



**DARBY BOROUGH POLICE PENSION PLAN**

**DELAWARE COUNTY**

**COMPLIANCE AUDIT REPORT**

**FOR THE PERIOD**

**JANUARY 1, 2010, TO DECEMBER 31, 2011**

**COMMONWEALTH OF PENNSYLVANIA**

**EUGENE A. DEPASQUALE - AUDITOR GENERAL**

**DEPARTMENT OF THE AUDITOR GENERAL**

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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 Darby 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 including, but not limited to, the following:

Act 147 - Special Ad Hoc Municipal Police and Firefighter Postretirement Adjustment Act, Act of December 14, 1988 (P.L. 1192, No. 147), as amended, 53 P.S. § 896.101 et seq.

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 Darby Borough Police Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Ordinance No. 712A, adopted pursuant to Act 600. The plan is also affected by the provisions of collective bargaining agreements between the borough and its police officers.



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**EUGENE A. DePASQUALE**  
**AUDITOR GENERAL**

The Honorable Mayor and Borough Council  
Darby Borough  
Delaware County  
Darby, PA 19023

We have conducted a compliance audit of the Darby Borough Police Pension Plan for the period January 1, 2010, to December 31, 2011. 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 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 findings 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. Our methodology addressed determinations about the following:

- Whether state aid was properly determined and deposited in accordance with Act 205 requirements.
- Whether employer contributions are determined and deposited in accordance with the plan's governing document and applicable laws and regulations.
- Whether employee contributions are required and, if so, are determined, deducted and deposited into the pension plan and are in accordance with the plan provisions and applicable laws and regulations.

- Whether benefit payments, if any, represent payments to all (and only) those entitled to receive them and are properly determined in accordance with applicable laws and regulations.
- Whether obligations for plan benefits are accurately determined in accordance with plan provisions and based on complete and accurate participant data; and whether actuarial valuation reports are prepared and submitted to the Public Employee Retirement Commission (PERC) in accordance with state law and 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.
- Whether the special ad hoc postretirement adjustment granted to eligible pensioners is in accordance with applicable laws and regulations and whether the ad hoc reimbursement received by the municipality was treated in accordance with applicable laws and regulations.
- Whether benefit payments have only been made to living recipients, based on the Social Security numbers found in the pension records for retirees and beneficiaries.

Borough officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Darby 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 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 tests indicated that, in all significant respects, the Darby 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 Benefit Not Authorized By Act 600
- Finding No. 2 – Noncompliance With Prior Audit Recommendation - Nonservice-Related Disability Pension Benefit Not Authorized By Act 600 Or The Plan's Governing Document
- Finding No. 3 – Partial Compliance With Prior Audit Recommendation - Failure To Fully Pay The Minimum Municipal Obligation Of The Plan
- Finding No. 4 – Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid
- Finding No. 5 – Untimely Deposit Of State Aid
- Finding No. 6 – Unauthorized Provision For A Killed In Service Benefit

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. However, we are concerned about the funded status of the plan contained in the schedule of funding progress included in this report which indicates **the plan is underfunded by \$2,673,931 and the plan's funded ratio is 67.6% as of January 1, 2011**, which is the most recent date available. While we acknowledge the financial challenges facing the municipality as illustrated by the delinquent municipal contributions due to the plan in the amount of \$750,888 for the years 2009, 2010 and 2011, borough officials in their fiduciary capacity must ensure that fiscally responsible decisions are made that will benefit Darby Borough and its taxpayers to ensure the police pension plan has adequate resources to meet current and future benefit obligations to the borough's hard-working police officers. It is clear that the Darby Borough Police Pension Plan continues to face serious financial difficulties that borough officials must address; however, if the minimum required contributions are not made soon, the consequence to the plan will be the inability to meet the obligated pension payments to retired police officers.

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



EUGENE A. DEPASQUALE  
Auditor General

April 24, 2013

DARBY BOROUGH POLICE PENSION PLAN  
STATUS OF PRIOR FINDINGS

Noncompliance With Prior Audit Recommendations

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

- Pension Benefit Not Authorized By Act 600
- Nonservice-Related Disability Pension Benefit Not Authorized By Act 600 Or The Plan's Governing Document

Partial Compliance With Prior Audit Recommendation

Darby Borough has partially complied with the prior audit recommendation concerning the following:

- Failure To Fully Pay The Minimum Municipal Obligation Of The Plan

The borough paid the 2008 minimum municipal obligation (MMO) due to the pension plan, but did not pay the 2009 MMO balance due. In addition, the borough has unpaid MMO balances for the years 2010 and 2011, as further discussed in the Findings and Recommendations section of this report.

