

MUNICIPALITY OF MOUNT LEBANON POLICE PENSION PLAN

ALLEGHENY COUNTY

COMPLIANCE AUDIT REPORT

FOR THE PERIOD

JANUARY 1, 2008, TO DECEMBER 31, 2010



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CONTENTS

	<u>Page</u>
Background.....	1
Letter from the Auditor General	3
Status of Prior Finding	5
Findings and Recommendations:	
Finding No. 1 – Partial Compliance With Prior Audit Recommendation – Pension Benefits Not In Compliance With Act 600 Provisions.....	6
Finding No. 2 – Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid.....	8
Supplementary Information	10
Report Distribution List	15

BACKGROUND

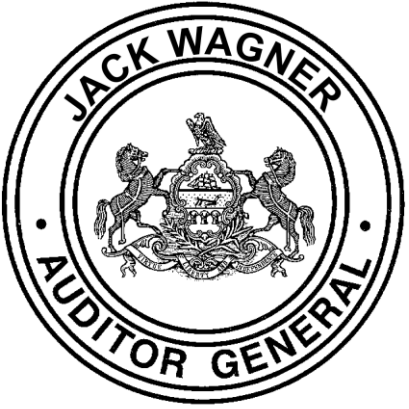
On December 18, 1984, the Pennsylvania Legislature adopted the Municipal Pension Plan Funding Standard and Recovery Act (P.L. 1005, No. 205, as amended, 53 P.S. § 895.101 et seq.). The act established mandatory actuarial reporting and funding requirements and a uniform basis for the distribution of state 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.

Pension plan aid is provided from a 2 percent foreign casualty insurance premium tax, a portion of the foreign 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 Municipality of Mount Lebanon Police Pension Plan is also governed by implementing regulations adopted by the 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. § 761 et seq.

The Municipality of Mount Lebanon Police Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Resolution No. R-4-09, adopted pursuant to Act 600. The plan is also affected by the provisions of collective bargaining agreements between the municipality and its police officers.



Board of Commissioners
Municipality of Mount Lebanon
Allegheny County
Pittsburgh, PA 15228

We have conducted a compliance audit of the Municipality of Mount Lebanon Police Pension Plan for the period January 1, 2008, to December 31, 2010. The audit was conducted pursuant to authority derived from Section 402(j) of Act 205 and in accordance with *Government Auditing Standards* applicable to performance audits 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 findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings 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. The Municipality of Mount Lebanon contracted with an independent certified public accounting firm for annual audits of its basic financial statements which are available at the municipality's offices. Those financial statements were not audited by us and, accordingly, we express no opinion or other form of assurance on them.

Municipal officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Municipality of Mount Lebanon 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 municipality's internal controls as they relate to the municipality'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, we tested transactions, assessed official actions, performed analytical procedures and interviewed selected officials to the extent necessary to satisfy the audit objectives.

The results of our tests indicated that, in all significant respects, the Municipality of Mount Lebanon 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 – Partial Compliance With Prior Audit Recommendation – Pension Benefits Not In Compliance With Act 600 Provisions

Finding No. 2 – Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid

The accompanying supplementary information is presented for purposes of additional analysis. We did not audit the information and, accordingly, express no form of assurance on it.

The contents of this report were discussed with officials of the Municipality of Mount Lebanon and, where appropriate, their responses have been included in the report.

November 21, 2011

JACK WAGNER
Auditor General

MUNICIPALITY OF MOUNT LEBANON POLICE PENSION PLAN
STATUS OF PRIOR FINDING

Partial Compliance With Prior Audit Recommendation

The Municipality of Mount Lebanon has partially complied with the prior audit recommendation concerning the following:

· Pension Benefits Not In Compliance With Act 600 Provisions

During the current audit period, municipal officials adopted Resolution No. R-4-09 which brought the police pension plan's benefit structure into compliance with Act 600, as amended, except for the plan's definition of final average monthly compensation as further discussed in the Findings and Recommendations section of this report.

