

COMPLIANCE AUDIT

Emlenton Borough Non-Uniformed Pension Plan Venango County, Pennsylvania

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
Emlenton Borough
Venango County
Emlenton, PA 16373

We have conducted a compliance audit of the Emlenton Borough Non-Uniformed Pension Plan 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 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 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 findings 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:

- For the period January 1, 2018 to December 31, 2022, and through the completion of our fieldwork procedures, 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 the period January 1, 2018 to December 31, 2022, 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.
- For the period January 1, 2021 to December 31, 2022, 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 the years in the period noted and examining documents evidencing the deposit of these employee contributions into the pension plan. We also tested individual employee contributions for all three active employees employed during the period noted amounting to \$1,463 and \$1,474 for the years 2021 and 2022, respectively.
- For the period January 1, 2021 to December 31, 2022, we determined whether retirement benefits calculated for the plan member who separated employment and received a lump-sum distribution and the two plan members who elected to vest during the 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 individuals and comparing these amounts to supporting documentation evidencing amounts determined and payable to the 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, 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 Emlenton 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.

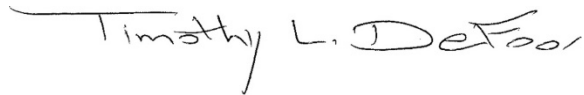
Borough officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Emlenton Borough Non-Uniformed Pension Plan is administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances 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 Emlenton 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 finding further discussed later in this report:

Finding – Partial Compliance With Prior Recommendation – Receipt Of State
Aid In Excess Of Entitlement

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 Emlenton 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
November 8, 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 Emlenton 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 Emlenton Borough Non-Uniformed Pension Plan is a single-employer cash balance pension plan locally controlled by the provisions of Ordinance No. 444 and a separately executed plan agreement with the plan custodian, effective September 1, 2020, adopted pursuant to Act 15. Prior to September 1, 2020, the pension plan was locally controlled by the provisions of Ordinance No. 291 and an agreement with the plan custodian also adopted pursuant to Act 15. The plan was established September 1, 1985. Active members are required to contribute three (3.0) percent of compensation to the plan. The municipality is required to contribute seven (7.0) percent of compensation. As of December 31, 2022, the plan had one active member and two terminated members eligible for vested benefits in the future.

EMLENTON BOROUGH NON-UNIFORMED PENSION PLAN
STATUS OF PRIOR FINDINGS

Compliance With Prior Recommendation

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

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

In September 2019, the borough reimbursed \$386 to the Commonwealth for the overpayment of state aid received in the year 2017.

Partial Compliance With Prior Recommendation

Emlenton Borough has partially complied with the prior recommendation concerning the following:

- Receipt Of State Aid In Excess Of Entitlement

In September 2019, the borough reimbursed \$12,591 to the Commonwealth for the excess state aid received in the years 2015 and 2016; however, plan officials again failed to reconcile the borough's state aid allocation with the plan's annual pension costs for the years 2018 and 2021 and reimburse any excess state aid received to the Commonwealth as further discussed in the Finding and Recommendation section of this report.

EMLENTON BOROUGH NON-UNIFORMED PENSION PLAN
FINDING AND RECOMMENDATION

Finding – Partial Compliance With Prior Recommendation – Receipt Of State Aid In Excess Of Entitlement

Condition: As disclosed in the Status of Prior Findings section of this report, the borough partially complied with the prior recommendation by reimbursing the excess state aid received in 2015 and 2016 to the Commonwealth, however, plan officials again failed to reconcile the borough’s state aid allocation with the plan’s annual pension costs for the years 2018 and 2021 and failed to reimburse the excess state aid received to the Commonwealth, as illustrated below:

	<u>2018</u>	<u>2021</u>	
State aid allocation	\$ 4,586	\$ 4,838	
Actual municipal pension costs	<u>(4,396)</u>	<u>(3,495)</u>	
Excess state aid	<u>\$ 190</u>	<u>\$ 1,343</u>	

In addition, as of the date of our audit fieldwork completion, the excess state aid remains in the borough’s general fund and has not been deposited into the pension plan.