DARBY BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

Finding No. 1 - Noncompliance With Prior Audit Recommendation – Pension Benefit Not Authorized By Act 600

Condition: As disclosed in the prior audit report, the plan’s governing document provides a pension benefit not authorized by Act 600. Section 1.03 of Ordinance No. 712A states, in part:

For purposes of computing average applicable compensation, actual monthly earnings shall be based on W-2 earnings in which all forms of earnings are derived from the terms and condition of the employee’s employment.

The borough has interpreted this provision to authorize the inclusion of lump-sum payments for leave earned outside the pension computation period. This interpretation affected the calculations of monthly pension benefits for two police officers who retired during prior audit periods.

Criteria: Section 5(c) of Act 600 states, in part:

Monthly pension or retirement benefits other than length of service increments shall be computed at one-half the monthly average salary of such member during not more than the last sixty nor less than the last thirty-six months of employment.

Although Act 600 does not define “salary,” the department has concluded, based on a line of court opinions, that the term does not encompass lump-sum payments for leave that was not earned during the pension computation period.

Cause: Municipal officials failed to establish adequate internal control procedures to ensure compliance with the prior audit recommendation.

Effect: The plan is paying pension benefits to two retirees in excess of those authorized by Act 600.

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. Since the borough received state aid based on unit value during the current audit period, it did not receive allocations attributable to the excess pension benefits provided. However, the increased costs to the pension plan as a result of the excess pension benefits could result in the receipt of excess state aid in the future and increase the municipal contributions necessary to fund the plan in accordance with Act 205 funding standards.



DARBY BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

Finding No. 1 - (Continued)

Recommendation: We again recommend that the borough comply with Act 600 at its earliest opportunity to do so. 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: Although municipal officials agreed with the finding without exception, officials indicated that the borough did not comply with the recommendation contained in the prior audit report because the borough is under contractual obligation until December 31, 2015, to provide such benefits.

Auditor's Conclusion: Considering the plan's funded status and the liability for delinquent employer contributions owed by the municipality, we again urge borough officials to comply with the finding recommendation at their earliest opportunity to do so. Compliance will be evaluated during our next audit of the plan.

Finding No. 2 – Noncompliance With Prior Audit Recommendation - Nonservice-Related Disability Pension Benefit Not Authorized By Act 600 Or The Plan's Governing Document

Condition: The collective bargaining agreement between the borough and its police officers contains a provision for the payment of a non-service-related disability benefit which is not authorized by Act 600, the plan's governing document or contained in the plan's actuarial valuation reports dated January 1, 2009 and January 1, 2011, filed with the Public Employee Retirement Commission. Pursuant to this unauthorized benefit provision, the borough granted a non-service-related disability pension benefit to a police officer who retired during 2009 and another police officer who retired in 2011.

DARBY BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

Criteria: Regarding disability benefits, Section 5(e)(1) of Act 600 states:

In the case of the payment of pensions for permanent injuries incurred in service, the amount and commencement of the payments shall be fixed by regulations of the governing body of the borough, town, township or regional police department and shall be calculated at a rate no less than fifty per centum of the member's salary at the time the disability was incurred, provided that any member who receives benefits for the same injuries under the Social Security Act (49 Stat. 620, 42 U.S.C. § 301 et. seq.) shall have his disability benefits offset or reduced by the amount of such benefits. (Emphasis added)

Furthermore, the Supreme Court of Pennsylvania in *Chirico v. Board of Supervisors for Newtown Township*, 518 Pa. 572, 544A.2d 1313 (1988) held that Act 600 does not provide for the payment of pension benefits for non-service related injuries.

Cause: Municipal officials failed to establish adequate internal control procedures to ensure compliance with the prior audit recommendation.

Effect: The plan paid pension benefits to two retirees in excess of those authorized by Act 600. One retiree received excess benefits of \$2,679 per month which totaled approximately \$93,765 from the date of retirement through January 2012, at which time the retiree's benefit was changed to a service-related disability benefit. The estate of another member was paid the amount of \$98,109 from the pension plan.

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. Since the borough received state aid based on unit value during the current audit period, it did not receive allocations attributable to the excess pension benefits provided. However, the increased costs to the pension plan as a result of the excess pension benefits could result in the receipt of excess state aid in the future and increase the municipal contributions necessary to fund the plan in accordance with Act 205 funding standards.

