

COMPLIANCE AUDIT

Bangor Borough Sewer Employees' Pension Plan Northampton County, Pennsylvania For the Period January 1, 2018 to December 31, 2019

October 2020



Commonwealth of Pennsylvania
Department of the Auditor General

Eugene A. DePasquale • Auditor General



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**EUGENE A. DePASQUALE
AUDITOR GENERAL**

The Honorable Mayor and Borough Council
Bangor Borough
Northampton County
Bangor, PA 18013

We have conducted a compliance audit of the Bangor Borough Sewer Employees' Pension Plan for the period January 1, 2018 to December 31, 2019. 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 that there were no employee contributions required by the plan’s governing document and applicable laws and regulations for the years covered by our audit period.
- We determined that there were no benefit calculations prepared for the years covered by our audit period.
- We determined whether the January 1, 2017 and January 1, 2019 actuarial valuation reports were prepared and submitted by March 31, 2018 and 2020, 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.

The Bangor Borough Sewer Employees’ Pension Plan participates in the Pennsylvania Municipal Retirement System (PMRS), which is an agent multiple-employer public employee retirement system that acts as a common investment and administrative agent for participating municipal pension plans. PMRS issues a separate Comprehensive Annual Financial Report, copies of which are available from the PMRS accounting office. PMRS’s 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 Bangor Borough Sewer Employees’ 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 Bangor Borough Sewer Employees’ 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 – Failure To Properly Amend Plan Document For Participation In Act 205 State Aid Program
- Finding No. 2 – Failure To Properly Fund Member Accounts
- Finding No. 3 – Failure To Maintain An Adequate Record-Keeping System To Effectively Monitor Activity Of The Pension Plan

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

September 28, 2020

A handwritten signature in black ink, appearing to read "Eugene A. DePasquale". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

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.

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 Bangor Borough Sewer Employees' 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 15 - Pennsylvania Municipal Retirement Law, Act of February 1, 1974
(P.L. 34, No. 15), as amended, 53 P.S. § 881.101 et seq.

The Bangor Borough Sewer Employees' Pension Plan is a single-employer cash balance pension plan locally controlled by the provisions of Resolution No. 2014-04, and a separately executed plan agreement with the plan custodian, adopted pursuant to Act 15. The plan was established January 1, 2014. Active members are not required to contribute to the plan, but may voluntarily contribute up to 10 percent of compensation. The municipality is required to contribute 5 percent of compensation for plan members who are not covered by the Bangor Borough Sewer Department collective bargaining agreement and 9 percent of compensation for plan members who are covered by the Bangor Borough Sewer Department collective bargaining agreement. As of December 31, 2019, the plan had 5 active members and 1 terminated member eligible for vested benefits in the future.

BANGOR BOROUGH SEWER EMPLOYEES' PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – Failure To Properly Amend Plan Document For Participation In Act 205 State Aid Program

Condition: The Bangor Borough Authority (Authority), a body created under the laws of the Commonwealth of Pennsylvania, established a pension plan with the Pennsylvania Municipal Retirement System (PMRS), effective January 1, 2014, by adopting Resolution No. 2014-04. Pursuant to a management agreement between the Authority and the Borough of Bangor (Borough) dated May 17, 2016, the Borough assumed management responsibilities over the sewer system and sanitation collections, as well as the hiring, discharging, and directing of the work of all employees of the Authority, as of such date. However, the management agreement did not formally address the authority pension plan or the ownership, rights, and obligations of the plan's assets and liabilities as of the date of the agreement. In addition, there was no evidence that the plan custodian was notified updating responsibility, ownership, and administration of the established authority pension plan to the Borough going forward as of the date of the agreement.

Moreover, the Borough continued to file the Act 205 actuarial valuation reports for the former authority pension plan, with valuation dates of January 1, 2017 and January 1, 2019, using the authority's identification (ID) as opposed to the borough's municipal ID and also failed to promptly notify the Municipal Pension Reporting Program (MPRP) of the change in reporting entity and oversight authority of the plan, accordingly.

Furthermore, the borough certified members of the former authority pension plan on the Certification Forms AG 385 filed in 2018, 2019, and 2020, and received state aid attributable to the certification of these employees in those years.

