



**WEST MIFFLIN BOROUGH POLICE  
PENSION PLAN**

**ALLEGHENY COUNTY**

**COMPLIANCE AUDIT REPORT**

**FOR THE PERIOD**

**JANUARY 1, 2009, TO DECEMBER 31, 2011**

**COMMONWEALTH OF PENNSYLVANIA**

**EUGENE A. DEPASQUALE - AUDITOR GENERAL**

**DEPARTMENT OF THE AUDITOR GENERAL**



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**EUGENE A. DePASQUALE  
AUDITOR GENERAL**

The Honorable Mayor and Borough Council  
West Mifflin Borough  
Allegheny County  
West Mifflin, PA 15122

We have conducted a compliance audit of the West Mifflin 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.

West Mifflin 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 West Mifflin 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 West Mifflin 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 – Failure To Deposit Member Contributions
- Finding No. 3 – Failure To Implement Act 44 Mandatory Distressed Provisions

As previously noted, one of the objectives of our audit of the West Mifflin Borough Police Pension Plan was to determine compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies. 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 act provides for the implementation of a distress recovery program. Three levels of distress have been established:

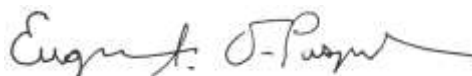
<u>Level</u>	<u>Indication</u>	<u>Funding Criteria</u>
I	Minimal distress	70-89%
II	Moderate distress	50-69%
III	Severe distress	Less than 50%

The accompanying supplementary information is presented for purposes of additional analysis. We did not audit the information or conclude on it and, accordingly, express no form of assurance on it. However, we are extremely concerned about the historical trend information contained in the schedule of funding progress included in this report which indicates a continued decline of assets available to satisfy the long-term liabilities of the plan. For example, **the plan's funded ratio went from 88.7% as of January 1, 2007, to a ratio of 69.9% as of January 1, 2011**, 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.

Finding No. 2 contained in this audit report cites the Borough for failing to deposit member contributions totaling \$177,374 for the years 2009 and 2010. Given the current funded status of the pension plan and the role municipal officials play as fiduciaries of the pension plan, the Borough should ensure that the member contributions due to the plan for 2009 and 2010 are deposited with interest at their earliest opportunity to do so. In addition, the Borough should take appropriate action to ensure this situation does not occur again in the future, as recommended in the Finding.

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

June 14, 2013



EUGENE A. DEPASQUALE  
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.

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 West Mifflin 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 West Mifflin Borough Police Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Ordinance No. 1078, 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.

WEST MIFFLIN BOROUGH POLICE PENSION PLAN  
STATUS OF PRIOR FINDING

Noncompliance With Prior Audit Recommendation

West Mifflin 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



WEST MIFFLIN 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 our prior audit report, the pension plan’s governing document, Ordinance No. 1078, 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	If a Participant dies after commencement of retirement benefit payments or after the Participant is eligible to retire and before retirement benefit payments commence, a survivor benefit shall be paid equal to 50% of the Participant’s Accrued Benefit to the surviving spouse of the Participant, until the date of death of the surviving spouse. Upon the death of the surviving spouse or if there is no surviving spouse, the benefit shall be paid in equal shares to the Participant’s dependent children who have not attained 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.)

WEST MIFFLIN 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>
Service-related disability benefit	A Participant who shall be entitled to a Disability Retirement Benefit shall receive a benefit in an amount equal to the Accrued Benefit of the Participant determined as of the Disability Date.	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.
Pre-vesting death benefit	If a participant shall die before payment of a benefit has commenced and without eligibility for payment of a survivor benefit, the beneficiary shall be eligible to receive a distribution in an amount equal to the Accumulated Contributions of the Participant as of the date of death of the Participant.	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.

In addition, the plan's governing document contains a non-intervening military service credit purchase provision that is not consistent with the collective bargaining agreement between the borough and its police officers and which is not in accordance with Act 600.

WEST MIFFLIN 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>
Non-intervening military service credit	The ordinance provides that the rate for such purchases is 3.5 percent of the last 24 months of compensation, or the estimated upcoming 24 months of compensation upon which the average monthly benefit is calculated.	The military buy back benefit is to be consistent with the formula in Act 600.	The amount due for the purchase of credit for military service other than intervening military service shall be computed by applying the average normal cost rate for borough, town, township and regional police pension plans as certified by the Public Employee Retirement Commission, but not to exceed 10 percentum, to the member's average annual rate of compensation over the first three years of municipal service and multiplying the result by the number of years and fractional part of a year of creditable nonintervening military service being purchased together with interest at a rate of four and three-quarters per centum compounded annually from the date of initial entry into municipal service to the date of payment.

WEST MIFFLIN BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

Finding No. 1 - (Continued)

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: Plan 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.

Management Response: Municipal officials agreed with the finding without exception and stated that the borough, with the assistance of their solicitor, is currently in the process of amending the plan's governing document to comply with the finding recommendation.