DARBY BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

Finding No. 2 - (Continued)

Recommendation: We again recommend that the borough comply with Act 600 at its earliest opportunity to do so. To the extent that the borough is not in compliance with Act 600 and/or is contractually obligated to pay nonservice-related disability benefits, 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: Although municipal officials agreed with the finding without exception, officials indicated that the borough did not comply with the recommendation contained in the prior audit report because the borough is under contractual obligation until December 31, 2015, to provide such benefits. Municipal officials indicated the borough will attempt to negotiate this out of the next police contract.

Auditor's Conclusion: Considering the plan's funded status and the liability for delinquent employer contributions owed by the municipality, we again urge borough officials to comply with the finding recommendation at their earliest opportunity to do so. Compliance will be evaluated during our next audit of the plan.

Finding No. 3 - Partial Compliance With Prior Audit Recommendation – Failure To Fully Pay  
The Minimum Municipal Obligation Of The Plan

Condition: As disclosed in the prior audit report, plan officials did not fully pay the minimum municipal obligation (MMO) of the police pension plan for the years 2008 and 2009, as required by Act 205. The municipality had unpaid MMO balances of \$71,409 and \$324,770 for the years 2008 and 2009, respectively. During the current audit period, the borough paid the 2008 MMO with required interest due, but did not pay the 2009 MMO balance due of \$324,770. In addition, the municipality failed to fully pay the 2010 and 2011 MMOs and has unpaid MMO balances of \$242,094 and \$184,024 for the years 2010 and 2011, respectively. Consequently, the municipality has a total unpaid MMO balance of \$750,888, plus interest due pursuant to Act 205 requirements.

DARBY BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

Finding No. 3 – (Continued)

Criteria: With regard to the MMO, Section 302(c) of Act 205 states, in part:

Annually, the chief administrative officer of the pension plan shall determine the minimum obligation of the municipality with respect to the pension plan for the following plan year.

Section 302(d) of Act 205 states, in part:

The minimum obligation of the municipality shall be payable to the pension plan from the revenue of the municipality.

Furthermore, Section 302(e) of Act 205 states:

Any amount of the minimum obligation of the municipality which remains unpaid as of December 31 of the year in which the minimum obligation is due shall be added to the minimum obligation of the municipality for the following year, with interest from January 1 of the year in which the minimum obligation was first due until the date the payment is paid at a rate equal to the interest assumption used for the actuarial valuation report or the discount rate applicable to treasury bills issued by the Department of Treasury of the United States with a six-month maturity as of the last business day in December of the plan year in which the obligation was due, whichever is greater, expressed as a monthly rate and compounded monthly.

Cause: Municipal officials did not comply with the Act 205 requirements because the borough did not have sufficient funds available to fully pay the MMOs.

Effect: The failure to fully pay the MMOs due to the plan could result in the plan not having adequate resources to meet current and future benefit obligations to its members.

Due to the municipality's failure to fully pay the 2009, 2010 and 2011 MMOs by the December 31, deadlines for each year, the municipality must add the 2009, 2010 and 2011 MMO balances to the current year's MMO and include interest, as required by Act 205.

DARBY BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

Finding No. 3 – (Continued)

Recommendation: We recommend that the municipality pay the outstanding MMOs due to the police pension plan for the years 2009, 2010 and 2011, with interest, in accordance with Section 302(e) of Act 205. A copy of the interest calculation must be maintained by the borough for examination during our next audit of the plan.

Furthermore, we recommend that plan officials establish adequate internal control procedures to ensure that future MMOs are fully paid accordance with Act 205 requirements.

Management's Response: Municipal officials agreed with the finding without exception. Subsequent to the current audit period, the borough deposited \$250,000 into the police pension plan in partial satisfaction of the MMO balances due. Municipal officials indicated that the borough intends to deposit \$20,000 per month into the plan to fully pay the outstanding MMOs and is currently working to apply for a loan in order to pay off the outstanding MMO balances.

Auditor's Conclusion: While we acknowledge the municipality's efforts to partially comply with the finding recommendation, the Department will continue to monitor the municipality's compliance with the finding recommendation subsequent to the release of the audit report to ensure the ongoing funding obligations of the plan are being met. In addition, a copy of this audit report will be provided to the Public Employee Retirement Commission for their review.

