

TROY BOROUGH NONUNIFORMED PENSION PLAN

BRADFORD COUNTY

COMPLIANCE AUDIT REPORT

FOR THE PERIOD

JANUARY 1, 2006, TO DECEMBER 31, 2008



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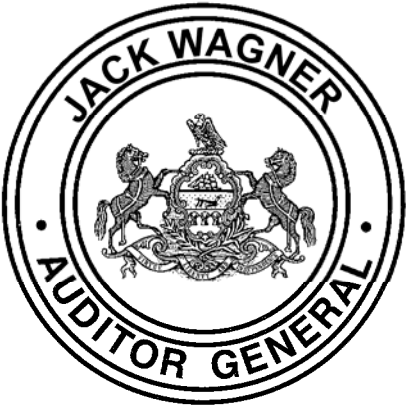
BACKGROUND

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 Troy Borough Nonuniformed 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.

The Troy Borough Nonuniformed Pension Plan is a single-employer defined contribution pension plan locally controlled by the provisions of Ordinance No. 96-4, as amended. The plan is also affected by the provisions of collective bargaining agreements between the borough and its nonuniformed employees. Active members are not required to contribute to the plan. The municipality is required to contribute 8 percent of each member's compensation.



The Honorable Mayor and Borough Council
Troy Borough
Bradford County
Troy, PA 16947

We have conducted a compliance audit of the Troy Borough Nonuniformed 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. Troy Borough contracted with an independent certified public accounting firm for annual audits of its basic financial statements for the years 2006 and 2007, and an audit of its financial statements prepared in conformity with the accounting practices prescribed or permitted by the Department of Community and Economic Development of the Commonwealth of Pennsylvania, for the year 2008, 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 Troy Borough Nonuniformed 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 objective, 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 objective.

The results of our tests indicated that, in all significant respects, the Troy Borough Nonuniformed 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 – Allocation 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 – Improper Amendment Of The Plan's Governing Ordinance

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 Troy Borough and, where appropriate, their responses have been included in the report.

August 26, 2009

JACK WAGNER
Auditor General

TROY BOROUGH NONUNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

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

Condition: In 2007 and 2008, the borough allocated state aid to the nonuniformed pension plan in excess of the plan’s defined contribution pension costs, as illustrated below:

	<u>2007</u>	<u>2008</u>
State aid allocation	\$ 10,933	\$ 11,717
Less: Actual municipal pension costs	(10,163)	(10,194)
Excess state aid	\$ 770	\$ 1,523

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.

Cause: Plan officials were unaware of the need to annually reconcile the amount of state aid allocated to the pension plan with the plan’s actual defined contribution pension costs.

Effect: 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. The borough does have the option to allocate the excess state aid to its defined benefit pension plan. If this option is not selected, the excess state aid allocated to the plan in 2007 and 2008 must be returned to the Commonwealth for redistribution.

Recommendation: We recommend that municipal officials either allocate \$2,293 to their defined benefit pension plan or return it 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 be submitted along with the check.

TROY BOROUGH NONUNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

In addition, we recommend that, in the future, plan officials reconcile the amount of state aid allocated to the nonuniformed pension plan with the pension plan’s actual defined contribution pension costs.

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

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

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

	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>Total</u>
Actual municipal pension costs	\$ 9,809	\$ 10,163	\$ 10,194	\$ 30,166
State aid allocated	<u>(8,869)</u>	<u>(10,933)</u>	<u>(11,717)</u>	<u>(31,519)</u>
Municipal contributions required to fund plan	<u>\$ 940</u>	<u>\$ (770)</u>	<u>\$ (1,523)</u>	<u>\$ (1,353)</u>
Actual municipal contributions made	\$ 1,811	\$ 659	\$ 42	2,512
Municipal contributions required to fund plan	<u>(940)</u>	<u>-</u>	<u>-</u>	<u>(940)</u>
Excess municipal contributions	<u>\$ 871</u>	<u>\$ 659</u>	<u>\$ 42</u>	<u>\$ 1,572</u>

Criteria: Section I of Ordinance No. 00-4 states, in part:

Effective January 1, 2000, the employer contribution to the Troy Borough Nonuniformed Employee Pension Plan shall be increased to eight (8%) percent of each eligible participant’s compensation.

TROY BOROUGH NONUNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

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 did not have adequate internal control procedures in place to ensure that municipal contributions would not exceed the required contributions outlined in the plan's governing document.

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

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, with the assistance of its solicitor, determine whether the excess municipal contributions should be withdrawn from the members' accounts and be reimbursed to the borough.

We also recommend that, in the future, plan officials reconcile the amount of state aid allocated to the nonuniformed 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 agreed with the finding without exception.

Finding No. 3 – Improper Amendment Of The Plan's Governing Ordinance

Condition: The pension plan's governing document, Ordinance No. 96-4, as amended, was restated in its entirety by a plan document adopted by a motion recorded in the minutes of a December 10, 2008, council meeting.

Criteria: In Wynne v. Lower Merion Township, 181 Pa. Superior Ct., 524, the Pennsylvania Superior Court held that an ordinance may be amended only by another ordinance.

TROY BOROUGH NONUNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 3 – (Continued)

Cause: Municipal officials were unaware that the borough should formally adopt the provisions of the restated plan document through a properly executed ordinance.

Effect: The failure to properly adopt the restated plan document could result in improper or inconsistent benefit payments to plan members and their beneficiaries.

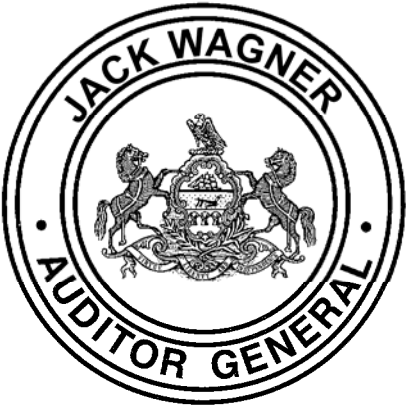
Recommendation: We recommend that municipal officials take appropriate action to formally adopt the restated plan document through a properly executed ordinance.

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

TROY BOROUGH NONUNIFORMED PENSION PLAN
SUPPLEMENTARY INFORMATION
(UNAUDITED)

SCHEDULE OF STATE AID
AND EMPLOYER CONTRIBUTIONS

Year Ended December 31	State Aid Deposited	Employer Contributions
2003	\$ 7,931	\$ 232
2004	9,830	135
2005	7,832	1,368
2006	8,869	1,811
2007	10,933	659
2008	11,717	42



TROY BOROUGH NONUNIFORMED PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Edward G. Rendell
Governor
Commonwealth of Pennsylvania

Troy Borough Nonuniformed Pension Plan
Bradford County
110 Elmira Street
Troy, PA 16947

The Honorable Mike Powers	Mayor
Mr. Jerry L. May	Council President
Mr. Daniel J. Close	Chief Administrative Officer

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.