

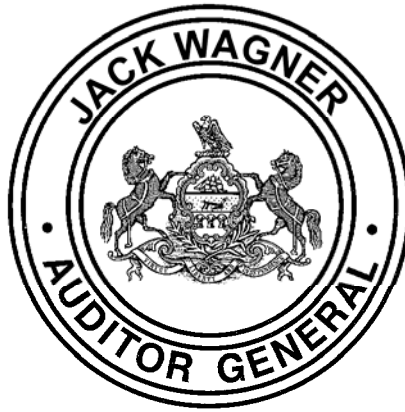
**COUNCILS OF GOVERNMENTS OF BEAVER & BUTLER COUNTIES
NONUNIFORMED PENSION PLAN**

BUTLER COUNTY

COMPLIANCE AUDIT REPORT

FOR THE PERIOD

JANUARY 1, 2002, TO DECEMBER 31, 2004



**COUNCILS OF GOVERNMENTS OF BEAVER & BUTLER COUNTIES
NONUNIFORMED PENSION PLAN**

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Executive Board
Councils of Governments of Beaver & Butler Counties
Butler County
Cranberry Township, PA 16066

We have conducted a compliance audit of the Councils of Governments of Beaver & Butler Counties Nonuniformed Pension Plan for the period January 1, 2002, to December 31, 2004. The audit was conducted pursuant to authority derived from Section 402(j) of Act 205 of 1984 and in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States.

The objectives of the audit were:

1. To determine if plan 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 Councils of Governments of Beaver & Butler Counties has elected to purchase allocated insurance contracts to fund the pension benefits for plan members. Under an allocated funding arrangement, the insurer receives and retains consideration in exchange for a legally enforceable obligation to pay future benefits. In accordance with Statement No. 25 of the Governmental Accounting Standards Board, allocated insurance contracts are excluded from the pension plan's assets.

The Department of the Auditor General (Department) is mandated by state statute to calculate state aid provided to municipal pension funds and to audit municipal pension funds having received such aid. State aid is calculated by an administrative unit that is not involved in the audit process. The Department's Comptroller Office then pre-audits the calculation and submits requests to the Commonwealth's Treasury Department for the disbursement of state aid to the municipality. The Department has implemented procedures to ensure that Department audit personnel are not directly involved in the calculation and disbursement processes. The Department's mandatory responsibilities are being disclosed in accordance with *Government Auditing Standards*.

The results of our tests indicated that, in all significant respects, the Councils of Governments of Beaver & Butler Counties Nonuniformed 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 in the conclusions section of this report:

Objective No. 2

Finding No. 1 – Failure To Fund Members’ Accounts

Finding No. 2 – Failure To Deposit State Aid Into An Eligible Pension Plan

Finding No. 3 – Receipt Of State Aid In Excess Of Entitlement

The contents of this report were discussed with officials of the Councils of Governments of Beaver & Butler Counties and, where appropriate, their responses have been included in the report.

June 15, 2006

JACK WAGNER
Auditor General

BACKGROUND

On December 18, 1984, the Pennsylvania Legislature adopted the Municipal Pension Plan Funding Standard and Recovery Act (P.L. 1005, No. 205, 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 Councils of Governments of Beaver & Butler Counties Nonuniformed 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.

The Councils of Governments of Beaver & Butler Counties Nonuniformed Pension Plan is a single-employer defined contribution pension plan locally controlled by the provisions of Resolution No. 051800 of 2000.

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OBJECTIVES, SCOPE AND METHODOLOGY

The objectives of the audit were:

1. To determine if plan officials took appropriate corrective action to address the finding contained in our prior audit report for the period January 1, 2001, to December 31, 2001, dated August 15, 2002; and
2. To determine if the Councils of Governments of Beaver & Butler Counties Nonuniformed Pension Plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies.

The scope of the audit covered the period January 1, 2002, to December 31, 2004.

Plan officials are responsible for establishing and maintaining an internal control structure to provide reasonable assurance that the Councils of Governments of Beaver & Butler Counties Nonuniformed Pension Plan is administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies. Since the councils of governments terminated all active employees in 2004, there were no internal controls to test. However, in performing our audit, we tested transactions, assessed official actions, performed analytical procedures and interviewed selected officials to the extent necessary to satisfy the audit objectives.

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CONCLUSIONS - OBJECTIVE NO. 1

The first objective of the audit was to determine if plan officials took appropriate corrective action to address the finding contained in our prior audit report for the period January 1, 2001, to December 31, 2001, dated August 15, 2002. Our audit conclusions are presented below.

Compliance With Prior Audit Recommendation

The Councils of Governments of Beaver & Butler Counties (COG) has complied with the prior audit recommendation concerning the following:

- Receipt Of State Aid In Excess Of Entitlement

On August 12, 2003, the COG returned \$1,309 to the Commonwealth for the receipt of state aid in excess of the COG's entitlement for 2001.

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CONCLUSIONS - OBJECTIVE NO. 2

The second objective of the audit was to determine if the COG Nonuniformed Pension Plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies. Our audit conclusions are presented below.