Finding No. 4 - Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid

Condition: The borough certified one ineligible police officer (2 units) on the Certification Forms AG 385 filed in 2010 and 2011. The data contained on these certification forms is based on prior calendar year information. The police officer last worked in February 2009 and in 2011 was granted a nonservice-related disability benefit retroactive to February 28, 2009.

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.

DARBY BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

Finding No. 4 - (Continued)

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

<u>Year</u>	<u>Units Overstated</u>	<u>Unit Value</u>	<u>State Aid Overpayment</u>
2010	2	\$ 3,235	\$ 6,470
2011	2	\$ 5,596	<u>11,192</u>
Total Overpayment of State Aid			<u><u>\$ 17,662</u></u>

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

Recommendation: We recommend that the total overpayment of state aid, in the amount of \$17,662, 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 in the future, 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.

In addition, if the reimbursement to the Commonwealth is made from police pension plan funds, we recommend that any resulting MMO deficiencies 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. Subsequent to the current audit period, the borough reimbursed \$17,813 to the Commonwealth for the overpayment of state aid received.

Auditor’s Conclusion: The municipality has partially complied with the finding recommendation. Full compliance will be evaluated during our next audit of the plan.

DARBY BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

Finding No. 5 – Untimely Deposit Of State Aid

Condition: The municipality did not deposit its 2011 state aid allocation into an eligible pension plan within the 30 day grace period allowed by Act 205. The municipality received its 2011 state aid allocation in the amount of \$184,682 on September 16, 2011, but did not deposit the funds into its police pension plan until December 30, 2011.

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 respective pension plans.

Cause: Plan officials failed to establish adequate internal control procedures to ensure that the 2011 state aid allocation was deposited timely in accordance with Act 205 requirements.

Effect: Although the state aid allocation was deposited into the plan, the interest earned beyond the 30 day grace period was not deposited into the plan. When state aid is not deposited into a pension plan account in a timely manner, the funds are not available to pay operating expenses or for investment and the risk of misapplication is increased.

Recommendation: We recommend that the municipality deposit the interest earned during the period beyond the 30 day grace period allowed by Act 205, compounded annually into the pension plan. A copy of the interest calculation must be maintained by the borough for examination during our next audit of the plan.

We also recommend that plan officials develop and implement adequate internal control procedures to ensure that future state aid allocations are deposited into an eligible pension plan within 30 days of receipt by the municipal treasurer.

Management's Response: Municipal officials agreed with the finding without exception. Subsequent to the current audit period, the borough deposited \$154 into the police pension plan for the interest due on the late deposit of the 2011 state aid allocation.

Auditor's Conclusion: The municipality has partially complied with the finding recommendation. Full compliance will be evaluated during our next audit of the plan.

DARBY BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

Finding No. 6 - Unauthorized Provision For A Killed In Service Benefit

Condition: Darby Borough maintains a police pension plan governed by the provisions of Act 600, as amended. Prior to the adoption of Act 51 of 2009, Act 600 contained a mandatory killed in service benefit provision; however, Act 51 specifically repealed the section of Act 600 that referenced the mandatory killed in service benefit. During the prior audit period, a verbal observation was given to plan officials notifying them of the passage of Act 51. It was recommended that plan officials review the act's implications for the police pension plan with their municipal solicitor. During the current audit period, it has been determined that the pension plan's governing document continues to provide for a killed in service benefit that is no longer authorized by Act 600.

Section 5.03 of Ordinance No. 712A states, in part:

In the event a MEMBER is killed in service, the MEMBER'S family shall receive a pension calculated at one hundred percent (100%) of the MEMBER'S salary at the time of death.

Criteria: Section 1(a) of Act 51 of 2009 states, in part:

In the event a law enforcement officer, ambulance service or rescue squad member, firefighter, certified hazardous material response team member or National Guard member dies as a result of the performance of his duties, such political subdivision, Commonwealth agency or, in the case of National Guard members, the Adjutant General, or, in the case of a member of a Commonwealth law enforcement agency, the authorized survivor or the agency head, within 90 days from the date of death, shall submit certification of such death to the Commonwealth.



