

COMPLIANCE AUDIT

New Cumberland Borough Non-Uniformed Pension Plan Cumberland County, Pennsylvania For the Period January 1, 2017 to December 31, 2020

July 2021



Commonwealth of Pennsylvania
Department of the Auditor General

Timothy L. DeFoor • Auditor General



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**TIMOTHY L. DEFOOR
AUDITOR GENERAL**

The Honorable Mayor and Borough Council
New Cumberland Borough
Cumberland County
New Cumberland, PA 17070

We have conducted a compliance audit of the New Cumberland Borough Non-Uniformed Pension Plan for the period January 1, 2017 to December 31, 2020. We also evaluated compliance with some requirements subsequent to that period when possible. The audit was conducted pursuant to authority derived from the Municipal Pension Plan Funding Standard and Recovery Act (Act 205 of 1984, as amended, 53 P.S. § 895.402(j)), which requires the Auditor General, as deemed necessary, to audit every municipality which receives general municipal pension system state aid and every municipal pension plan and fund in which general municipal pension system state aid is deposited. The audit was not conducted, nor was it required to be, in accordance with Government Auditing Standards issued by the Comptroller General of the United States. We planned and performed 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 finding 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. To determine whether the pension plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies, our methodology included the following:

- We determined whether state aid was properly determined and deposited in accordance with Act 205 requirements by verifying the annual deposit date of state aid and determining whether deposits were made within 30 days of receipt for all years within the period under audit. State aid allocations that were deposited into the pension plan for the years ended December 31, 2015 to December 31, 2020, are presented on the Summary of Deposited State Aid and Employer Contributions.

- We determined whether annual employer contributions were calculated and deposited in accordance with the plan's governing document and applicable laws and regulations by examining the municipality's calculation of the plan's annual financial requirements and minimum municipal obligation (MMO) and comparing these calculated amounts to amounts actually budgeted and deposited into the pension plan as evidenced by supporting documentation. Employer contributions that were deposited into the pension plan for the years ended December 31, 2015 to December 31, 2020, are presented on the Summary of Deposited State Aid and Employer Contributions.
- We determined whether annual employee contributions were calculated, deducted, and deposited into the pension plan in accordance with the plan's governing document and applicable laws and regulations by testing total members' contributions on an annual basis using the rates obtained from the plan's governing document in effect for all years within the period under audit and examining documents evidencing the deposit of these employee contributions into the pension plan. We also tested individual employee contributions for all 18 active employees employed during the audit period amounting to \$14,992, \$16,147, \$15,671 and \$14,656, for the years 2017, 2018, 2019 and 2020, respectively, made during the audit period.
- We determined whether retirement benefits calculated for the plan member who retired, the plan member who elected to vest, and the plan members who separated employment and received lump-sum distributions during the current audit period, represent payments to all (and only) those entitled to receive them and were properly determined and disbursed in accordance with the plan's governing document, applicable laws and regulations by recalculating the amount of the pension benefits due to the retired individual and comparing these amounts to supporting documentation evidencing amounts determined and actually paid or payable to the recipients.
- We determined whether the January 1, 2017 and January 1, 2019 actuarial valuation reports were prepared and submitted by March 31, 2018 and 2020, respectively, in accordance with Act 205 and whether 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 by comparing selected information to supporting source documentation.

New Cumberland 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.

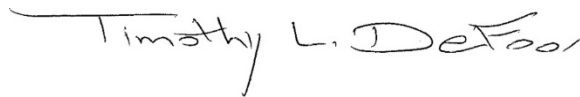
Borough officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the New Cumberland Borough Non-Uniformed Pension Plan is administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies. As previously described, we tested transactions,

interviewed selected officials, and performed procedures to the extent necessary 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 objective.

The results of our procedures indicated that, in all significant respects, the New Cumberland Borough Non-Uniformed 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 finding further discussed later in this report:

Finding – Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid

The contents of this report were discussed with officials of New Cumberland Borough and, where appropriate, their responses have been included in the report. We would like to thank borough officials for the cooperation extended to us during the conduct of the audit.



Timothy L. DeFoor
Auditor General

June 23, 2021

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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.

Annual state aid allocations are provided from a 2 percent foreign (out-of-state) casualty insurance premium tax, a portion of the foreign (out-of-state) 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 New Cumberland Borough Non-Uniformed Pension Plan is also governed by implementing regulations published at Title 16, Part IV of the Pennsylvania Code and applicable provisions of various other state statutes.

The New Cumberland Borough Non-Uniformed Pension Plan is a single-employer defined contribution pension plan locally controlled by the provisions of Ordinance No. 679. The plan was established January 1, 1974. Active members are required to contribute 2 percent of compensation to the plan. The municipality is required to contribute 10.29 percent of members' compensation. As of December 31, 2020, the plan had 12 active members, 2 terminated members eligible for vested benefits in the future, and 2 retirees receiving pension benefits.