Criteria: The Municipal Pension Plan Funding Standard and Recovery Act (P.L. 1005, No. 205, as amended, 53 P.S. § 895.101 et seq.) (Act 205) prescribes the provisions for participation in the General Municipal Pension System State Aid available under the Act.

Section 102 of Act 205 defines a Pension Plan or System as follows:

The various aspects of the relationship between a municipality and its employees with respect to the retirement coverage provided by a municipality to the employees.

In addition, Act 205 defines a Municipality as follows:

Any city, borough, incorporated town, township, home rule municipality, association of municipalities cooperating pursuant to the act of July 12, 1972 (P.L. 762, No. 180), referred to as the Intergovernmental Cooperation Law, or authority established by the actions of any county, city, borough, town or township or jointly by any such political subdivisions.

BANGOR BOROUGH SEWER EMPLOYEES' PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

Municipal authorities are created pursuant to the “Municipal Authorities Act of 1945,” May 2, P.L. 382, 53 P.S. §301 *et seq.* A municipal authority is an independent political and corporate body, not an agent or representative of its creating municipality.

Authority pension plans are not eligible for participation and allocations under the General Municipal Pension System State Aid Program.

Cause: Municipal officials were unaware of the significance of formally adopting the former authority pension plan document as a municipal pension plan or filing the Act 205 actuarial valuation reports under the borough’s municipal ID instead of the former authority ID or the need to contact PMRS or MPRP, accordingly, to notify these entities of the change in administrative authority over the pension plan.

Effect: Certification of authority pension plan employees is not permitted if the authority pension plan is not eligible for participation in the General Municipal Pension System State Aid Program. State aid received attributable to the certification of these employees in 2018, 2019, and 2020 will be required to be returned to the Commonwealth unless the borough addresses the ownership of the former authority pension plan.

Recommendation: If it is the Borough’s intent for the plan to be eligible for participation in state aid available under Act 205, we recommend that borough officials, along with their solicitor, formally address the ownership of the former authority employees’ pension plan in the management agreement and contact PMRS, accordingly, for the necessary paperwork to effectively implement the change. In addition, we recommend that the Borough contact the MPRP regarding the filing status of the plan. However, if the Borough does not intend for the plan to participate in the General Municipal Pension System State Aid Program, we recommend that the Borough contact the Department regarding the amount of state aid that must be returned to the Commonwealth as a result of the certification of the members of the authority pension plan on the Certification Forms AG 385 filed in 2018, 2019, and 2020.

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.

BANGOR BOROUGH SEWER EMPLOYEES' PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – Failure To Properly Fund Member Accounts

Condition: The borough did not fully fund the accounts of three members in 2019 in the amount of \$7,088, as illustrated below:

<u>Employees</u>	<u>Required Contributions</u>	<u>Actual Contributions</u>	<u>Contributions Due</u>
1	\$ 5,562	\$ 3,562	\$ 2,000
2	6,820	3,800	3,020
3	5,675	3,607	2,068
		Total	<u><u>\$ 7,088</u></u>

Criteria: Resolution No. 2014-04, which effectively adopts a separately executed plan agreement with the custodian, established a municipal contribution rate of 5 percent of compensation. In 2018, the borough adopted Resolution Nos. 2018-43 and 2018-44, effectively increasing the municipal contribution rate for employees who are covered by the Bangor Borough Sewer Department collective bargaining agreement to 9 percent of compensation for the years 2018 and 2019, respectively.

Cause: Plan officials erroneously funded all plan members at the rate of 5 percent, which is applicable to employees not covered by the collective bargaining agreement, rather than the 9 percent rate that was applicable to employees covered by the collective bargaining agreement. Additionally, the Borough lacked adequate internal control procedures to ensure the accuracy of the contributions allocated to members of varying classifications and used to fund individual members' accounts in accordance with the plan document.

Effect: The failure to properly fund the members' accounts could result in plan members being denied benefits to which they are entitled in accordance with the plan's governing document.

Furthermore, due to the borough's failure to properly fund the accounts of certain members, the borough must now pay interest on the delinquent contributions.

Recommendation: We recommend that the borough deposit the contributions due to the members' accounts for the year 2019, with interest. A copy of the interest calculations should be maintained by the borough for examination during our next audit of the plan.

We also recommend that, in the future, borough officials properly fund the accounts of all eligible plan members.