MUNICIPALITY OF MOUNT LEBANON POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – Partial Compliance With Prior Audit Recommendation – Pension Benefits Not In Compliance With Act 600 Provisions

Condition: As disclosed in the prior audit report, the police pension plan’s governing document contained benefit provisions that were not in compliance with Act 600, as amended, for members hired after January 11, 2004. During the current audit period, municipal officials passed Resolution No. R-4-09 which brought the police pension plan’s benefit structure into compliance with Act 600, as amended, for members hired after January 11, 2004, except as follows:

<u>Benefit Provision</u>	<u>Governing Document</u>	<u>Act 600 (as amended)</u>
Final average monthly compensation	Section 1.22A of Appendix B of Resolution No. R-4-09, provides for the average monthly compensation earned by the Participant and paid by the Employer during the thirty-six (36) consecutive months within the last sixty (60) months immediately preceding termination of active Employment that produces the highest average.	Section 5(c) provides for a monthly pension benefit equal to 50 percent of the member’s average monthly salary during not more than the <u>last 60</u> nor less than the <u>last 36</u> months of employment. (Emphasis added).

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, as amended.

Cause: Municipal officials believe that their definition of final average monthly compensation is in compliance with Act 600, as amended.

Effect: 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.

Recommendation: We again recommend that municipal officials, after consulting with their solicitor, take whatever action is necessary to bring the police pension plan’s benefit structure into compliance with Act 600, as amended, at their earliest opportunity to do so.

MUNICIPALITY OF MOUNT LEBANON POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

Management’s Response: The municipality’s definition of final average monthly compensation matches the definition that was approved in the case of *Municipality of Monroeville v. Monroeville Police Department Wage Policy Committee*, 767 A. 2d 596 (Pa: Commonwealth Court, 2001). The Commonwealth Court affirmed the trial court in that case. The Trial Court order approved, as compliant with Act 600, the following:

“Monthly average salary” shall be the average of the highest 36 months during the last 60 months of employment.

The Commonwealth Court and the Trial Court in the *Monroeville* case both held that home rule municipalities were required to comply with Act 600. The “36 during the last 60” was approved as meeting Act 600.

Auditor’s Conclusion: The municipality raises an issue in connection with the March 2000 order of the Allegheny County Court of Common Pleas in *Municipality of Monroeville v. Monroeville Police Department, Wage and Policy Committee* and the affirmance of that order by the Commonwealth Court in *Municipality of Monroeville v. Monroeville Police Department, Wage and Policy Committee*, 767 A.2d 596 (Pa.Cmwlt. 2001), appeal denied, 782 A.2d 551 (Pa. 2001). Specifically, the municipality points out that the Common Pleas Court construed Act 600 as allowing pension calculations to be “based on the highest 36 months during the last 60 months of employment” and that the Commonwealth Court “did not disturb” this interpretation.

The pertinent statutory language reads as follows: “Monthly pension or retirement benefits other than length of service increments shall be computed at one-half the monthly average salary of [the] member during not more than the last sixty nor less than the last thirty-six months of employment.” 53 P.S. § 771(c) (emphasis added). We cannot account for the trial court’s altering of this clear language into “the highest 36 months during the last 60 months of employment.” (Emphasis added.) We note, however, that the Commonwealth Court read the statutory language to require “the average monthly salary to be based only on the last 36 – 60 months of employment...” 767 A.2d at 597 (emphasis added). The Commonwealth Court did not attempt to reconcile this construction with the trial court’s order, which it affirmed without further discussion of the issue.

The department will continue to construe the statutory directive according to its plain meaning, i.e., that the 36 months’ option applies to the last 36 months of the member’s employment. Therefore, the finding and recommendation remain as stated.

MUNICIPALITY OF MOUNT LEBANON POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid

Condition: The municipality certified 1 ineligible police officer (2 units) and overstated payroll by \$96,747 on Certification Form AG 385 filed in 2011. The data contained on this certification form is based on prior calendar year information.

Criteria: Pursuant to Act 205, at Section 402(e)(2), in order to be eligible for certification, an employee must have been employed on a full-time basis for at least six consecutive months and must have been participating in a pension plan during the certification year.

Cause: Plan officials failed to establish adequate internal control procedures to ensure the accuracy of the data certified.

Effect: The data submitted on this certification form is used, in part, to calculate the state aid due to the municipality for distribution to its pension plans. Because the municipality’s state aid allocation was based on unit value, the incorrect certification of pension data affected the municipality’s state aid allocation, as identified below:

<u>Units Overstated</u>	<u>Unit Value</u>	<u>State Aid Overpayment</u>
2	\$ 5,596	\$ 11,192

In addition, the municipality used the overpayment of state aid to pay the minimum municipal obligation (MMO) due to the police pension plan; therefore, if the reimbursement to the Commonwealth is made from the pension plan, the plan’s MMO will not be fully paid.

