

BRACKENRIDGE BOROUGH POLICE PENSION PLAN

ALLEGHENY COUNTY

COMPLIANCE AUDIT REPORT

FOR THE PERIOD

JANUARY 1, 2007, TO DECEMBER 31, 2008



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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.

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 Brackenridge Borough 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.

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 Brackenridge Borough Police Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Ordinance No. 1014, 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 Honorable Mayor and Borough Council
Brackenridge Borough
Allegheny County
Brackenridge, PA 15014

We have conducted a compliance audit of the Brackenridge Borough Police Pension Plan for the period January 1, 2007, to December 31, 2008. 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. Brackenridge Borough contracted with an independent certified public accounting firm for annual audits of its basic financial statements 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 Brackenridge 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, 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 Brackenridge 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 findings further discussed later in this report:

- Finding No. 1 – Noncompliance With Prior Audit Recommendation – Pension Benefits Not In Compliance With Act 600 Provisions
- Finding No. 2 – Improper Pension Calculation
- Finding No. 3 – Incorrect Data On Certification Form AG 385 Resulting In An Underpayment 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 Brackenridge Borough and, where appropriate, their responses have been included in the report.

January 27, 2010

JACK WAGNER
Auditor General

BRACKENRIDGE BOROUGH POLICE PENSION PLAN
STATUS OF PRIOR AUDIT RECOMMENDATIONS

Noncompliance With Prior Audit Recommendation

Brackenridge Borough has not complied with the prior audit recommendation concerning the following as further discussed in the Findings and Recommendations section of this report:

- Pension Benefits Not In Compliance With Act 600 Provisions

Status Of Prior Audit Recommendation

- Unauthorized Disability Pension Benefit

The audit report for the years ended December 31, 1997, 1996 and 1995, contained a finding that the borough improperly awarded a disability pension benefit to a police officer who retired on December 31, 1997, equal to 75 percent of his final average salary for the highest 3 of his last 10 years of employment. The improper benefit for this police officer was specifically included in the collective bargaining agreement between the borough and its police officers covering the years 1996 through 2000. The criteria cited in the finding was based on the fact that the benefit was contrary to the plan's governing document then in effect, which set the disability benefit amount at 50 percent of the average salary of the disabled participant during 3 of the participant's highest paid years of the past 10 years of employment preceding the date of such disability, and also because it violated Section 1 of Act 600, which requires that all disability pensions be in conformity with a uniform scale.

In response to the finding, the borough reduced the referenced retiree's benefit in January 2001 to the 50 percent level authorized in the plan's governing document. The retiree then filed a civil suit against the borough in June 2001, alleging that the reduction of his monthly disability benefit was improper.

In January 2003, the borough entered into a settlement agreement with the retiree to restore the 75 percent monthly disability benefit previously cited as improper by the department, retroactive to January 2001, to continue for as long as the plan maintained an actuarially over-funded status, i.e., the actuarial value of the plan's assets exceed the present value of future benefits. However, the plan's actuarial valuation report dated January 1, 2001, indicated that, as of that date, the plan was no longer over-funded. Consequently, starting in calendar year 2002, the police pension plan once again had pension costs, which resulted in the receipt of state aid.

BRACKENRIDGE BOROUGH POLICE PENSION PLAN
STATUS OF PRIOR AUDIT RECOMMENDATIONS

Status Of Prior Audit Recommendation – (Continued)

In response to the finding contained in the audit report covering the period January 1, 2001, to December 31, 2003, borough officials and their solicitor determined the benefit would be reduced from 75 percent to 50 percent of final average salary, effective February 1, 2005. In addition, the plan's actuary determined the excess benefits paid during 2002 through 2004 resulted in the receipt of excess state aid in the total amount of \$14,145, which was reimbursed to the Commonwealth, with interest.

On March 29, 2006, the retiree filed a complaint against the borough in the Court of Common Pleas. Prior to the case being settled, the borough and the retiree entered into an agreement dated May 19, 2008, adopted by Ordinance No. 1138, to restore the 75 percent monthly disability benefit previously cited as improper by the department, retroactive to March 1, 2005. Accordingly, the retiree was paid a lump-sum retroactive payment of \$36,970 from plan assets and his monthly pension benefit was increased to \$2,868, beginning April 1, 2008.