BANGOR BOROUGH SEWER EMPLOYEES' PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

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 – Failure To Maintain An Adequate Record-Keeping System To Effectively Monitor Activity Of The Pension Plan

Condition: The borough record-keeping system did not provide effective control over the transactional activity of the sewer employees' pension plan during 2019. Municipal officials were unable to furnish annual financial statements or custodial account transaction statements for the sewer employees' pension plan. These annual financial and account statements have historically been provided by the plan's custodian, PMRS. However, as of the date of this report, annual financial and accounting statements summarizing the pension account activity have not been provided for the year 2019.

Criteria: An adequate system of accounting and record keeping is a prerequisite for sound administration of pension plans. In addition, assets held in a custodial account for the purpose of plan management are to be governed by the terms and provisions of the account contract, provided that the terms and provisions of the contract are within the parameters of all prevailing pension legislation. Although the municipality may contract with a trustee to administer the financial management of the plan, the fiduciary responsibility for the plan remains with the municipality.

Cause: Municipal officials indicated that the plan's custodian, PMRS, failed to provide copies of the custodial account transaction statements summarizing activity of the pension plan account for the year 2019. In addition, municipal officials did not maintain a separate detailed accounting of pension plan transactions, which, among other things, helps assure the production of proper financial statements to effectively monitor the annual activity of the pension plan.

Effect: Although we were able to obtain alternate documentation from the municipality to evidence the propriety of the individual transactions tested during performance of the audit for the year 2019, the failure to maintain annual financial and/or account transaction statements prohibits municipal officials from effectively monitoring the plan's financial operations. Additionally, inadequate monitoring of the pension plan account could lead to undetected errors or improprieties in account transactions as well as deficiencies in authorizing and implementing pension plan policies and procedures.

BANGOR BOROUGH SEWER EMPLOYEES' PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 3 – (Continued)

Recommendation: We recommend that municipal officials contact the plan custodian and obtain annual financial statements of the custodial account of the sewer employees' pension plan for the year 2019 to ensure the accuracy and propriety of the transaction activity. In addition, we recommend that municipal officials establish and maintain a financial record-keeping system that allows the municipality to effectively monitor the plan's financial operations, even in the absence of statements from the plan custodian. Municipal officials should refer to the Auditor General's Bulletin No. 2-88 entitled "Preparation, Maintenance and Auditability of Financial Records," for further guidance in establishing adequate accounting and record-keeping procedures.

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

Auditor's Conclusion: PMRS has indicated that they are in the process of preparing 2019 Year-End Financial Activity Reports and Annual Member Statements for all municipalities. PMRS has also indicated that they recently went through a substantial upgrade to the plan administration software and implemented a new accounting system. This transition in addition to disruptions in normal government operation due to COVID-19 has resulted in a three to four month delay in the 2019 year-end reporting process. Compliance with the finding recommendation will be evaluated during our next audit of the plan.

BANGOR BOROUGH SEWER EMPLOYEES' PENSION PLAN
 SUPPLEMENTARY INFORMATION
 (UNAUDITED)

SCHEDULE OF CONTRIBUTIONS

Year Ended December 31	Statutorily Required Contribution (SRC)*	Contributions in Relation to the SRC*	Contribution Deficiency (Excess)	Covered- Employee Payroll	Contributions as a Percentage of Covered- Employee Payroll
2014	\$ 13,934	\$ 13,934	\$ -	\$ 319,880	4.36%
2015	19,401	19,401	-	385,225	5.04%
2016	16,814	16,815	(1)	327,152	5.14%
2017	13,157	13,157	-	260,341	5.05%
2018	22,575	22,690	(115)	295,474	7.68%
2019	23,082	15,994	7,088**	***	

* The Statutorily Required Contribution is a contribution amount based upon payroll and the contribution rate as outlined under the terms of the cash balance pension plan.

** The borough did not fully fund members' accounts during 2019 (*see Finding No. 2 contained in this report*).

*** Due to the timing of this audit, covered-employee payroll for 2019 was not provided in this schedule.

BANGOR BOROUGH SEWER EMPLOYEES' PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

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Commonwealth of Pennsylvania

The Honorable Brooke Kerzner
Mayor

Mr. James W. Kresge
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Mr. Nathaniel Dysard
Borough Manager

Ms. Janelle Hauff
Borough Secretary

Ms. Charity Rosenberry, CPA
Pennsylvania Municipal Retirement System

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