

**FRACKVILLE BOROUGH POLICE PENSION PLAN**

**SCHUYLKILL COUNTY**

**COMPLIANCE AUDIT REPORT**

**FOR THE PERIOD**

**JANUARY 1, 2007, TO DECEMBER 31, 2009**





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## BACKGROUND

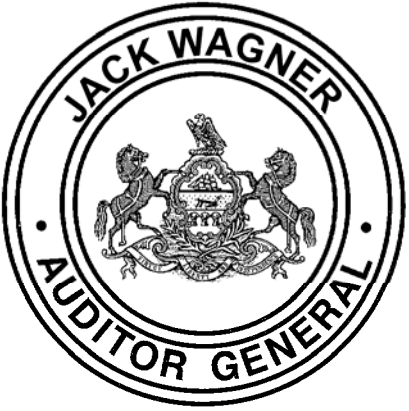
On December 18, 1984, the Pennsylvania Legislature adopted the Municipal Pension Plan Funding Standard and Recovery Act (P.L. 1005, No. 205, as amended, 53 P.S. § 895.101 et seq.). The act established mandatory actuarial reporting and funding requirements and a uniform basis for the distribution of state 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 Frackville 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 Frackville Borough Police Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Ordinance No. 76-1, 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  
Frackville Borough  
Schuylkill County  
Frackville, PA 17931

We have conducted a compliance audit of the Frackville Borough Police Pension Plan for the period January 1, 2007, to December 31, 2009. 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 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.

Borough officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Frackville 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 Frackville 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 – Noncompliance With Prior Audit Recommendation – Improper Elimination Of Members’ Contributions
- Finding No. 3 – Untimely Deposit Of State Aid

As previously noted, one of the objectives of our audit of the Frackville Borough Police Pension Plan was to determine compliance with applicable state laws, contracts, administrative procedures, and local ordinances and policies. During the current audit period, Act 205 was amended on September 18, 2009, through the adoption of Act 44 of 2009. Among several provisions relating to municipal pension plans, the bill provides for the implementation of a distress recovery program. Three levels of distress have been established:

<u>Level</u>	<u>Indication</u>	<u>Funding Criteria</u>
I	Minimal distress	70-89%
II	Moderate distress	50-69%
III	Severe distress	Less than 50%

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. However, we are extremely concerned about the funded status of the plan contained in the schedule of funding progress included in this report which indicates the plan’s funded ratio is 62.9% as of January 1, 2009, which is the most recent date available. Based on this information, the Public Employee Retirement Commission issued a notification that the borough is currently in Level II moderate distress status. We encourage borough officials to monitor the funding of the police pension plan to ensure its long-term financial stability.

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

April 5, 2011

JACK WAGNER  
Auditor General

FRACKVILLE BOROUGH POLICE PENSION PLAN  
STATUS OF PRIOR FINDINGS

Compliance With Prior Audit Recommendations

Frackville Borough has complied with the prior audit recommendations concerning the following:

- Failure To Deposit The Full Amount Of State Aid Into An Eligible Pension Plan

The borough deposited the remaining 2002 state aid allocation of \$955, plus interest, into the police pension plan;

- Pension Benefit Not Authorized By Act 600

Pursuant to the latest Act 111 interest arbitration award dated April 28, 2009, the expired collective bargaining agreement for the period January 1, 2004, to December 31, 2008, was amended to comply with Act 600 regarding the amount of sick time that may be included in pension benefit determinations; and

- Unauthorized Pension Benefit

During the current audit period, municipal officials reviewed the pension benefit determination with the borough's solicitor and prospectively adjusted the retired officer's pension benefit pursuant to Section 5(h) of Act 600.

Noncompliance With Prior Audit Recommendations

Frackville 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 Benefits Not In Compliance With Act 600 Provisions

- Improper Elimination Of Members' Contributions

FRACKVILLE 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. 76-1, as amended, contains benefit provisions that conflict with the collective bargaining agreement between the police officers and the borough and 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>Collective Bargaining Agreement</u>	<u>Act 600 (as amended)</u>
Service-related disability benefit	100% of monthly compensation.	75% of highest monthly compensation.	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.
Normal retirement age	A member who has served in the police force for an aggregate total of at least 25 years and has attained the age of 55 years.	Upon completion of 25 years of aggregate total service (20 years of service when allowed by Act 600) in the municipal police force and attainment of the age of fifty (50) years old.	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, town, township or regional police department and shall fix the age of the members of the force at fifty-five years, or, if an actuarial study of the cost shows that such reduction in age is feasible, may fix the age of the members of the force at fifty years.

FRACKVILLE BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

<u>Benefit Provision</u>	<u>Governing Document</u>	<u>Collective Bargaining Agreement</u>	<u>Act 600 (as amended)</u>
Survivor's Benefit	50% of the pension that the member was receiving or would have been received had he been eligible and retired at the time of his death, payable to the surviving spouse until death or remarriage. Upon the death or remarriage of the surviving spouse, or if there is no surviving spouse, the benefit is payable to the surviving child or children until age 18.	50% of the pension that the member was receiving or would have been received had he been eligible and retired at the time of his death, payable to the surviving spouse until death or remarriage. Upon the death or remarriage of the surviving spouse, or if there is no surviving spouse, the benefit is payable to the surviving child or children until age 18.	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.)

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 failed to establish adequate internal control procedures to ensure compliance with the prior audit recommendation.

Effect: Inconsistent plan documents could result in inconsistent or improper benefit calculations and incorrect benefit payments from the pension plan. In addition, maintaining a benefit structure which is not in compliance with Act 600 could result in plan members or their beneficiaries receiving incorrect benefit amounts or being denied benefits to which they are statutorily entitled.

