

COMPLIANCE AUDIT

Newport Township Police Pension Plan Luzerne County, Pennsylvania For the Period January 1, 2018 to December 31, 2021

March 2023



Commonwealth of Pennsylvania
Department of the Auditor General

Timothy L. DeFoor • Auditor General



**Commonwealth of Pennsylvania
Department of the Auditor General
Harrisburg, PA 17120-0018
Facebook: Pennsylvania Auditor General
Twitter: @PAAuditorGen
www.PaAuditor.gov**

**TIMOTHY L. DEFOOR
AUDITOR GENERAL**

Board of Township Commissioners
Newport Township
Luzerne County
Nanticoke, PA 18634

We have conducted a compliance audit of the Newport Township Police Pension Plan for the period January 1, 2018 to December 31, 2021. 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 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. 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.

- 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.
- 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 determined that there were no benefit calculations prepared for the years covered by our audit period.
- We determined whether the January 1, 2017, January 1, 2019, and January 1, 2021 actuarial valuation reports were prepared and submitted by March 31, 2018, 2020, and 2022, 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.

Township officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Newport Township Police 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 Newport Township 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 – Incorrect Data Certified On Actuarial Valuation Report Resulting In An Overpayment Of State Aid
- Finding No. 2 – Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid
- Finding No. 3 – Pension Benefits Not In Compliance With Act 600 Provisions

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.

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

A handwritten signature in black ink that reads "Timothy L. DeFoor". The signature is written in a cursive style with a long horizontal line extending to the left of the first letter.

Timothy L. DeFoor
Auditor General
February 13, 2023

CONTENTS

| | <u>Page</u> |
|--------------------------------------------------------------------------------------------------------------------------|-------------|
| Background..... | 1 |
| Findings and Recommendations: | |
| Finding No. 1 – Incorrect Data Certified On Actuarial Valuation Report Resulting In An Overpayment Of State Aid | 2 |
| Finding No. 2 – Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid..... | 3 |
| Finding No. 3 – Pension Benefits Not In Compliance With Act 600 Provisions | 4 |
| Potential Withhold of State Aid..... | 8 |
| Supplementary Information | 9 |
| Report Distribution List | 13 |

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 Newport Township Police 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 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. § 767 et seq.

The Newport Township Police Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Ordinance No. 6 of 2000. The plan is also affected by the provisions of collective bargaining agreements between the township and its police officers. The plan was established December 30, 1957. Active members are required to contribute two (2.0) percent of compensation to the plan. As of December 31, 2021, the plan had four active members and five retirees receiving pension benefits from the plan.

NEWPORT TOWNSHIP POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – Incorrect Data Certified On Actuarial Valuation Report Resulting In An Overpayment Of State Aid

Condition: Actuarial valuation report form 203A, with valuation dates of January 1, 2019 and January 1, 2021, submitted to the former Public Employee Retirement Commission (PERC), contained incorrect information. The township incorrectly reported that there were no member contributions when the actual member contribution rate was two (2.0) percent of compensation.

Criteria: Section 201(d) of Act 205 states:

Responsibility for preparation and filing of reports and investigations. The actuarial valuation report or experience investigation required pursuant to subsection (a) shall be prepared under the supervision and at the discretion of the chief administrative officer of the municipality, who shall be responsible for the filing of the document. The actuarial valuation report or experience investigation shall be signed by the chief administrative officer, indicating that to the extent of the understanding and knowledge of the officer, the report or investigation represents a true and accurate portrayal of the actuarial, financial and demographic condition of the pension plan of the municipality.

Cause: There was a recent turnover in plan officials responsible for administration of the plan and newly appointed officials were unaware that the plan’s actuary did not have the resolution which enacted required member contributions to the pension plan.

Effect: Because the municipality’s state aid allocations are determined, in part, by the information contained in the actuarial valuation report, the submission of incorrect data resulted in the municipality receiving state aid allocations for the years 2020 and 2021 incorrectly based on a normal cost percentage of 18.80%, instead of 16.80%, and for the year 2022 incorrectly based on a normal cost percentage of 20.32%, instead of 18.32%. As a result, the township received excess state aid, calculated as follows:

| Year | Normal Cost | Payroll | Amortization Requirement | State Aid Entitlement (a) | State Aid Received (b) | Excess State Aid (b-a) |
|------|----------------|------------|-----------------------------|------------------------------------|---------------------------------|---------------------------------|
| 2020 | 16.80% | \$ 157,300 | \$ 470 | \$ 26,896 | \$ 30,037 | \$ 3,141 |
| 2021 | 16.80% | 215,792 | 470 | 36,723 | 41,031 | 4,308 |
| 2022 | 18.32% | 242,094 | 1,747 | 46,099 | 50,949 | 4,850 |
| | | | Total | <u>\$ 109,718</u> | <u>\$ 122,017</u> | <u>\$ 12,299</u> |

NEWPORT TOWNSHIP POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

Recommendation: We recommend that the total excess state aid, in the amount of \$12,299, be returned 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 evidence of payment.