The plan is currently paying disability pension benefits to the retiree in excess of those authorized by the plan's governing document and Act 600. As of the date of this audit report, the retiree received a retroactive lump-sum payment of \$36,970 and is currently receiving excess benefits of \$956 per month, which totaled approximately \$21,032 from April 2008 through the date of this audit report.

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. Although the plan did not receive state aid during the current audit period, the provision of unauthorized pension benefits may result in the receipt of excess state aid in the future and could increase the municipal contributions necessary to fund the plan in accordance with Act 205 funding standards. The Department will continue to monitor the effect of the excess benefits being paid to the retired police officer during future audits of the plan.

BRACKENRIDGE BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

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

Condition: As disclosed in the prior audit report, the pension plan’s governing document, Ordinance No. 1014, as amended, contains benefit provisions which are not in compliance with Act 600. In addition, the current collective bargaining agreement (CBA) between the police officers and the borough contains a benefit provision which is not in compliance with Act 600.

Furthermore, on April 17, 2002, Act 600 was amended by Act 30, which made significant changes to the statutorily prescribed benefit structure of police pension plans subject to Act 600. Municipal officials have not amended the police pension plan’s benefit structure to adopt all of the changes mandated by Act 30. The specific inconsistencies are as follows:

<u>Benefit Provision</u>	<u>Governing Document</u>	<u>Act 600 (as amended)</u>
Survivor’s benefit	A lifetime survivor’s benefit must be provided to the surviving spouse until death or remarriage, then to children of the retiree who are under 18 years of age equal to 50% of what the retiree was receiving had he been retired at death.	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.)
Intervening military service credit	Not provided	Any member of the police force employed by a municipality for at least 6 months and who enters into military service of the United States shall have credited to his employment record for pension or retirement benefits all of the time spent in such military service, if such member returns to his employment within 6 months after his separation from military service.

BRACKENRIDGE BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

<u>Benefit Provision</u>	<u>Governing Document</u>	<u>Act 600 (as amended)</u>
Service-related disability benefit	Disability pension payments shall be set at 50% of the average monthly salary of the disabled participant during three of the participant's highest paid years of the past ten years of employment preceding the date of such disability.	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.
Pre-vesting death benefit	If termination or discontinuance of employment is due to death, such refund of money shall be paid to the participants designated beneficiary or in the absence thereof, to his estate.	The surviving spouse of a member of the police force who dies before his pension has vested or if no spouse survives or if he or she survives and subsequently dies, the child or children under the age of eighteen years, or, if attending college, under or attaining the age of twenty-three years, of the member of the police force shall be entitled to receive repayment of all money which the member invested in the pension fund plus interest or other increases in value of the member's investment in the pension fund, unless the member has designated another beneficiary for this purpose.

BRACKENRIDGE BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

In addition, the CBA between the borough and its police officers covering the years 2007 through 2011 contains a benefit provision that does not comply with Act 600, as follows:

Benefit Provision	Collective Bargaining Agreement	Act 600 (as amended)
Normal retirement benefit	Officers hired before January 1, 2007, the basis for calculating retirement benefits shall be the average of any three (3) years out of the past ten (10) years as per 1997 arbitration award.	A monthly pension benefit equal to 50% of the member's average monthly salary during not more than the last 60 nor less than the last 36 months of employment.

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 drafted an ordinance to amend the plan's benefit structure to comply with Act 600, as amended by Act 30; however, the ordinance was never officially adopted by borough council. In addition, municipal officials failed to establish adequate internal control procedures to ensure the provisions contained in the current collective bargaining agreement were in compliance with Act 600 provisions.

Effect: Maintaining a benefit structure which is not in compliance with Act 600 resulted in a plan member receiving an incorrect benefit amount and being denied benefits to which the member was statutorily entitled as noted in Finding No. 2 contained in this audit report.

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.

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

BRACKENRIDGE BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – Improper Pension Calculation

Condition: Municipal officials provided pension benefits that were not in accordance with Act 600 and the plan’s governing document to a police officer who retired in 2008. The calculation was incorrect because it was based on the highest 3 calendar years of the last 10 years of earnings as stated in the collective bargaining agreement at Article XVII (See Finding No. 1), as opposed to the final 36 months of employment as required by Act 600 and the plan’s governing document.