DARBY BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

Finding No. 6 – (Continued)

In addition, Section 1(d) of Act 51 of 2009 states, in part:

... the Commonwealth shall, from 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 paid firefighter, ambulance service or rescue squad member or 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. For the purpose of this subsection, the term "eligible beneficiary" means the surviving spouse or the child or children under the age of eighteen years or, if attending college, under the age of twenty-three years, of the firefighter, ambulance service or rescue squad member or law enforcement officer who died as a result of the performance of his duty. When no spouse or minor children survive, a single sum of \$100,000, adjusted in accordance with subsection (f) of this section, shall be paid to the parent or parents of such firefighter, ambulance service member, rescue squad member or law enforcement officer. (Emphasis added)

Furthermore, Section 2 of Act 51 of 2009 states:

Repeals are as follows:

- (1) The General Assembly declares that the repeals under paragraph (2) are necessary to effectuate the amendment of section 1 of the act.
- (2) The following parts of acts are repealed:
  - (i) Section 5(e)(2) of the act of May 29, 1956 (1955 P.L.1804, No. 600), referred to as the Municipal Police Pension Law.
  - (ii) Section 202(b)(3)(vi) and (4)(vi) of the act of December 18, 1984 (P.L.1005, No. 205), known as the Municipal Pension Plan Funding Standard and Recovery Act.

Therefore, since Act 51 specifically repealed the killed in service provision of Act 600 and the funding provisions for the killed in service benefit that were contained in Act 205, the provision of a killed in service benefit is no longer authorized.

DARBY BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

Finding No. 6 – (Continued)

Cause: Plan officials failed to establish adequate internal control procedures to ensure the plan's governing document is in compliance with Act 600, as amended.

Effect: Since Section 1 of Act 51 provides that the Commonwealth is obligated to pay the killed in service benefit less any pension or retirement benefits paid to eligible survivors, the continued provision of a killed in service benefit could result in the pension plan being obligated to pay a benefit that is no longer authorized by Act 600, and would have been paid entirely by the Commonwealth absent such provision.

Recommendation: We recommend that the municipality review the plan's killed in service benefit with its solicitor in conjunction with Act 51 of 2009, and eliminate this unauthorized benefit provision at its earliest opportunity to do so.

Management's Response: Municipal officials agreed with the finding without exception and indicated the borough will work to negotiate this out of the next police contract.

Auditor's Conclusion: Considering the plan's funded status and the liability for delinquent employer contributions owed by the municipality, we again urge borough officials to comply with the finding recommendation at their earliest opportunity to do so, especially in light of the fact that the Commonwealth has assumed the responsibility of paying the mandated killed in service benefit and the elimination of this benefit would improve the funding status of the plan going forward. Compliance will be evaluated during our next audit of the plan.

DARBY BOROUGH POLICE PENSION PLAN  
POTENTIAL WITHHOLD OF STATE AID

A condition such as that reported by Finding No. 3 contained in this audit report may lead to a total withholding of state aid in the future unless that finding is corrected. However, such action will not be considered if sufficient written documentation is provided to verify compliance with this department's recommendation. Such documentation should be submitted to: Department of the Auditor General, Bureau of Municipal Pension Audits, 402-D Finance Building, Harrisburg, PA 17120.

DARBY 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, 2007, 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)]
01-01-07	\$ 4,544,721	\$ 6,532,719	\$ 1,987,998	69.6%	\$ 1,130,718	175.8%
01-01-09	4,969,413	6,986,269	2,016,856	71.1%	1,278,008	157.8%
01-01-11	5,572,753	8,246,684	2,673,931	67.6%	1,233,313	216.8%

Note: The market values of the plan's assets at 01-01-09 and 01-01-11 have been adjusted to reflect the smoothing of gains and/or losses at 130% of market value. 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.

DARBY 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.

DARBY 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
2006	\$ 362,561	100.0%
2007	402,446	100.0%
2008	418,865	100.0%
2009	426,513	82.5%
2010	331,185	26.9%
2011	368,706	50.1%

DARBY 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, 2011
Actuarial cost method	Entry age normal
Amortization method	Level dollar
Remaining amortization period	8 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 130% of the market value of assets.
Actuarial assumptions:	
Investment rate of return *	8.0%
Projected salary increases *	5.0%
* Includes inflation at	Not disclosed
Cost-of-living adjustments	3.0% compounded annually

DARBY BOROUGH POLICE PENSION PLAN  
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom Corbett  
Governor  
Commonwealth of Pennsylvania

Darby Borough Police Pension Plan  
Delaware County  
821 Summit Street  
Darby, PA 19023

The Honorable Helen Thomas	Mayor
Ms. Janice Davis	Council President
Mr. Mark Possenti	Borough Manager
Mr. James P. McAneny	Public Employee Retirement Commission

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