obligation bonds by the municipality, and any restrictions, were in compliance with plan provisions and Act 205 through inquiry of plan officials and examination of supporting documentation.

Dunmore Borough contracted with an independent certified public accounting firm for annual audits of its basic financial statements, for the years ended December 31 2019, 2020, and 2021, 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 Dunmore Borough Firemen's 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

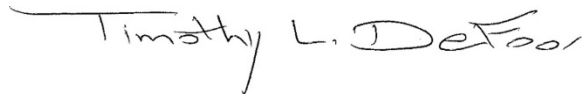
selected officials and performed procedures to the extent necessary to provide reasonable assurance of detecting instances of noncompliance with legal and regulatory requirements or noncompliance with provisions of contracts, administrative procedures, and local ordinances and policies that are significant within the context of the audit objective.

The results of our procedures indicated that, in all significant respects, the Dunmore Borough Firemen's 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 – Pension Benefit Not Authorized By The Plan's Governing Document

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 Dunmore 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 to the left of the first name.

Timothy L. DeFoor
Auditor General
October 25, 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 two 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 Dunmore Borough Firemen's 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.

The Dunmore Borough Firemen's Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of File of the Council No. 7 of 1995, as amended. The plan is also affected by the provisions of collective bargaining agreements between the borough and its firefighters. The plan was established January 1, 1955. Active members are required to contribute three percent of compensation to the plan. As of December 31, 2022, the plan had 15 active members, 1 terminated member eligible for vested benefits in the future, and 19 retirees receiving pension benefits.

DUNMORE BOROUGH FIREMEN'S PENSION PLAN
STATUS OF PRIOR AUDIT RECOMMENDATION

Status Of Prior Audit Recommendation

· Improper Cost Of Living Adjustments

As disclosed in the five most recent audit reports of the pension plan, the borough granted retroactive cost-of-living adjustments (COLAs) to four retirees and a surviving spouse of a retiree (*for the years 2004 through 2009*) who were not eligible to receive such COLAs according to the plan document since these individuals retired prior to January 1, 1998. The plan's governing document only authorized COLAs for members who retired on or after January 1, 1998. During the current audit period, three of the retirees passed away with no surviving beneficiaries; however, the pension plan continues to pay \$295 per month in excess benefits to the two remaining recipients as of December 31, 2022.

It was previously disclosed that the borough would continue to pay the excess COLA benefits in the future. Given the borough's position on this matter, it was also previously determined that the Department would continue to monitor the impact of the excess COLAs on the borough's future state aid allocations during subsequent audits of the plan.

During the current audit period, the borough received state aid based on unit value and therefore did not receive any state aid attributable to the excess benefits provided. The Department will continue to monitor the effect of the improper COLAs on the borough's future allocations of state aid allocations during subsequent audits of the plan.

DUNMORE BOROUGH FIREMEN'S PENSION PLAN
FINDING AND RECOMMENDATION

Finding – Pension Benefit Not Authorized By The Plan's Governing Document

Condition: Municipal officials provided pension benefits in excess of those authorized by the pension plan's governing document. A member made an election to vest on June 30, 2023, with 23.58 years of credit service and was eligible to begin receiving a vested pension benefit at their normal retirement date (*November 2024 for this individual*) according to the plan document. However, payment commenced July 1, 2023, prior to the normal retirement date, which is contrary to the plan document.

Criteria: Section 4A of File of Council No. 7 of 1995 (*as amended by Ordinance No. 2 of 2001*), states:

The normal retirement date shall be the attainment of the members fifty-third (53rd) birthday **and** the completion of 25 years of credited service. His normal retirement benefit shall commence on the first day of the month following his normal retirement date. [Emphasis added.]

File of Council No. 7 of 1995, Sections 5A and 5C state, in part:

The Accrued Benefit for each member as of any applicable date shall be equal to the benefit determined in accordance with Section 4.1.B using the Average Monthly Compensation to the date of determination times the factor determined by dividing the actual Credited Service to the date of determination by the total expected credited service upon attainment of the member's normal retirement date.