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

Finding No. 2 – Failure To Deposit Member Contributions

Condition: The borough failed to deposit \$15,799 of \$152,237 of member contributions deducted during 2009 and also failed to deposit any of the \$161,575 of member contributions deducted during 2010. The accumulated member contributions were deposited into the borough's general fund, but the borough failed to remit the funds to the pension plan.

Criteria: Ordinance No. 1078, Article III, Section 3.01 states:

Each participant shall as a requirement of participation pay regular contributions to the Pension Fund in an amount equal to five percent (5%) of the Participant's annual Compensation.

Procedures should exist to ensure that member contributions deducted are deposited timely into the pension plan in accordance with the provisions contained in the plan's governing document.

WEST MIFFLIN BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

Cause: Plan officials failed to establish adequate internal control procedures to ensure that all member contributions were being deposited into the pension plan.

Effect: The failure to deposit the member contributions into the pension plan could result in the plan not having adequate resources to meet current and future benefit obligations to its members.

Furthermore, due to the municipality's failure to deposit member contributions, the municipality must add interest to the delinquent member contributions due to the plan.

Recommendation: We recommend that the borough deposit the member contributions due for 2009 and 2010 with interest. A copy of the interest calculation should be maintained by the borough for examination during our next audit of the plan.

We also recommend that plan officials establish adequate internal control procedures, such as depositing the member contributions into a restricted fund, as opposed to its general fund, to ensure that all future member contributions deducted are deposited timely into the pension plan to prevent this situation from occurring in the future.

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

Finding No. 3 – Failure To Implement Act 44 Mandatory Distressed Provisions

Condition: 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 act 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%

Based on the plan's funded ratio of 73.9% as of January 1, 2009, in aggregation with the funded ratio of the municipality's non-uniformed pension plan, the Public Employee Retirement Commission (PERC) issued a notification in 2010 that the borough was in Level II moderate distress status. Based on the plan's funded ratio of 69.9% as of January 1, 2011, in aggregation with the funded ratio of the municipality's non-uniformed pension plan, PERC issued another notification in 2012 that the borough remains in Level II moderate distress status.

WEST MIFFLIN BOROUGH POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

Finding No. 3 – (Continued)

Included with the determination notices, PERC sent the borough the Act 205 Recovery Program Election Form outlining the mandatory remedies that must be implemented and the voluntary remedies that the municipality could elect to implement. This form was required to be signed by the plan's chief administrative officer and returned to PERC.

Although the municipality submitted the election forms to PERC, the borough has yet to take any action to aggregate its pension funds for administration and investment.

Criteria: Act 205, amended by Act 44, at Section 605(a), states:

Recovery program level II.

- (a) Mandatory remedies. Any municipality to which level II of the recovery program applies shall utilize the following remedies:
  - (1) The aggregation of trust funds pursuant to section 607(b).
  - (2) The submission of a plan for administrative improvement pursuant to section 607(i).

Cause: Municipal officials failed to establish adequate internal control procedures to begin the process of aggregating their pension plans pursuant to Act 205 provisions.

Effect: The municipality is not in compliance with the Act 44 mandatory distress remedy provisions applicable to Level II which are designed to improve the funding status and administrative efficiency of its pension plans.

Recommendation: We recommend that municipal officials contact PERC for guidance in the implementation of the mandatory distress remedies applicable to Level II pursuant to Act 44 of 2009.

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

WEST MIFFLIN 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	\$ 12,065,952	\$ 13,596,718	\$ 1,530,766	88.7%	\$ 2,752,182	55.6%
01-01-09	10,410,968	14,086,233	3,675,265	73.9%	3,126,985	117.5%
01-01-11	11,610,642	16,605,552	4,994,910	69.9%	3,231,503	154.6%

Note: The market values of the plan's assets at 01-01-07, 01-01-09 and 01-01-11, have been adjusted to reflect the smoothing of gains and/or losses over a 4-year averaging period. 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.

WEST MIFFLIN 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.



WEST MIFFLIN 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	\$ 367,608	100.0%
2007	382,415	101.1%
2008	422,329	100.0%
2009	465,563	100.0%
2010	472,580	100.0%
2011	783,119	100.0%

WEST MIFFLIN 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	Level dollar, closed
Remaining amortization period	14 years
Asset valuation method	Fair value, 4-year smoothing
Actuarial assumptions:	
Investment rate of return	7.5%
Projected salary increases *	5.5%
* Includes inflation at	3.0%

WEST MIFFLIN BOROUGH POLICE PENSION PLAN  
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom Corbett  
Governor  
Commonwealth of Pennsylvania

West Mifflin Borough Police Pension Plan  
Allegheny County  
3000 Lebanon Church Road  
West Mifflin, PA 15122

The Honorable Christopher Kelly	Mayor
Mr. Michael Moses	Council President
Mr. Brian Kamauf	Borough Manager

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