NEW CUMBERLAND BOROUGH NON-UNIFORMED PENSION PLAN
FINDING AND RECOMMENDATION

Finding – Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid

Condition: The borough certified 2 ineligible police officers (4 units) and 1 ineligible non-uniformed employee (1 unit) and overstated payroll by \$261,593 on the Certification Form AG 385 filed in 2018. The two ineligible police officers retired effective February 28, 2017 and April 28, 2017, respectively, and entered the borough’s Deferred Retirement Option Program (DROP). The ineligible non-uniformed member retired effective May 5, 2017. The data contained on this certification form is based on prior calendar year information.

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.

Furthermore, Act 205 at Section 402(e)(2) states, in part:

For the purpose of computing and reporting the applicable number of units, a DROP participant shall not be reported to the Auditor General as an active employee.

Cause: There was a recent turnover involving plan officials responsible for preparation and submission of the AG 385 certification form at the end of 2017 and this was the first AG-385 submitted by current officials who assumed reporting responsibilities. Current officials were unaware that DROP participants (*the DROP was first adopted by the borough in 2015 and these were the first two police officers who entered the DROP*), along with their respective compensation, were not eligible for certification purposes and also failed to recognize that the non-uniformed employee had not worked the required 6 months full-time during the year required for certification. Furthermore, the borough lacked adequate internal control procedures, such as having another individual review the data reported on the AG 385 form, to ensure the accuracy of the data certified prior to submission.

NEW CUMBERLAND BOROUGH NON-UNIFORMED PENSION PLAN
FINDING AND RECOMMENDATION

Finding – (Continued)

Effect: The data submitted on this certification form 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 allocation was based on unit value, the incorrect certification of pension data affected the borough’s state aid allocation, as identified below:

<u>Year</u>	<u>Type Of Plan</u>	<u>Units Overstated</u>	<u>Unit Value</u>	<u>State Aid Overpayment</u>
2018	Police	4	\$ 4,684	\$ 18,736
	Non-Uniformed	1	4,684	<u>4,684</u>
				<u>\$ 23,420</u>
			\$	
			<i>Less: Partial Refund of 2018 Overpayment</i>	<u>\$ (9,369)</u>
			Overpayment of State Aid	<u><u>\$ 14,051</u></u>

In addition, the borough used the overpayment 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 police pension plan, the plan’s MMO will not be fully paid.

Furthermore, the borough’s future state aid allocations may be withheld until the finding recommendation is complied with.

Recommendation: We recommend that the borough reimburse the remaining overpayment of state aid, in the amount of \$14,051, plus interest, 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, 321 Finance Building, Harrisburg, PA 17120. 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, such as having at least 2 people review the data certified, to ensure compliance with the instructions that accompany Certification Form AG 385 to assist them in accurately reporting the required pension data.

NEW CUMBERLAND BOROUGH NON-UNIFORMED PENSION PLAN
FINDING AND RECOMMENDATION

Finding – (Continued)

In addition, if the reimbursement to the Commonwealth is made from police pension plan funds, we recommend that any resulting MMO deficiency be paid to the police pension plan with interest, at a rate earned by the pension plan.

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

Auditor's Conclusion: Due to the potential withhold of state aid, the borough's compliance with the finding recommendation will be monitored subsequent to the release of the audit report and through our next audit of the plan.

NEW CUMBERLAND BOROUGH NON-UNIFORMED PENSION PLAN
POTENTIAL WITHHOLD OF STATE AID

The finding contained in this audit report cites an overpayment of state aid to the borough in the amount of \$14,051, plus interest. A condition of this nature may lead to a total withholding of state aid in the future unless that finding is corrected. A check in this amount with interest, 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, 321 Finance Building, Harrisburg, PA 17120.

NEW CUMBERLAND BOROUGH NON-UNIFORMED PENSION PLAN
SUMMARY OF DEPOSITED STATE AID AND EMPLOYER CONTRIBUTIONS

Year Ended December 31	State Aid	Employer Contributions
2015	None	\$ 117,511
2016	None	117,226
2017	None	85,040
2018	None	75,170
2019	\$ 71,687	9,103
2020	68,934	6,310

NEW CUMBERLAND BOROUGH NON-UNIFORMED PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom W. Wolf
Governor
Commonwealth of Pennsylvania

The Honorable Douglas Morrow
Mayor

Mr. Robert P. Kline
Council President

Mr. Albert M. Penksa, Jr.
Borough Manager

This report is a matter of public record and is available online at www.PaAuditor.gov. Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 229 Finance Building, Harrisburg, PA 17120; via email to: news@PaAuditor.gov.