

MAYFIELD BOROUGH POLICE PENSION PLAN
LACKAWANNA COUNTY
COMPLIANCE AUDIT REPORT
FOR THE PERIOD
JANUARY 1, 2006, TO DECEMBER 31, 2008



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LACKAWANNA COUNTY

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ABBREVIATIONS

PMRS - Pennsylvania Municipal Retirement System
PERC - Public Employee Retirement Commission

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 Mayfield 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 15 - Pennsylvania Municipal Retirement Law, Act of February 1, 1974
(P.L. 34, No. 15), as amended, 53 P.S. § 881.101 et seq.

The Mayfield Borough Police Pension Plan is a single-employer defined contribution pension plan locally controlled by the provisions of Ordinance No. 5-01, as amended, adopted pursuant to Act 15. Active members are not required to contribute to the plan. The municipality is required to contribute \$250 per quarter per member.



The Honorable Mayor and Borough Council
Mayfield Borough
Lackawanna County
Mayfield, PA 18433

We have conducted a compliance audit of the Mayfield Borough Police Pension Plan for the period January 1, 2006, to December 31, 2008. The audit was conducted pursuant to authority derived from Section 402(j) of Act 205 and in accordance with *Government Auditing Standards* applicable to performance audits issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

The objective of the audit was 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 objective identified above. The Mayfield Borough Police Pension Plan participates in the Pennsylvania Municipal Retirement System (PMRS), which is an agent multiple-employer public employee retirement system that acts as a common investment and administrative agent for participating municipal pension plans. PMRS issues a separate Comprehensive Annual Financial Report, copies of which are available from the PMRS accounting office. PMRS's 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 an internal control structure to provide reasonable assurance that the Mayfield Borough Police Pension Plan is administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies. To assist us in planning and performing our audit, we obtained an understanding of the borough's internal control structure as it relates to the borough's compliance with those requirements. Additionally, we tested transactions, assessed official actions, performed analytical procedures and interviewed selected officials to the extent necessary to satisfy the audit objective.

The results of our tests indicated that, in all significant respects, the Mayfield 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 – Receipt Of State Aid In Excess Of Entitlement

Finding No. 2 – Municipal Contributions Made In Excess Of Contributions
Required To Fund The Plan

Finding No. 3 – Failure To Comply With Act 205 Administrative
Requirements

The accompanying supplementary information is presented for purposes of additional analysis. We did not audit the information and, accordingly, express no form of assurance on it.

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

July 20, 2009

JACK WAGNER
Auditor General

MAYFIELD BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – Receipt Of State Aid In Excess Of Entitlement

Condition: The borough received state aid in excess of the police pension plan’s defined contribution pension costs in the years 2006 and 2007, as illustrated below:

	<u>2006</u>	<u>2007</u>	<u>Total</u>
State aid allocation	\$ 1,194	\$ 1,248	\$ 2,442
Actual municipal pension costs	(1,000)	(1,000)	(2,000)
Excess state aid	\$ 194	\$ 248	\$ 442

Furthermore, the police plan’s governing document allows for the allocation of excess state aid to plan members. Section 14 of the pension plan agreement states, in part:

If funds exist within the plan due to the allocation of General Municipal Pension System State Aid, as provided for by Act 205 of 1984, being more than anticipated or assets becoming available due to a member’s forfeiture of benefit, the Borough may annually elect to contribute all or a portion of such unanticipated assets to the members’ accounts in a given calendar year by adopting a resolution and filing it with the Board.

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 plan 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.

The borough filed actuarial valuation report form 201A with the Public Employee Retirement Commission (PERC) identifying the plan as a defined contribution plan.

MAYFIELD BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

Section 102 of Act 205 defines a defined contribution pension plan, as follows:

A type of pension benefit plan which provides for a fixed contribution rate or amount and which provides for periodic benefit payments calculable at retirement dependent on the accumulated contributions, investment income, experience gains and losses credited to the member and the expected mortality of the member.
(Emphasis added)

Accordingly, Section V, B, of the actuarial valuation report form 201A provides for reporting a defined contribution rate either at a specified percentage of payroll or as a specified flat dollar amount. No other types of reporting are provided for defined contribution pension plans.

Cause: Plan officials were unaware that the plan's governing document was inconsistent with Act 205's definition of a defined contribution pension plan.

Effect: The municipality received excess state aid in 2006 and 2007. 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 municipality, it is inappropriate to use state aid in one year to offset pension costs in other years. Therefore, the excess state aid received in the years 2006 and 2007, in the total amount of \$442, must be returned to the Commonwealth for redistribution.

Recommendation: We recommend that the municipality return the \$442 of excess state aid received in the years 2006 and 2007 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 also be submitted along with evidence of payment.

We also recommend that the municipality amend the plan's governing document to specify the plan's defined contribution rate as a specified percentage of payroll or as a specified flat dollar amount, with no discretionary employer contributions.

In addition, we recommend that plan officials reconcile the amount of state aid allocated to the pension plan and municipal contributions made to the pension plan with the pension plan's defined contribution costs.

