

# COMPLIANCE AUDIT

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## West Pittston Borough Police Pension Plan Luzerne County, Pennsylvania For the Period January 1, 2016 to December 31, 2018

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January 2020



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  
West Pittston Borough  
Luzerne County  
West Pittston, PA 18643

We have conducted a compliance audit of the West Pittston Borough Police Pension Plan for the period January 1, 2016 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 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 both 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 benefits due to the retired individuals and comparing these amounts to supporting documentation evidencing amounts determined and actually paid to the 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.
- We determined whether the terms of the plan's unallocated insurance contract, including ownership and any restrictions, were in compliance with plan provisions, investment policies, and state regulations by comparing the terms of the contract with the plan's provisions, investment policies, and state regulations.

West Pittston Borough contracted with an independent certified public accounting firm for annual audits of its financial statements prepared in conformity with the accounting practices prescribed or permitted by the Department of Community and Economic Development of the Commonwealth of Pennsylvania, 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 West Pittston 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 objective, 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 objective.

The results of our procedures indicated that, in all significant respects, the West Pittston 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 – Inconsistent Pension Benefits

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 West Pittston 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.

December 24, 2019



EUGENE A. DEPASQUALE  
Auditor General

# CONTENTS

	<u>Page</u>
Background.....	1
Finding and Recommendation:	
Finding – Inconsistent Pension Benefits .....	3
Supplementary Information .....	8
Report Distribution List .....	12

## 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 West Pittston 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 West Pittston Borough Police Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Ordinance No. 442 of December, 1 1985, 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 February 15, 1959. Active members are not required to contribute to the plan. Active members are required to contribute 5.0 percent of compensation to the plan. As of December 31, 2018, the plan had 3 active members, no terminated members eligible for vested benefits in the future, and 6 retirees receiving pension benefits.

## **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:

A monthly benefit equal to 50% of final 36 months average salary, plus a service increment of \$100 per month for each year of service in excess of 25 years.

### 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:

A monthly benefit equal to 50% of the member's salary at the time that the disability was incurred.

WEST PITTSTON BOROUGH POLICE PENSION PLAN  
FINDING AND RECOMMENDATION

**Finding – Inconsistent Pension Benefits**

Condition: The pension plan’s governing document, Ordinance No. 442, as amended, contains benefit provisions that conflict with the collective bargaining agreement between the police officers and the borough and/or are not authorized by Act 600, as follows:

Benefit Provision	Governing Document	Collective Bargaining Agreement	Act 600
Survivor’s benefit	In event of death of the member who was receiving a pension benefit or disability benefit, the widow shall during her lifetime or receive a pension benefit equal to 50% of the pension the member was receiving at the time of death. If no widow survives, the child or children under the age of 18 years of age, or if attending college, under or attaining the age of 23. Attending college” shall mean the eligible children are registered at an accredited institution of higher learning and are carrying a minimum course load of 7 credit hours per semester.	The surviving spouse shall receive a monthly pension benefit in the amount of 50% of the pension benefit which the member was receiving when he died until remarriage or death. In the absence of a surviving spouse, any dependent child or children share equally in the above benefit until reaching the age of 18.	A lifetime survivor’s benefit must be provided 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 no less than 50% of the pension the member was receiving or would have been entitled to receive had he been retired at the time of death. (“Attending college” shall mean the eligible children are registered at an accredited institution of higher learning and are carrying a minimum course load of 7 credit hours per semester.)



WEST PITTSTON BOROUGH POLICE PENSION PLAN  
FINDING AND RECOMMENDATION

**Finding – (Continued)**

<u>Benefit Provision</u>	<u>Governing Document</u>	<u>Collective Bargaining Agreement</u>	<u>Act 600</u>
Killed in Service	The Commonwealth shall, from the moneys payable out of the General Fund, pay to the borough surviving spouse, or if no surviving spouse, to the minor children of the law enforcement officer who died in the line of service the sum of \$100,000 adjusted in accordance with subsection (f).	The surviving spouse shall receive a monthly pension benefit in the amount of 50% of the member's final average salary over the last 36 months of employment.	Section 1 (d) of Act 51 of 2009 which amends Act 600 states that the Commonwealth shall from the 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 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.

WEST PITTSTON BOROUGH POLICE PENSION PLAN  
FINDING AND RECOMMENDATION

**Finding – (Continued)**

<u>Benefit Provision</u>	<u>Governing Document</u>	<u>Collective Bargaining Agreement</u>	<u>Act 600</u>
Refund of members contributions	Each participant shall be entitled in the event of termination or discontinuance of his employment for reasons other than retirement or death to have returned to him the total amount of all such monies paid by him into the pension fund, with interest at the rate of 6%.	No refund shall be made unless an actuarial study shown that it can be accomplished without detrimental impact upon the plan.	Refunds of members' contributions must be providing for the refund of member's contributions, plus investment income, 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 a member who dies before he has vested.