The Vested Benefit, if any, for each Member will be calculated by multiplying the accrued benefit by the following applicable percentage: Years of Credited Service at Date of Determination: Twelve (12) or more - 100%.

Cause: Municipal officials were aware that this individual was short of a full retirement benefit but it was their understanding that the individual was entitled to the accrued pension benefit earned to this point in the individual's employment. As such, the borough reduced the benefit to reflect the years of service earned to the normal retirement years of service and therefore, began paying the benefit effective July 1, 2023.

Effect: The plan is paying pension benefits to a retiree in excess of those authorized by the plan's governing document. As of the date of this report, the retiree is receiving excess benefits of \$3,315 per month, which totaled approximately \$13,260 from initial payment through the date of this report and will result in overall excess payments of more than \$50,000 through the normal retirement date (November 2024).

DUNMORE BOROUGH FIREMEN'S PENSION PLAN
FINDING AND RECOMMENDATION

Finding – (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 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.

Recommendation: We recommend that the pension benefit of any retiree whose benefit was not determined in accordance with the provisions of the plan's governing document be adjusted prospectively. In addition, any excess benefit payments made from the plan will be deemed ineligible for funding with state aid. Accordingly, the pension plan's actuary may be required to determine the impact, if any, of the excess benefit payments on the borough's future state aid allocations and submit this information to the Department. If it is determined the excess benefit payments had an impact on the borough's future state aid allocations after the submission of this information, the plan's actuary would then be required to contact the Department to verify the overpayment of state aid received. Plan officials would then be required to reimburse the overpayment to the Commonwealth.

We further recommend that future pension benefits be calculated and paid in accordance with the applicable provisions contained in the plan's governing document in effect at the time of a plan member's retirement.

Management's Response: The municipality provided the following response.

It is the Borough's position that the individual (*name omitted*) was/is entitled to begin receiving his reduced vested benefit at the time of his retirement. Unlike Act 600, the Borough Firefighter ordinance does not limit payment of a vested benefit until the "superannuation retirement date" but rather allows for payment at a normal retirement date, which is after 53 at the pro rata benefit earned to the point of retirement. It is our understanding that the member is over 60 years old and has approximately 24 years of service as a Dunmore firefighter. For this reason, the member has a vested pension benefit and is entitled the accrued pension benefit that he has earned to this point in his employment. The Dunmore Ordinance applicable to the Dunmore Fire Department includes File of Council No. 7 of 1995. That Ordinance provides the following with respect to a vested benefit (*refer to Section 5C cited above*). As this individual has worked as a Dunmore Firefighter for more than 12 years, he has a 100% vested interest in the pension benefits he has earned while employed. In this case that pension benefit will be a fraction of the normal retirement calculated as follows: Total years of service – 25 years.

DUNMORE BOROUGH FIREMEN'S PENSION PLAN
FINDING AND RECOMMENDATION

Finding – (Continued)

Further, member contributions are required under the Ordinance only for active members who are currently receiving compensation from the Borough. As such, there is no requirement under the Ordinance for the individual (*name omitted*) to continue making contributions through 25 years.

Auditor's Conclusion: The department does not take exception to the borough's position that the individual is entitled to a vested pension benefit, merely, that according to Section 4A of the plan's governing document, the benefit shall commence on the first day of the month following his normal retirement date which as defined in the governing document above, is the attainment of the member's fifty-third birthday **and** completion of 25 years of credited service [Emphasis added]. Based on the criteria cited above, the finding remains as stated. Compliance will be evaluated during our next audit of the plan.

DUNMORE BOROUGH FIREMEN'S 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	\$ 5,703,509	\$ 6,454,221	\$ 750,712	88.4%
01-01-19	6,199,781	6,666,376	466,595	93.0%
01-01-21	6,682,949	7,341,401	658,452	91.0%

Note: The market value of the plan's assets at 01-01-17, 01-01-19, and 01-01-21 have been adjusted to reflect the smoothing of gains and/or losses over a five-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.

