

COMPLIANCE AUDIT

West Pittston Borough Non-Uniformed Pension Plan Luzerne County, Pennsylvania For the Period January 1, 2019 to December 31, 2022

May 2024



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
West Pittston Borough
Luzerne County
West Pittston, PA 18643

We have conducted a compliance audit of the West Pittston Borough Non-Uniformed Pension Plan for the period January 1, 2019 to December 31, 2022. 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 whether retirement benefits calculated for the plan member who elected to vest 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 monthly pension benefits due to the retired individual and comparing these amounts to supporting documentation evidencing amounts determined and payable to the recipient.
- We determined whether the January 1, 2019 and January 1, 2021 actuarial valuation reports were prepared and submitted by March 31, 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.
- We determined whether the terms of the plan's unallocated insurance contract, including ownership and any restrictions, were in compliance with plan provisions, investment policies, and state regulations by comparing the terms of the contract with the plan's provisions, investment policies, and state regulations.

West Pittston Borough contracted with an independent certified public accounting firm for annual audits 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, 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 Pittston 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.

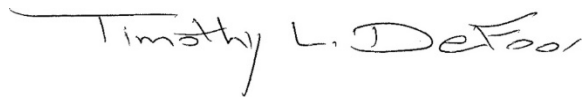
The results of our procedures indicated that, in all significant respects, the West Pittston Borough Non-Uniformed Pension Plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies, except as noted in the following findings further discussed later in this report:

Finding No. 1 – Incorrect Data On Certification Form AG 385 Resulting In An Underpayment Of State Aid

Finding No. 2 – Failure To Implement Act 44 Mandatory Distressed 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 West Pittston Borough and, where appropriate, their responses have been included in the report.



Timothy L. DeFoor
Auditor General
March 15, 2024

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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 two 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 Pittston 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 West Pittston Borough Non-Uniformed Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Ordinance No. 472, as amended. The plan is also affected by the provisions of collective bargaining agreements between the borough and its non-uniformed employees. The plan was established January 1, 1991. Active members are required to contribute four and one-half percent of compensation to the plan. As of December 31, 2022, the plan had five active members, two terminated members eligible for vested benefits in the future, and eight retirees receiving pension benefits from the plan.

WEST PITTSTON BOROUGH NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – Incorrect Data On Certification Form AG 385 Resulting In An Underpayment Of State Aid

Condition: The borough failed to certify an eligible non-uniformed employee and understated payroll by \$18,967 on the Certification Form AG 385 filed in 2023. The data contained on this certification form is based on prior calendar year information.

Criteria: Pursuant to Act 205, at Section 402(e)(2), an employee who has been employed on a full-time basis for at least six consecutive months and has been participating in a pension plan during the certification year is eligible for certification. The applicable number of units attributable to each eligible recipient city, borough, incorporated town and township shall be... (i) Police officer - two units... (iii) Employee other than police officer or firefighter - one unit.

Cause: Borough officials attributed the certification error to an oversight. In addition, the borough lacked adequate internal control procedures, such as having another individual review the data certified, to timely identify the error and ensure the accuracy of the wages certified.

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 borough received an underpayment of state aid as identified below:

<u>Year</u>	<u>Units Understated</u>	<u>Unit Value</u>	<u>State Aid Underpayment</u>
2023	1	\$ 5,828	\$ 5,828

Although the borough will be reimbursed for the underpayment of state aid due to the borough’s certification error, the full amount of the 2023 state aid allocation was not available to be deposited timely and therefore was not available to pay operating expenses or for investment.

Recommendation: We recommend that in the future, the borough 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.

WEST PITTSTON BOROUGH NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – Failure To Implement Act 44 Mandatory Distressed Provisions

Condition: Among several provisions relating to municipal pension plans, Act 205, which was amended through the adoption of Act 44 of 2009, provides for the implementation of a distress recovery program based on a pension plan’s level of distress, as follows:

<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 94.1% as of January 1, 2019, and 95.3% as of January 1, 2021, in aggregation with the funded ratio of the borough’s police pension plan, the MPRP issued a notification in 2020 and 2022 that the borough was in Level I minimal distress status and Level II moderate distress status, respectively as of the aforementioned valuation dates.

Included with the determination notice, the MPRP sent the municipality the Act 205 Recovery Program Election Form outlining the mandatory remedies that must be implemented along with 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 the MPRP.

The municipality never signed and returned the election form to the MPRP and additionally, failed to implement the mandatory remedies of Act 205.

Criteria: Section 605(a) of Act 205, 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 did not follow mandatory distress remedies due to the regionalization of the police department.

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.

WEST PITTSTON BOROUGH NON-UNIFORMED PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

Recommendation: We recommend that municipal officials contact the Municipal Pension Reporting Program (formerly 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 and through conversation with the borough's solicitor at the time of the exit conference, he indicated that the borough is still in the process of carrying out the executed intermunicipal agreement specifically pertaining to Section 6.5 which states in part:

“Each municipality shall take such steps where possible to terminate its existing police pension plan and police pension fund and transfer all pension assets that may be transferable to the Commission.”

The solicitor is adamant that the Wyoming Area Regional Police Commission (WARP) receive all the borough's transferrable police pension plan assets as stated in the agreement which would, in turn, greatly improve the borough's current distressed situation.

Auditor's Conclusion: Based on the management response, we acknowledge the borough's situation; however, until such time as the borough terminates its current police pension plan and transfers all plan assets and subsequent liabilities for all future benefit obligations, the finding will remain as stated. Supplemental action taken by the borough, along with compliance in subsequent periods will be evaluated during our next audit of the plan.

WEST PITTSTON BOROUGH NON-UNIFORMED 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	\$ 780,525	\$ 835,472	\$ 54,947	93.4%
01-01-19	848,204	901,419	53,215	94.1%
01-01-21	898,603	943,324	44,721	95.3%

Note: The market values of the plan's assets at 01-01-17, 01-01-19, and 01-01-21 have been adjusted to reflect the smoothing of gains and/or losses over a five-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 PITTSTON BOROUGH NON-UNIFORMED 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.

WEST PITTSTON BOROUGH NON-UNIFORMED PENSION PLAN
SUPPLEMENTARY INFORMATION
(UNAUDITED)

SCHEDULE OF CONTRIBUTIONS FROM EMPLOYER
AND OTHER CONTRIBUTING ENTITIES

Year Ended December 31	Annual Required Contribution	Percentage Contributed
2017	\$ 26,093	100.0%
2018	27,883	100.0%
2019	29,418	100.0%
2020	31,191	100.0%
2021	29,133	100.0%
2022	25,507	100.0%

WEST PITTSTON BOROUGH NON-UNIFORMED 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	40 years
Asset valuation method	5-year smoothing with the actuarial value of assets limited to a maximum of 120% and a minimum of 80% of the market value of assets.
Actuarial assumptions:	
Investment rate of return	7.0%
Projected salary increases	5.0%

WEST PITTSTON BOROUGH NON-UNIFORMED PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Joshua D. Shapiro
Governor
Commonwealth of Pennsylvania

The Honorable Angelo Alfano
Mayor

Ms. Ellen Quinn
Council President

Mr. Savino Bonita
Borough Manager

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