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

FRACKVILLE BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

Management’s Response: Municipal officials agreed with the finding without exception. After consulting with their solicitor, the borough drafted a new ordinance to bring the police pension plan’s benefit structure into compliance with Act 600.

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

Finding No. 2 – Noncompliance With Prior Audit Recommendation – Improper Elimination Of Members’ Contributions

Condition: As previously noted in the Background section of this report, the Frackville Borough Police Pension Plan is locally controlled by the provisions of Ordinance No. 76-1, as amended, adopted pursuant to Act 600. Section 6(a) of Act 600 provides that where police officers are not covered by Social Security, members shall pay into the fund, monthly, an amount equal to not less than 5 percent nor more than 8 percent of monthly compensation. However, pursuant to Section 6(c) of Act 600, municipalities have the option to annually reduce or eliminate members’ contributions through the adoption of an ordinance or resolution. As disclosed in the prior audit report, the governing body of the municipality failed to annually eliminate members’ contributions in accordance with Act 600 provisions.

Criteria: Section 6(c) of Act 600 states, in part:

The governing body of the borough, town, township or regional police department may, on an annual basis, by ordinance or resolution, reduce or eliminate payments into the fund by members.

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

Effect: Although members did not contribute to the plan during the audit period, members’ contributions were not annually eliminated in accordance with Act 600 provisions.

Recommendation: We again recommend that the municipality either eliminate members’ contributions in accordance with Act 600 provisions, or reinstate the collection of members’ contributions in accordance with the rate approved by the municipality.

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

FRACKVILLE BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

Finding No. 3 – Untimely Deposit Of State Aid

Condition: The municipality did not deposit its 2007, 2008 and 2009 state aid allocations into the pension plan within the 30 day grace period allowed by Act 205. The municipality received its 2007, 2008 and 2009 state aid allocations in the amounts of \$54,509, \$44,609 and \$43,792, respectively, on September 24, 2007, September 23, 2008, and September 21, 2009, but did not deposit the funds into its police pension plan until December 3, 2007, December 19, 2008, and December 31, 2009, respectively.

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 funds or the alternate funding mechanisms applicable to the respective pension plans.

Cause: Plan officials failed to establish adequate internal control procedures to ensure the timely deposit of state aid.

Effect: Although the state aid 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 to the plan the interest earned during the period beyond the 30 day grace period allowed by Act 205. 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 the pension plan within 30 days of receipt by the municipal treasurer.

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

FRACKVILLE 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, 2005, is as follows:

	(1)	(2)	(3)	(4)	(5)	(6)
Actuarial Valuation Date	Actuarial Value of Assets (a)	Actuarial Accrued Liability (AAL) - Entry Age (b)	Unfunded (Assets in Excess of) Actuarial Accrued Liability (b) - (a)	Funded Ratio (a)/(b)	Covered Payroll (c)	Unfunded (Assets in Excess of) Actuarial Accrued Liability as a % of Payroll [(b-a)/(c)]
01-01-05	\$ 1,298,771	\$ 2,022,458	\$ 723,687	64.2%	\$ 227,501	318.1%
01-01-07	1,313,778	2,228,327	914,549	59.0%	192,496	475.1%
01-01-09	1,304,494	2,074,576	770,082	62.9%	174,917	440.3%

Note: The market value of the plan's assets at 01-01-09 has been adjusted to reflect the smoothing of gains and/or losses subject to a corridor between 70 to 130 percent of the market value of assets. 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.



FRACKVILLE 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.

FRACKVILLE BOROUGH POLICE PENSION PLAN  
SUPPLEMENTARY INFORMATION  
(UNAUDITED)

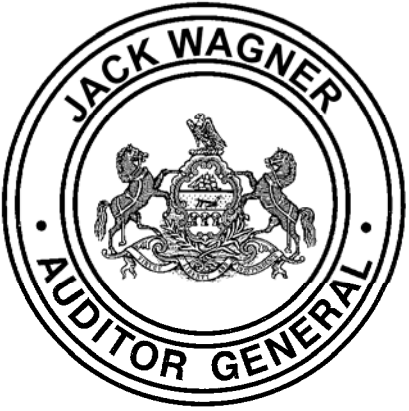
SCHEDULE OF CONTRIBUTIONS FROM EMPLOYER  
AND OTHER CONTRIBUTING ENTITIES

Year Ended December 31	Annual Required Contribution	Percentage Contributed
2004	\$ 34,238	100.0%
2005	61,942	100.0%
2006	74,236	100.0%
2007	114,419	100.0%
2008	96,350	100.0%
2009	132,874	100.0%

FRACKVILLE 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, 2009
Actuarial cost method	Entry age normal
Amortization method	Level dollar
Remaining amortization period	14 years
Asset valuation method	Plan assets are valued using the method described in Section 210 of Act 205, as amended, subject to a corridor between 70-130% of the market value of assets.
Actuarial assumptions:	
Investment rate of return	7.0%
Projected salary increases	5.0%
Cost-of-living adjustments	4.0% per year postretirement



FRACKVILLE BOROUGH POLICE PENSION PLAN  
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom Corbett  
Governor  
Commonwealth of Pennsylvania

Frackville Borough Police Pension Plan  
Schuylkill County  
42 South Center Street  
Frackville, PA 17931

The Honorable Kim Phillips	Mayor
Mr. Ronald Jordan	Council President
Ms. Brenda Deeter	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](http://www.auditorgen.state.pa.us).