Our tests indicated that, in all significant respects, the COG Nonuniformed Pension Plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies, except as noted in the findings listed below.

Finding No. 1 – Failure To Fund Members’ Accounts

Condition: In 2004 and 2003, the COG failed to deposit \$19,755 of contributions due the accounts of plan members. Required employee contributions of 3 percent of compensation which were deducted from members’ pay were not deposited into the members’ accounts. In addition, although the COG was required to contribute 7 percent of compensation to each member’s account, no contributions were made to the members’ accounts by the COG. The schedule below summarizes the contributions due the members’ accounts:

	<u>2004</u>	<u>2003</u>	<u>Total</u>
COG contributions due	\$ 2,298	\$ 11,553	\$ 13,851
Employee contributions due	<u>953</u>	<u>4,951</u>	<u>5,904</u>
Total contributions due	<u>\$ 3,251</u>	<u>\$ 16,504</u>	<u>\$ 19,755</u>

Criteria: Contributions to the plan should be made in accordance with the plan’s governing document. The plan’s governing document sets the COG contribution rate at 7 percent of compensation and the employee contribution rate at 3 percent of compensation.

Cause: Payroll records and W-2 forms indicated employee contributions were deducted. However, COG representatives could not provide an explanation or documentation as to why the employee contributions and COG contributions were not deposited into the members’ accounts.

Effect: The failure to properly fund the plan has resulted in plan members being denied benefits to which they are entitled in accordance with the plan’s governing document.

Due to the COG’s failure to properly fund the referenced members’ accounts, the COG must now pay interest on the delinquent contributions.

COUNCILS OF GOVERNMENTS OF BEAVER & BUTLER COUNTIES
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CONCLUSIONS - OBJECTIVE NO. 2 - (Continued)

Finding No. 1 – (Continued)

Recommendation: We recommend that the COG deposit the contributions due to the members' accounts for the years 2004 and 2003, with interest, from the date the contributions were due for each year to the date of deposit of the amount in arrears. A copy of the interest calculation must be submitted to the department along with evidence of the deposit.

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

Finding No. 2 – Failure To Deposit State Aid Into An Eligible Pension Plan

Condition: The COG did not deposit its 2003 state aid allocation into the nonuniformed pension plan. The COG received its 2003 state aid allocation in the amount of \$11,578 on October 2, 2003. However, as of the date of this report, none of the state aid allocation had been deposited into the pension plan.

Criteria: Section 402(g) of Act 205 states, in part:

. . . the total amount of the general municipal pension system State aid received by the municipality shall, within 30 days of receipt by the treasurer of the municipality, be deposited in the pension fund or the alternate funding mechanism applicable to the pension plan.

Cause: The 2003 state aid was deposited into the COG general fund checking account and not forwarded to the members' accounts.

Effect: When state aid is not deposited into a pension plan account, the funds are not available to pay operating expenses or for investment and the risk of misapplication is increased.

Recommendation: We recommend that the COG deposit the state aid allocation of \$11,578, plus interest earned during the period beyond the 30 day grace period allowed by Act 205, compounded annually, into the nonuniformed pension plan. A copy of the interest calculation must be submitted to the department along with evidence of the deposit.

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

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CONCLUSIONS - OBJECTIVE NO. 2 - (Continued)

Finding No. 3 – Receipt Of State Aid In Excess Of Entitlement

Condition: The COG received state aid in excess of the nonuniformed pension plan's defined contribution pension costs under Act 205 in the year 2004, as illustrated below:

	<u>2004</u>
State aid allocation	\$ 11,553
Actual municipal pension costs	<u>(2,698)</u>
Excess state aid	<u><u>\$ 8,855</u></u>

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 COG discontinued operations in April 2004, and actual pension costs were less than the COG's state aid allocation for 2004.

Effect: It is this department's opinion that since the entire proceeds of the insurance premium tax on foreign casualty insurance companies are distributed annually to each eligible recipient, 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 year 2004, in the total amount of \$8,855, must be returned to the Commonwealth for redistribution.

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CONCLUSIONS - OBJECTIVE NO. 2 - (Continued)

Finding No. 3 – (Continued)

Recommendation: We recommend that the COG return the \$8,855 of excess state aid received in the year 2004 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, 1205 Pittsburgh State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222. A copy of the interest calculation must be submitted along with the check.

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

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COMMENTS

The Councils of Governments of Beaver and Butler Counties (COG) substantially discontinued operations in April 2004. There is an ongoing investigation being conducted by law enforcement agencies involving former employees of the COG and the misappropriation of funds belonging to the COG. At the conclusion of our audit fieldwork, the investigation was not complete and, as a result, the ultimate impact on the pension plan and its members could not be determined.

COUNCILS OF GOVERNMENTS OF BEAVER & BUTLER COUNTIES
NONUNIFORMED PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Edward G. Rendell
Governor
Commonwealth of Pennsylvania

Councils of Governments of Beaver & Butler Counties Nonuniformed Pension Plan
Butler County
2525 Rochester Road, Suite 400
Cranberry Township, PA 16066

Mr. Gene Fleegal Board President

Mr. John J. Arminas Solicitor

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.