Criteria: Ordinance No. 1083 at Section 5 states that the monthly benefit shall be a sum equal to one-half of the compensation of the participant during the last 36 months of employment, which is in accordance with Act 600 provisions.

Cause: Plan officials failed to establish adequate internal control procedures to ensure the plan’s governing document and the collective bargaining agreement contained consistent benefit provisions that were in compliance with Act 600 provisions.

Effect: The retiree is receiving a pension benefit of \$119 per month less than that to which he is entitled had the benefit been determined in accordance with Act 600 and the plan’s governing document.

Recommendation: We recommend that municipal officials recalculate the retiree’s pension benefit in accordance with Act 600 and the plan’s governing document. We also recommend the retiree be paid any difference determined by this recalculation retroactive to his retirement date, with interest, at a rate earned by the pension plan.

Furthermore, we recommend that future pension benefits be determined in accordance with Act 600 provisions.

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

Finding No. 3 – Incorrect Data On Certification Form AG 385 Resulting In An Underpayment Of State Aid

Condition: The borough understated police payroll by \$9,561 in 2008 and \$200 in 2009 on Certification Forms AG 385.

Criteria: Pursuant to the instructions that accompany Certification Form AG 385, the total payroll eligible to be certified should be Internal Revenue Service Form W-2 earnings pertaining to full-time positions.

BRACKENRIDGE BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 3 – (Continued)

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

Effect: The data submitted on these certification forms is used, in part, to calculate the state aid due to the borough for distribution to its pension plans. Because the borough’s state aid allocations were based on pension costs, the borough received an underpayment of state aid of \$1,590 as identified below:

<u>Year</u>	<u>Normal Cost</u>	<u>Payroll Overstated</u>	<u>State Aid Underpayment</u>
2008	16.28336%	\$ 9,561	\$ 1,557
2009	16.28336%	200	<u>33</u>
Total Underpayment of State Aid			<u>\$ 1,590</u>

Although the borough will be reimbursed for the underpayment of state aid due to the borough’s certification errors, the full amount of the 2008 and 2009 state aid allocations were not available to be deposited timely and therefore were not available to pay operating expenses or for investment.

Recommendation: We recommend that, in the future, plan officials comply with the instructions that accompany Certification Form AG 385 to assist them in accurately reporting the required pension plan data.

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

BRACKENRIDGE 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, except for distressed pension plans, for which annual reporting was required through January 1, 2003. The historical information, beginning as of January 1, 2003, 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)]
01-01-03	\$ 1,374,608	\$ 1,314,650	\$ (59,958)	104.6%	\$ 227,687	(26.3%)
01-01-05	1,355,306	1,407,680	52,374	96.3%	237,297	22.1%
01-01-07	1,715,992	1,518,871	(197,121)	113.0%	248,757	(79.2%)

Note: The market values of the plan's assets at 01-01-03 and 01-01-05 have been adjusted to reflect the smoothing of gains and/or losses over a 5-year averaging period. The market value of the plan's assets at 01-01-07 has been adjusted to reflect the smoothing of gains and/or losses over a 4-year averaging period. These methods 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.

BRACKENRIDGE 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.

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.

BRACKENRIDGE 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
2003	\$ 18,934	111.9%
2004	15,954	355.8%
2005	52,430	117.2%
2006	71,751	100.0%
2007	72,298	100.0%
2008	19,767	100.0%

BRACKENRIDGE BOROUGH 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, 2007
Actuarial cost method	Entry age normal
Amortization method	N/A
Remaining amortization period	N/A
Asset valuation method	Fair value, 4-year smoothing
Actuarial assumptions:	
Investment rate of return	7.0%
Projected salary increases	5.0%
Cost-of-living adjustments	4.0%



BRACKENRIDGE BOROUGH POLICE PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Edward G. Rendell
Governor
Commonwealth of Pennsylvania

Brackenridge Borough Police Pension Plan
Allegheny County
1000 Brackenridge Avenue
Brackenridge, PA 15014

The Honorable Thomas Kish	Mayor
Mr. Larry Chifulini, Jr.	Council President
Ms. Denise Tocco	Secretary/Treasurer

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.