



DUPONT BOROUGH POLICE PENSION PLAN

LUZERNE COUNTY

COMPLIANCE AUDIT REPORT

FOR THE PERIOD

JANUARY 1, 2009, TO DECEMBER 31, 2011

RELEASED MARCH 2013

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 Dupont 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 600 - Police Pension Fund Act, Act of May 29, 1956 (P.L. 1804, No. 600), as amended, 53 P.S. § 761 et seq.

The Dupont Borough Police Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Ordinance No. 89-01-07, 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 pension plan has no active full-time members as of December 1, 2011.





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EUGENE A. DePASQUALE
AUDITOR GENERAL

The Honorable Mayor and Borough Council
Dupont Borough
Luzerne County
Dupont, PA 18641

We have conducted a compliance audit of the Dupont Borough Police Pension Plan for the period January 1, 2009, 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 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. 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 terms of the unallocated insurance contract, including ownership and any restrictions, are in compliance with plan provisions, investment policies and state regulations.

Dupont 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 Dupont 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 Dupont 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 – Unauthorized Pension 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.

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



December 7, 2012

EUGENE A. DEPASQUALE
Auditor General



DUPONT BOROUGH POLICE PENSION PLAN
STATUS OF PRIOR FINDING

Noncompliance With Prior Audit Recommendation

Dupont 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

DUPONT 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. 89-01-07, as amended, contains benefit provisions that are 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	None provided	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.)
Service-related disability benefit	Disability benefits shall be in an amount equal to 50% of the average monthly compensation of such member during the preceding 36 months of employment.	The benefit must be in conformity with a uniform scale and fixed by the plan’s governing document at no less than 50% of the member’s salary at the time the disability was incurred, reduced by the amount of Social Security disability benefits received for the same injury.

DUPONT 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>
Pre-vesting death benefit	None provided	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.
Normal retirement age and service requirement	Full-time police officers who were hired after age 45, have served a minimum of 10 years and have attained the age of at least 60 years, may retire from active duty.	A minimum of 25 years of aggregate police service and age 55, or 50 if supported by an actuarial study.

Criteria: Section 1(a)(1) of Act 600 states, in part:

Each borough, town and township of this Commonwealth maintaining a police force of three or more full-time members and each regional police department shall, and all other boroughs, towns or townships may, establish, by ordinance or resolution, a police pension fund or pension annuity to be maintained by a charge against each member of the police force, by annual appropriations made by the borough, town, township or regional police department, by payments made by the State Treasurer to the municipal treasurer from the moneys received from taxes paid upon premiums by foreign casualty insurance companies for purposes of pension retirement for policemen...(Emphasis added)

DUPONT BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

If the borough elects to establish their pension plan pursuant to Act 600 provisions, even though the borough has employed only one full-time police officer since 2002, the plan's governing document should contain benefit provisions that are in compliance with Act 600 provisions.

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

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 recommend municipal officials, with the assistance of the borough solicitor, determine whether it is the borough's intention that the pension benefits should be governed by Act 600 provisions. If the borough makes the determination that pension benefits are to be governed by Act 600, we again recommend that municipal officials 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. Municipal officials are aware of the noncompliance issue and will discuss it with their solicitor at their next scheduled council meeting to determine the necessary steps to take to bring the plan into compliance with Act 600.

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

Finding No. 2 – Unauthorized Pension Benefit

Condition: Plan officials granted an unauthorized normal retirement benefit to a police officer who retired on December 1, 2011, at age 64 with 22 years of service, based on 75 percent of his final average salary. Act 600 requires a minimum of 25 years of service in order to be eligible for a normal retirement benefit, based upon 50 percent of the member's final average salary. Therefore, the retiree was only entitled to a vested pension benefit commencing on October 2, 2014. This unauthorized benefit was granted through an amendment to the plan's governing document and the collective bargaining agreement between the borough and its police officer.

DUPONT BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

Section 1 of Ordinance No. 1213-02 of 2011, states:

The terms of the Collective Bargaining Agreement with the Dupont Borough Police effective from January 1, 2008 through December 31, 2012 as it applies to pension and retirement are hereby amended to increase the pension benefit for qualified retiring officers to seventy-five percent (75%) of their final average salary with a minimum of twenty-two (22) years service.

In addition, the collective bargaining agreement at the Pension and Retirement Section states, in part:

An increase in pension benefits to 75% of final average salary.

Criteria: Section 3 of Act 600 states, in part:

Each ordinance or resolution establishing a police pension fund shall prescribe a minimum period of total service in the aggregate of twenty-five years in the same borough.

In addition, 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.

The plan's governing document at Section 12 of Ordinance No. 89-01-07 of 1989 states, in part:

Should a police officer, before completing superannuation retirement age and service requirements but after having completed twelve (12) years of total service, for any reason cease to be employed as a full-time police officer by the municipality in whose pension fund he has been a member, he shall be entitled to vest his retirement benefits...Upon reaching the date which would have been his superannuation retirement date if he had continued to be employed as a full-time police officer, he shall be paid a partial superannuation retirement allowance determined by applying the percentage his years of service bears to the continued to work (sic) until his superannuation retirement date to the gross pension, using however the monthly average salary during the appropriate period prior to his termination of employment.

DUPONT BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

Furthermore, the collective bargaining agreement, at Article 21, states:

Nothing in this agreement shall be construed to require either of the parties to act contrary to any state or federal law. In the event such conditions arise, it is agreed that this agreement shall be deemed to be modified to the extent necessary to comply with such laws, all other provisions of the agreement shall continue in full force and effect.

Cause: Municipal officials failed to establish adequate internal control procedures to ensure the plan benefit amendments and subsequent benefit determination were in compliance with Act 600 provisions.

Effect: The plan is paying excess pension benefits to the retiree in the amount of \$2,995 per month, which have totaled approximately \$35,940 from the date of retirement through the completion of the audit fieldwork.

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 did not receive state aid for this pension plan 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.

Recommendation: We recommend that municipal officials adjust the retiree's pension benefit prospectively to be in accordance with the vesting provisions contained in the plan's governing document and Act 600. To the extent that the borough is not in compliance with Act 600 and/or is contractually obligated to pay benefits to the retiree 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: Municipal officials agreed with the finding without exception.

DUPONT 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	\$ 834,747	\$ 130,629	\$ (704,118)	639.0%	\$ 41,500	(1,696.7%)
01-01-09	716,553	180,235	(536,318)	397.6%	49,988	(1,072.9%)
01-01-11	892,423	198,820	(693,603)	448.9%	47,203	(1,469.4%)

DUPONT 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.

DUPONT 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	None	N/A
2007	None	N/A
2008	None	N/A
2009	None	N/A
2010	None	N/A
2011	None	N/A

DUPONT 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	N/A
Remaining amortization period	N/A
Asset valuation method	Fair value
Actuarial assumptions:	
Investment rate of return	7.0%
Projected salary increases	5.0%

DUPONT BOROUGH POLICE PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom Corbett
Governor
Commonwealth of Pennsylvania

Dupont Borough Police Pension Plan
Luzerne County
600 Chestnut Street
Dupont, PA 18641

The Honorable Daniel Lello	Mayor
Mr. Stanley Knick, Jr.	Council President
Ms. Patricia McDonald	Borough 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.