

**WINDBER BOROUGH NONUNIFORMED PENSION PLAN**

**SOMERSET COUNTY**

**COMPLIANCE AUDIT REPORT**

**FOR THE PERIOD**

**JANUARY 1, 2007, TO DECEMBER 31, 2008**





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ABBREVIATION

PSABMRT - Pennsylvania State Association of Boroughs Municipal Retirement Trust



## 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 Windber 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 Windber Borough Nonuniformed Pension Plan is a single-employer defined contribution pension plan locally controlled, prior to January 1, 2009, by the provisions of Resolution No. 2002-12. Beginning January 1, 2009, the plan is locally controlled by the provisions of Resolution No. 2008-11 and a joinder agreement with PSABMRT. The plan is also affected by the provisions of collective bargaining agreements between the borough and its nonuniformed employees. Active members are required to contribute 4 percent of base compensation to the plan. During 2007 and 2008, the municipality was required to contribute 4 percent of base compensation per employee. Effective January 1, 2009, the municipality is required to contribute 8 percent of base compensation per employee.





The Honorable Mayor and Borough Council  
Windber Borough  
Somerset County  
Windber, PA 15963

We have conducted a compliance audit of the Windber Borough Nonuniformed Pension Plan for the period January 1, 2007, 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 finding 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. Windber 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 Windber 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 Windber 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 finding further discussed later in this report:

Finding – Allocation Of State Aid In Excess Of Entitlement

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

March 18, 2010

JACK WAGNER  
Auditor General

WINDBER BOROUGH NONUNIFORMED PENSION PLAN  
FINDING AND RECOMMENDATION

Finding – Allocation Of State Aid In Excess Of Entitlement

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

State aid allocation		\$ 9,523
Total municipal pension costs	7,389	
Less: Forfeiture applied	<u>(2,098)</u>	
Net municipal pension costs	<u>5,291</u>	<u>(5,291)</u>
Excess state aid allocation		<u><u>\$ 4,232</u></u>

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 and forfeitures 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 police pension plan. If this option is not selected, the overpayment of state aid in 2008, in the total amount of \$4,232, must be returned to the Commonwealth for redistribution.

Recommendation: We recommend that municipal officials either allocate the \$4,232 of excess state aid to their defined benefit police 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, 11 Stanwix Street, Suite 1450, Pittsburgh, PA 15222. A copy of the interest calculation must be submitted along with the check.

WINDBER BOROUGH NONUNIFORMED PENSION PLAN  
FINDING AND RECOMMENDATION

Finding – (Continued)

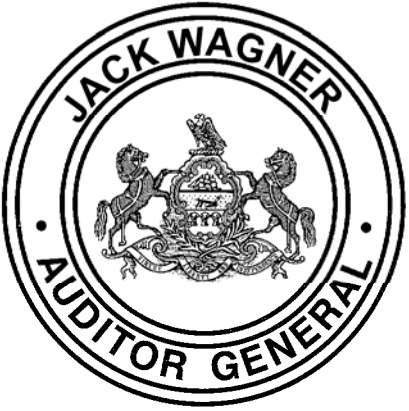
We also recommend that in the future, municipal officials reconcile the amount of state aid allocated to the nonuniformed pension plan, municipal contributions made to the pension plan and available forfeitures, with the pension plan's actual defined contributions costs.

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

WINDBER BOROUGH NONUNIFORMED PENSION PLAN  
SUPPLEMENTARY INFORMATION  
(UNAUDITED)

SCHEDULE OF STATE AID  
AND EMPLOYER CONTRIBUTIONS

Year Ended December 31	State Aid Deposited	Employer Contributions
2003	\$ 5,204	\$ 2,711
2004	8,366	100
2005	7,505	None
2006	6,905	865
2007	8,663	779
2008	9,523	None



WINDBER BOROUGH NONUNIFORMED PENSION PLAN  
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Edward G. Rendell  
Governor  
Commonwealth of Pennsylvania

Windber Borough Nonuniformed Pension Plan  
Somerset County  
1409 Somerset Avenue  
Windber, PA 15963

The Honorable Simon Ohler	Mayor
Mr. Anthony P. Turcato	Council President
Mr. Frederico R. Oliveros	Borough Manager

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).