WEST PITTSTON BOROUGH POLICE PENSION PLAN  
FINDING AND RECOMMENDATION

**Finding – (Continued)**

<u>Benefit Provision</u>	<u>Governing Document</u>	<u>Collective Bargaining Agreement</u>	<u>Act 600</u>
Service-related disability benefit	Service connected disability benefits shall be at least 50% of the members salary at the time of disability was incurred, except that such monthly service-connected disability payment shall be offset by social security disability benefits received by the member.	Monthly and total and permanently disabled pension payments shall be 75% of the average monthly salary during the 36 months of employment next preceding the date of disability. Disability benefits shall commence at the time the member becomes totally and permanently disabled and shall continue so long as said member continues to be totally and permanently disabled until the member is eligible for regular benefits, as set forth as 50% of the monthly average W-2 earnings during the last 36 months of employment.	The benefit must be in conformity with a uniform scale and fixed by the plan’s governing document at no less than 50% of the member’s salary at the time the disability was incurred, reduced by the amount of Social Security disability benefits received for the same injury.

Criteria: A governing document which contains clearly defined and updated benefit provisions is a prerequisite for the consistent, sound administration of retirement benefits. In addition, the police pension plan’s benefit structure should be in compliance with Act 600, accordingly.

Cause: Plan officials failed to adopt adequate internal control procedures to ensure benefit provisions among varying plan documents were consistent and in accordance with Act 600 and compliance with this department’s prior audit verbal recommendation.

WEST PITTSTON BOROUGH POLICE PENSION PLAN  
FINDING AND RECOMMENDATION

**Finding – (Continued)**

Effect: Inconsistent plan documents could result in inconsistent or improper benefit calculations and incorrect benefit payments from the pension plan. In addition, maintaining a benefit structure which is not in compliance with Act 600 could result in plan members or their beneficiaries receiving incorrect benefit amounts or being denied benefits to which they are statutorily entitled. Since the borough received their 2018 and 2019 state aid based on unit value during the current audit period, it did not receive allocations attributable to unauthorized pension benefits provided. However, increases in costs to the pension plan as a result of unauthorized pension benefits could result in the receipt of excess state aid in the future and an increase in municipal contributions necessary to fund the plan in accordance with Act 205 funding standards. Additionally, although the borough received its 2016 and 2017 state aid based on pension costs, based on review of the most recently filed Act 205 valuation report, valued January 1, 2017, provisions of unauthorized pension benefits do not appear to have been factored into the valuation which could have impacted state aid and municipal contributions necessary to fund the plan in accordance with Act 205.

Recommendation: We recommend that municipal officials take appropriate action to ensure the plan's governing document and the collective bargaining agreement contain consistent benefit provisions at their earliest opportunity to do so.

We also recommend that the borough comply with Act 600 upon the renewal, extension, or renegotiation of the collective bargaining agreement. To the extent that the borough is not in compliance with Act 600 and/or is contractually obligated to pay benefits to existing retirees in excess of those authorized by Act 600, the excess benefits must be reflected in the Act 205 actuarial valuation reports for the plan and funded in accordance with Act 205 funding standards. Furthermore, such benefits will be deemed ineligible for funding with state pension aid. In such case, the plan's actuary may be required to determine the impact, if any, of the excess benefits on the borough's future state aid allocations and submit this information to the department. If it is determined the excess benefits 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.

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

Auditor's Conclusion: Compliance will be evaluated during our next audit of the plan.

WEST PITTSTON 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	\$ 983,088	\$ 1,245,505	\$ 262,417	78.9%
01-01-15	1,023,714	957,530	(66,184)	106.9%
01-01-17	1,029,036	1,365,081	336,045	75.4%

Note: The market value of the plan's assets at (01-01-13, 01-01-15, and 01-01-17) 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.

The Actuarial Accrued Liability as of 01-01-17 reflects increases in the unfunded actuarial accrued liability attributable to investment/experience losses since the previous valuation resulting in a decline in the plan's 01-01-17 funding ratio.

WEST PITTSTON 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.

WEST PITTSTON BOROUGH POLICE PENSION PLAN  
SUPPLEMENTARY INFORMATION  
(UNAUDITED)

SCHEDULE OF CONTRIBUTIONS FROM EMPLOYER  
AND OTHER CONTRIBUTING ENTITIES

Year Ended December 31	Annual Required Contribution	Percentage Contributed
2013	\$ 24,485	100.0%
2014	30,617	100.0%
2015	43,595	100.0%
2016	13,565	176.0%
2017	13,985	163.1%
2018	8,617	328.8%

WEST PITTSTON 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	15 years
Asset valuation method	Plan assets are valued using the method described in Section 210 of Act 205, as amended, subject to a ceiling of 120% of the market value of assets.
Actuarial assumptions:	
Investment rate of return	7.0%
Projected salary increases	5.0%



WEST PITTSTON BOROUGH POLICE PENSION PLAN  
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

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