We also recommend that in the future, plan officials review and verify all information included on future actuarial valuation reports so they properly reflect the status of the pension plan.

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

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

Finding No. 2 – Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid

Condition: The township certified an ineligible police officer and overstated payroll by \$880 on the Certification Form AG 385 filed in 2022. 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.

Cause: The township lacked adequate internal control procedures, such as having another individual review the data certified, to ensure the accuracy of the reported data prior to submission.

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 township’s state aid allocation was based on pension costs, the incorrect certification of pension data affected the township’s state aid allocation, as identified below:

| <u>Normal Cost¹</u> | <u>Payroll Overstated</u> | <u>State Aid Overpayment</u> |
|------------------------------------|-------------------------------|----------------------------------|
| 18.32% | \$ 880 | \$ 161 |

¹ The Normal Cost percentage was adjusted to reflect the percentage it would have been if member contributions were reported accurately on the 1/1/21 Act 205 Report as referred to in Finding No. 1.

NEWPORT TOWNSHIP POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

Recommendation: We recommend that the total excess state aid, in the amount of \$161, plus interest, be returned 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 two 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.

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

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

Finding No. 3 – Pension Benefits Not In Compliance With Act 600 Provisions

Condition: On January 1, 2019, the township hired its third full-time police officer. While a municipality that employs fewer than three full-time police officers may elect to establish a police pension plan pursuant to Act 600, upon hiring a third full-time police officer, the municipality must ensure the plan is established pursuant to Act 600 provisions. However, if police officers were given rights prior to the hiring of a third full-time police officer under their existing pension plan that differ from Act 600, the fact that a new plan is adopted because of the growth of the police department cannot in any way effect their existing benefits, and they are in effect “grandfathered” for purposes of age and service for retirement purposes. Since, the pension plan’s governing document, Ordinance No. 6 of 2000, as amended, was not adopted pursuant to Act 600, it contains benefit provisions that are not in compliance with Act 600, as follows:

| <u>Benefit Provision</u> | <u>Governing Document</u> | <u>Act 600 (as amended)</u> |
|--------------------------|---------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|
| Normal retirement age | Age 50 | 55 years, or, if an actuarial study of the cost shows that such reduction in age is feasible, may fix the age of the members of the force at 50 years |

NEWPORT TOWNSHIP POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 3 – (Continued)

| <u>Benefit Provision</u> | <u>Governing Document</u> | <u>Act 600 (as amended)</u> |
|------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Intervening military service | Not provided | Any member of the police force employed by a borough, town, township or regional police department, who has been a regularly appointed employee of any such political subdivision or regional police department for a period of at least six months and who thereafter shall enter into the military service of the United States, shall have credited to his employment record for pension or retirement benefits all of the time spent by him in such military service, if such person returns or has heretofore returned to his employment within six months after his separation from the service. |
| Pre-retirement survivor benefit | If such discontinuance of employment is due to death, said monies shall be paid to the members designated beneficiary, or in the absence of a designated beneficiary, to his/her estate, provided however that should any death benefits be paid or payable in accordance with this ordinance, no refund of a members contributions shall be allowed | 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. |
| Service related disability benefit | Any member rendered physically or mentally unable to perform their duties shall receive a disability benefit equal to their accrued benefit (2.25% x average monthly compensation x years of service). Disability benefit contingent upon member having 5 years or service. | 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. |