DUNMORE BOROUGH FIREMEN'S 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.

DUNMORE BOROUGH FIREMEN'S PENSION PLAN
SUPPLEMENTARY INFORMATION
(UNAUDITED)

SCHEDULE OF CONTRIBUTIONS FROM EMPLOYER
AND OTHER CONTRIBUTING ENTITIES

Year Ended December 31	Annual Required Contribution	Percentage Contributed
2017	\$ 342,109	100.0%
2018	318,312	100.0%
2019	307,277	100.0%
2020	317,083	100.0%
2021	293,052	100.0%
2022	299,400	100.0%

DUNMORE BOROUGH FIREMEN'S 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	Level dollar
Remaining amortization period	7 years
Asset valuation method	Fair value, 5-year smoothing
Actuarial assumptions:	
Investment rate of return	7.75%
Projected salary increases	5.75%

DUNMORE BOROUGH FIREMEN'S PENSION PLAN
COMMENTS

Debt Service Obligations

As previously disclosed, the borough issued General Obligation Pension Funding Bonds - Series of 2004 in the amount of \$4,115,000 in 2004 for the purpose of providing money to fund a portion of the borough's unfunded actuarial accrued pension liability for its pension plans and for the cost of issuance. The borough made payments toward the debt service (principal and interest) on these bonds with the final payment of \$407,947 made in 2019.

In addition, during the year ended December 31, 2013, the borough obtained a General Obligation Note – Series A of 2013 in the amount of \$5,000,000 for the purpose of making contributions to its pension plans. A portion of the proceeds from the note in the amount of \$1,757,373 was deposited into the firemen's pension plan to fund the past due 2012 minimum municipal obligation (MMO) payment and to fully pay the 2013 MMO due to the plan. The borough made monthly payments of \$35,724 towards the principal and interest totaling \$428,683, \$432,255 and \$2,719,836 in 2019, 2020 and 2021, respectively. The monthly payments for this note were due through February 2, 2028, however, the borough made the final lump sum payment on March 1, 2021, in the amount of \$2,648,389.

Finally, during the year ended December 31, 2016, the Borough obtained a General Obligation Note – Series A of 2016 in the amount of \$5,000,000 for the purpose of making contributions to its pension plans. A portion of the proceeds from the note in the amount of \$1,862,728 was deposited into the firemen' pension plan to fund the outstanding 2014 and 2015 MMOs due to the plan, and to fully pay the 2016 MMO balance due to the plan. The borough made monthly payments of \$36,012 towards the outstanding principal and interest totaling \$432,144, \$432,144 and \$4,001,561 in 2019, 2020 and 2021, respectively. The monthly payments for this note were due through December 16, 2031, however, the borough made the final lump sum payment on November 5, 2021, in the amount of \$3,641,441.

The following schedule summarizes the total amounts paid by the borough towards its debt service obligations for the benefit of its pension plans during the prior and current audit periods:

Years Paid	Series of 2004 Payments	Series of 2013 Payments	Series of 2016 Payments	Total
2017	\$ 384,160	\$ 466,194	\$ 432,144	\$ 1,282,498
2018	398,485	398,318	432,144	1,228,947
2019	407,947	428,683	432,144	1,268,774
2020	-	432,255	432,144	864,399
2021	-	2,719,836	4,001,561	6,721,397
Totals	<u>\$1,190,592</u>	<u>\$4,445,286</u>	<u>\$5,730,137</u>	<u>\$11,366,015</u>

DUNMORE BOROUGH FIREMEN'S PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Joshua D. Shapiro
Governor
Commonwealth of Pennsylvania

The Honorable Mark "Max" Conway Jr.
Mayor

Mr. Vincent J. Amico
Council President

Mr. Greg Wolff
Borough Manager

Ms. Jean Hill
Payroll Clerk

Mr. Mark Burton
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