Criteria: Section 402(f)(2) of Act 205 states:

No municipality shall be entitled to receive an allocation of general municipal pension system State aid in an amount which exceeds the aggregate actual financial requirements of any municipal pension plans for police officers, paid firefighters or employees other than police officers or paid firefighters maintained by the municipality, less the amount of any aggregate annual member or employee contributions during the next succeeding plan year, as reported in the most recent complete actuarial report filed with the commission.

Cause: The borough again failed to establish adequate internal control procedures to reconcile the borough’s annual state aid allocation with the plan’s actual pension costs and ensure compliance with the prior recommendation.

Effect: It is this department’s opinion that because the entire proceeds of the insurance premium tax on foreign casualty insurance companies are distributed annually to each eligible recipient municipality, it is inappropriate to use state aid in one year to offset pension costs in other years. Consequently, the overpayment of state aid in the years 2018 and 2021 must be returned to the Commonwealth for redistribution.

EMLENTON BOROUGH NON-UNIFORMED PENSION PLAN
FINDING AND RECOMMENDATION

Finding – (Continued)

Furthermore, the borough's future state aid allocations may be withheld until the finding recommendation is complied with.

Recommendation: We recommend that the municipality return the \$1,533 of excess state aid received in the years 2018 and 2021 to the Commonwealth. A check in this amount, with interest compounded annually from date of receipt to date of repayment, at a rate earned by the plan, should be made payable to: Commonwealth of Pennsylvania and mailed to: Department of the Auditor General, Municipal Pension & Fire Relief Programs Unit, 321 Finance Building, Harrisburg, PA 17120. A copy of the interest calculation must be submitted along with evidence of payment.

In addition, we again recommend that, in the future, plan officials reconcile the borough's annual state aid allocation with the plan's annual pension costs and reimburse any excess state aid received to the Commonwealth.

Management's Response: Municipal officials agreed with the finding without exception.

Auditor's Conclusion: Due to the potential withhold of state aid, the borough's compliance with the finding recommendation will be monitored subsequent to the release of the audit report and through our next audit of the plan.

EMLENTON BOROUGH NON-UNIFORMED PENSION PLAN
POTENTIAL WITHHOLD OF STATE AID

The finding contained in this audit report cites an overpayment of state aid to the borough in the amount of \$1,533, plus interest. A condition of this nature may lead to a total withholding of state aid in the future unless that finding is corrected. A check in this amount with interest, at a rate earned by the pension plan, should be made payable to: Commonwealth of Pennsylvania, and mailed to: Department of the Auditor General, Municipal Pension & Fire Relief Programs Unit, 321 Finance Building, Harrisburg, PA 17120.

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

SCHEDULE OF CONTRIBUTIONS

Year Ended December 31	Statutorily Required Contribution (SRC)*	Contributions in Relation to the SRC*	Contribution Deficiency (Excess)**	Covered- Employee Payroll***	Contributions as a Percentage of Covered- Employee Payroll
2014	\$ 6,256	\$ 80	\$ 6,176	\$ 88,231	0.09%
2015	6,488	-	6,488	91,554	0.00%
2016	5,235	100	5,135	73,640	0.14%
2017	4,686	100	4,586	65,520	0.15%
2018	4,316	4,030	286	60,510	6.66%
2019	4,890	4,890	-	68,710	7.12%
2020	4,918	4,918	-	69,120	7.12%
2021	3,515	3,515	-	48,780	7.21%
2022	3,500	3,518	(18)	-	

* The Statutorily Required Contribution (SRC) is a contribution amount based upon the payroll and the contribution rate as outlined under the terms of the cash balance pension plan.

** The SRC and the actual Contribution were provided by PMRS. Deviation between these amounts may be due to contributions to or transfers from the municipal reserve account.

*** Due to the timing of this audit, covered-employee payroll for 2022 was not provided in this schedule.

EMLENTON 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 Judy Lentz
Mayor

Mr. Barry Louise
Council President

Ms. Kristi Stemmerich
Secretary

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.