NEWPORT TOWNSHIP POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 3 – (Continued)

| <u>Benefit Provision</u> | <u>Governing Document</u> | <u>Act 600 (as amended)</u> |
|--------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Monthly pension benefit | 2.25% x average monthly compensation x years of service. Average compensation shall be calculated by considering the total W-2 pay (less lump sum payments for unused vacation, personal or sick pay) average of the 3 highest consecutive calendar years during the last 7 years of employment. | Shall be computed at one-half the monthly average salary of such member during not more than the last sixty nor less than the last thirty-six months of employment. |
| Survivor's benefit | In the event of the death of a member of the police force who dies after having obtained eligibility to receive a pension benefit, the benefit to the surviving spouse who has not remarried or in the event of no surviving spouse, the benefit to the surviving minor child(ren) who have not obtained age 18 shall be set at 50% of the pension the officer was receiving at the time of his/her death. | 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.) |
| Vesting | 10 years of service | 12 years of service |
| Limitation on benefits | In no case may a members total pension benefits exceed 75% of the members compensation used for computing retirement benefits. | Not provided |
| Miscellaneous provision | Where pursuant to this ordinance, a minor child(ren) or any incompetent person shall be eligible to receive a monthly pension, the board may pay such pension to said persons or may apply the same for said persons support and maintenance without the necessity of having a Guardian appointed. | Not provided |

NEWPORT TOWNSHIP POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 3 – (Continued)

| <u>Benefit Provision</u> | <u>Governing Document</u> | <u>Act 600 (as amended)</u> |
|----------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Cost of living adjustments | The board has sole discretion in granting Cost of Living Adjustments (COLA) based on the consumer price index to 100% average compensation. No cost of living adjustments may be granted that would impair the actuarial soundness of the Police Pension Fund. A retired members total cost of living increment shall not exceed 30% of the original pension benefits. | The ordinance or resolution establishing the police pension fund may provide for a cost of living increase for members of the police force receiving retirement benefits. The cost of living increase shall not exceed the percentage increase in the Consumer Price Index from the year in which the police member last worked, shall not cause the total police pension benefits to exceed seventy-five per centum of the salary for computing retirement benefits and shall not cause the total cost of living increase to exceed thirty per centum. No cost of living increase shall be granted which would impair the actuarial soundness of the pension fund. |

Criteria: Since the borough employs three full-time police officers, the plan’s governing document should be in compliance with Act 600, as amended.

Cause: Municipal officials were unaware that the governing document needed to be in compliance with Act 600.

Effect: 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 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. The borough must also ensure that the existing benefits of the two police officers who were previously hired are not in any way diminished.

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

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

NEWPORT TOWNSHIP POLICE PENSION PLAN
POTENTIAL WITHHOLD OF STATE AID

Finding No. 1 contained in this audit report cites an overpayment of state aid to the township in the amount of \$12,299, 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.

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

NEWPORT TOWNSHIP 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, 2017, is as follows:

| | (1) | (2) | (3) | (4) |
|--------------------------------|----------------------------------------|------------------------------------------------------------------|----------------------------------------------------------------------------------------|----------------------------|
| 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) |
| 01-01-17 | \$ 618,082 | \$ 571,408 | \$ (46,674) | 108.2% |
| 01-01-19 | 582,093 | 587,045 | 4,952 | 99.2% |
| 01-01-21 | 691,055 | 708,514 | 17,459 | 97.5% |

NEWPORT TOWNSHIP 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.

NEWPORT TOWNSHIP POLICE PENSION PLAN
SUPPLEMENTARY INFORMATION
(UNAUDITED)

SCHEDULE OF CONTRIBUTIONS FROM EMPLOYER
AND OTHER CONTRIBUTING ENTITIES

| Year Ended December 31 | Annual Required Contribution | Percentage Contributed |
|------------------------|------------------------------|------------------------|
| 2016 | None | N/A |
| 2017 | None | N/A |
| 2018 | \$ 17,382 | 111.9% |
| 2019 | 12,723 | 138.0% |
| 2020 | 29,178 | 110.1% |
| 2021 | 35,229 | 108.5% |

NEWPORT TOWNSHIP POLICE PENSION PLAN
SUPPLEMENTARY INFORMATION
NOTES TO SUPPLEMENTARY SCHEDULES
(UNAUDITED)

The information presented in the 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, 2021 |
| Actuarial cost method | Entry age normal |
| Amortization method | Level dollar |
| Remaining amortization period | 17 years |
| Asset valuation method | Fair value |
| Actuarial assumptions: | |
| Investment rate of return | 7.75% |
| Projected salary increases | 5.00% |

NEWPORT TOWNSHIP POLICE PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Joshua D. Shapiro
Governor
Commonwealth of Pennsylvania

Mr. Paul Czapracki
President, Board of Township Commissioners

Mr. Joseph Hillan
Township Manager/Secretary/Treasurer

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.