Recommendation: We recommend that the overpayment of state aid, in the amount of \$11,192, be returned 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 pension plan, should be made payable to: Commonwealth of Pennsylvania and mailed to: Department of the Auditor General, Municipal Pension & Fire Relief Programs Unit, 11 Stanwix Street, Suite 1450, Pittsburgh, PA 15222. A copy of the interest calculation must be submitted along with the check.

We also recommend that plan officials establish adequate internal control procedures to ensure compliance with the instructions that accompany Certification Form AG 385 to assist them in accurately reporting the required pension data.

MUNICIPALITY OF MOUNT LEBANON POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

In addition, if the reimbursement to the Commonwealth is made from police pension plan funds, we recommend that any resulting MMO deficiency be paid to the pension plan with interest, at a rate earned by the pension plan.

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

MUNICIPALITY OF MOUNT LEBANON 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, 2005, is as follows:

	(1)	(2)	(3)	(4)	(5)	(6)
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)	Covered Payroll (c)	Unfunded (Assets in Excess of) Actuarial Accrued Liability as a % of Payroll [(b-a)/(c)]
01-01-05	\$ 26,136,747	\$ 28,395,320	\$ 2,258,573	92.0%	\$ 3,428,584	65.9%
01-01-07	29,981,657	31,028,661	1,047,004	96.6%	3,495,664	30.0%
01-01-09	28,742,491	34,832,216	6,089,725	82.5%	3,615,879	168.4%

Note: The market values of the plan's assets at 01-01-05, 01-01-07 and 01-01-09, have been adjusted to reflect the smoothing of gains and/or losses over a 4-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.

MUNICIPALITY OF MOUNT LEBANON 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.

Trends in unfunded (assets in excess of) actuarial accrued liability and annual covered payroll are both affected by inflation. Expressing the unfunded (assets in excess of) actuarial accrued liability as a percentage of annual covered payroll (Column 6) approximately adjusts for the effects of inflation and aids analysis of the plan's progress made in accumulating sufficient assets to pay benefits when due. Generally, where there is an unfunded actuarial accrued liability, the smaller this percentage, the stronger the plan. However, when assets are in excess of the actuarial accrued liability, the higher the bracketed percentage, the stronger the plan.

MUNICIPALITY OF MOUNT LEBANON POLICE PENSION PLAN
 SUPPLEMENTARY INFORMATION
 (UNAUDITED)

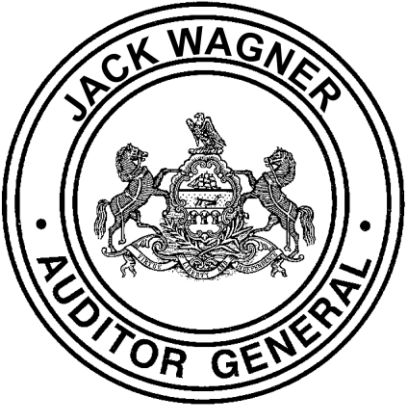
SCHEDULE OF CONTRIBUTIONS FROM EMPLOYER
 AND OTHER CONTRIBUTING ENTITIES

Year Ended December 31	Annual Required Contribution	Percentage Contributed
2005	\$ 604,771	100.5%
2006	986,544	100.0%
2007	1,005,913	100.0%
2008	909,099	100.0%
2009	987,642	100.0%
2010	1,625,793	100.0%

MUNICIPALITY OF MOUNT LEBANON POLICE PENSION PLAN
SUPPLEMENTARY INFORMATION
NOTES TO SUPPLEMENTARY SCHEDULES
(UNAUDITED)

The information presented in the required 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, 2009
Actuarial cost method	Entry age normal
Amortization method	Level dollar, closed
Remaining amortization period	14 years
Asset valuation method	Market value, 4-year smoothing
Actuarial assumptions:	
Investment rate of return	7.5%
Projected salary increases *	6.0%
* Includes inflation at	3.0%



MUNICIPALITY OF MOUNT LEBANON POLICE PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom Corbett
Governor
Commonwealth of Pennsylvania

Municipality of Mount Lebanon Police Pension Plan
Allegheny County
710 Washington Road
Pittsburgh, PA 15228

Mr. David Brumfield	President, Board of Commissioners
Mr. Stephen M. Feller	Manager
Ms. Marcia L. Taylor, CPA	Assistant Manager

This report is a matter of public record. Copies of this report may be obtained from the Pennsylvania Department of the Auditor General, Office of Communications, Room 318 Finance Building, Harrisburg, PA 17120. If you have any questions regarding this report or any other matter, you may contact the Department of the Auditor General by accessing our website at www.auditorgen.state.pa.us.