Management's Response: Municipal officials will respond to the finding upon receipt of the audit report.

MAYFIELD BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – Municipal Contributions Made In Excess Of Contributions Required To Fund The Plan

Condition: The borough made contributions to the police pension plan in excess of contributions required to fund the pension plan, as illustrated below:

	<u>2006</u>	<u>2007</u>	<u>Total</u>
Actual municipal pension costs	\$ 1,000	\$ 1,000	\$ 2,000
State aid allocated	<u>(1,194)</u>	<u>(1,248)</u>	<u>(2,442)</u>
Municipal contributions required to fund plan	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
Actual municipal contributions made	\$ 1,000	\$ 1,000	\$ 2,000
Municipal contributions required to fund plan	<u>-</u>	<u>-</u>	<u>-</u>
Excess municipal contributions	<u>\$ 1,000</u>	<u>\$ 1,000</u>	<u>\$ 2,000</u>

Criteria: Section 13 of the pension plan agreement states, in part:

The Borough will contribute quarterly two hundred and fifty dollars (\$250) of each member's compensation to the System.

Since state aid allocated to a pension plan must be expended on pension costs, it is the opinion of this department that where municipal contributions and state aid are both deposited into a pension plan, the state aid is expended first to fund pension costs.

Cause: The borough failed to establish adequate internal control procedures to ensure that only required municipal contributions would be made to the pension plan.

Effect: The municipality allocated funds to the member's account in excess of the defined contribution rate contained in the plan's governing document. By making excess municipal contributions, the plan member will receive additional benefits beyond those outlined in the plan's governing document.

MAYFIELD BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

It is the opinion of this department that the borough's failure to withdraw excess municipal contributions made in prior years does not preclude the borough from withdrawing the municipal contributions maintained in the members' accounts at this time.

Recommendation: We recommend that the borough review the audit finding with its solicitor and PMRS to determine whether the excess municipal contributions should be withdrawn from the member's account and be reimbursed to the borough.

We also recommend that, in the future, plan officials reconcile the amount of state aid allocated to the pension plan and municipal contributions made to the pension plan with the pension plan's annual defined contribution pension costs.

Management's Response: Municipal officials will respond to the finding upon receipt of the audit report.

Finding No. 3 – Failure To Comply With Act 205 Administrative Requirements

Condition: Municipal officials appointed the mayor as the chief administrative officer (CAO) for the pension plan by adopting Resolution No. 104, dated April 25, 1985. However, during the audit period, the latest filed actuarial valuation report, Certification Form AG 385, and the minimum municipal obligation determination were signed by borough officials other than the mayor.

Criteria: Section 102 of Act 205 defines the CAO as "The person who has primary responsibility for the execution of the administrative affairs of the municipality in the case of the municipality, or of the pension plan in the case of the pension plan, or the designee of that person."

Municipal officials may appoint two CAOs - one for the pension plan and one for the municipality or appoint one person to fill both positions.

MAYFIELD BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 3 – (Continued)

Act 205 identifies specific duties for each position, as follows:

CAO of the Municipality

- Supervise and direct the preparation of actuarial reports (Section 201(d));
- Certify and file actuarial valuation reports with the Public Employee Retirement Commission (Section 201(b)); and
- Make actuarial report information available to plan members (Section 201(e)).

CAO of the Pension Plan

- Annually, determine and submit to the governing body of the municipality the financial requirements of the pension plan and minimum municipal obligation (Section 302(b), Section 302(c), Section 303(b), Section 303(c) and Section 304); and
- Provide the governing body of the municipality with a cost estimate of the effect of any proposed benefit plan modification (Section 305(a)).

Cause: The borough failed to implement adequate internal control procedures to ensure the CAO administered his duties in accordance with Act 205 requirements.

Effect: Plan documents were not properly certified in accordance with Act 205 requirements.

Recommendation: Because of the significance of the CAO's responsibilities to the municipality and pension plan, we recommend that the CAO who is formally appointed by ordinance, resolution or motion recorded in the minutes of a council meeting be the official who certifies compliance with Act 205 administrative requirements.

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

MAYFIELD BOROUGH POLICE PENSION PLAN
SUPPLEMENTARY INFORMATION
(UNAUDITED)

SCHEDULE OF STATE AID
AND EMPLOYER CONTRIBUTIONS

Year Ended December 31	State Aid Deposited	Employer Contributions
2003	None	\$ 1,000
2004	None	1,000
2005	\$ 1,020	1,000
2006	1,194	1,000
2007	1,248	1,000
2008	1,020	None

MAYFIELD BOROUGH POLICE PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Edward G. Rendell
Governor
Commonwealth of Pennsylvania

Mayfield Borough Police Pension Plan
Lackawanna County
739 Penn Avenue
Mayfield, PA 18433

The Honorable Alexander J. Chelik	Mayor
Mr. Glen M. Nicolio	Council President
Ms. Phyllis A. Jaskowiec	Secretary
Mr. Benjamin F. Mader	Pennsylvania Municipal Retirement System

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.