COMPLIANCE AUDIT

City of Wilkes-Barre Aggregated Pension Trust Fund

Luzerne County, Pennsylvania

For the Period

January 1, 2018 to December 31, 2019

January 2021

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 City Council
City of Wilkes-Barre
Luzerne County
Wilkes-Barre, PA 18702

We have conducted a compliance audit of the City of Wilkes-Barre Aggregated Pension Trust Fund 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 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 findings contained in our prior report; and

2. To determine if the pension trust fund 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. To determine if municipal officials took appropriate corrective action to address the findings contained in our prior report, we inquired of plan officials and evaluated supporting documentation provided by officials evidencing that the suggested corrective action has been appropriately taken. To determine whether the pension trust fund 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 plans' governing documents and applicable laws and regulations by examining the municipality's calculation of the plans' annual financial requirements and minimum municipal obligations (MMOs) and comparing these calculated amounts to amounts actually budgeted and deposited into the pension plans as evidenced by supporting documentation.

- We determined whether annual employee contributions were calculated, deducted, and deposited into the pensions plan in accordance with the plans' governing documents and applicable laws and regulations by testing total members' contributions on an annual basis using the rates obtained from the plans' governing documents in effect for all years within the period under audit and examining documents evidencing the deposit of these employee contributions into the pension plans.

- We determined whether retirement benefits calculated for all 7 non-uniformed employees, 5 policemen's relief plan members, and 16 firemen's relief plan member who retired during the current audit period, and through the completion of our fieldwork procedures, represent payments to all (and only) those entitled to receive them and were properly determined and disbursed in accordance with the plans' governing documents, applicable laws and regulations by recalculating the amount of the monthly pension benefits due to retired individuals and comparing these amounts to supporting documentation evidencing amounts determined and actually paid to recipients.

- 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.

- We determined whether all annual special ad hoc postretirement reimbursements received by the municipality were authorized and appropriately deposited in accordance with Act 147 by tracing information to supporting documentation maintained by plan officials.

- We determined whether the terms and methodologies of the issuance of pension obligation bonds by the municipality, and any restrictions, were in compliance with plan provisions and Act 205 through inquiry of plan officials and examination of supporting documentation for pension obligation bonds issued during the current audit period and through the completion of our fieldwork procedures.

The City of Wilkes-Barre contracted with an independent certified public accounting firm for annual audits of the City of Wilkes-Barre Aggregated Pension Trust Fund’s financial statements, which are available at the city’s offices. Those financial statements were not audited by us and, accordingly, we express no opinion or other form of assurance on them.

City officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the City of Wilkes-Barre Aggregated Pension Trust Fund 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 objectives.

The results of our procedures indicated that, in all significant respects, the City of Wilkes-Barre Aggregated Pension Trust Fund 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:

Policemen’s Relief Pension Plan:

Finding No. 1 – Noncompliance With Prior Audit Recommendation – Plan Provision Inconsistent With The Third Class City Code

Finding No. 2 – Noncompliance With Prior Audit Recommendation – Unauthorized Service Buyback Provision

Finding No. 3 – Partial Compliance With Prior Audit Recommendation – Incorrect Data On Certification Form AG 385 Resulting In An Underpayment Of State Aid

Firemen’s Relief Pension Plan:

Finding No. 4 – Noncompliance With Prior Audit Recommendation – Plan Provision Inconsistent With The Third Class City Code

Non-Uniformed Pension Plan:

Finding No. 5 – Noncompliance With Prior Audit Recommendation – Unauthorized Service Buyback Provision

The findings contained in this audit report repeat conditions that were cited in our previous audit reports that have not been corrected by city officials. We are concerned by the city’s failure to correct those previously reported audit findings and strongly encourage timely implementation of the recommendations noted in this report.

As previously noted, one of the objectives of our audit of the City of Wilkes-Barre Aggregated Pension Trust Fund was to determine compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies. Act 205, which was amended on September 18, 2009 through the adoption of Act 44 of 2009, provides for the implementation of a distress recovery program. Three levels of distress have been established:

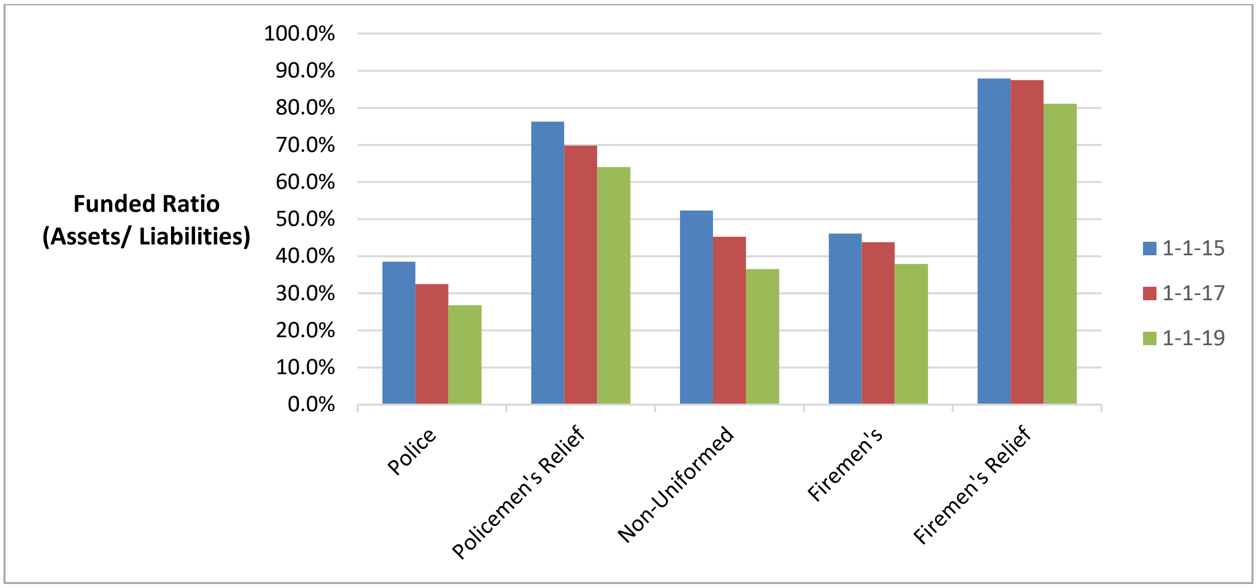
Level	Indication	Funding Criteria
I	Minimal distress	70-89%
II	Moderate distress	50-69%
III	Severe distress	Less than 50%

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. The January 1, 2015 actuarial valuation reports filed with the former Public Employee Retirement Commission (PERC) and the January 1, 2017 and January 1, 2019 actuarial valuation reports filed with the Municipal Pension Reporting Program (MPRP) for the city's police, policemen's relief, non-uniformed, firemen's, and firemen's relief pension plans contained the following aggregated funding data:

Valuation Date	Actuarial Value of Assets	Actuarial Accrued Liability	Funding Ratio
01-01-15	$ 80,985,791	$ 130,436,535	62.1%
01-01-17	$ 79,826,865	$ 136,276,461	58.6%
01-01-19	$ 78,172,818	$ 146,137,544	53.5%

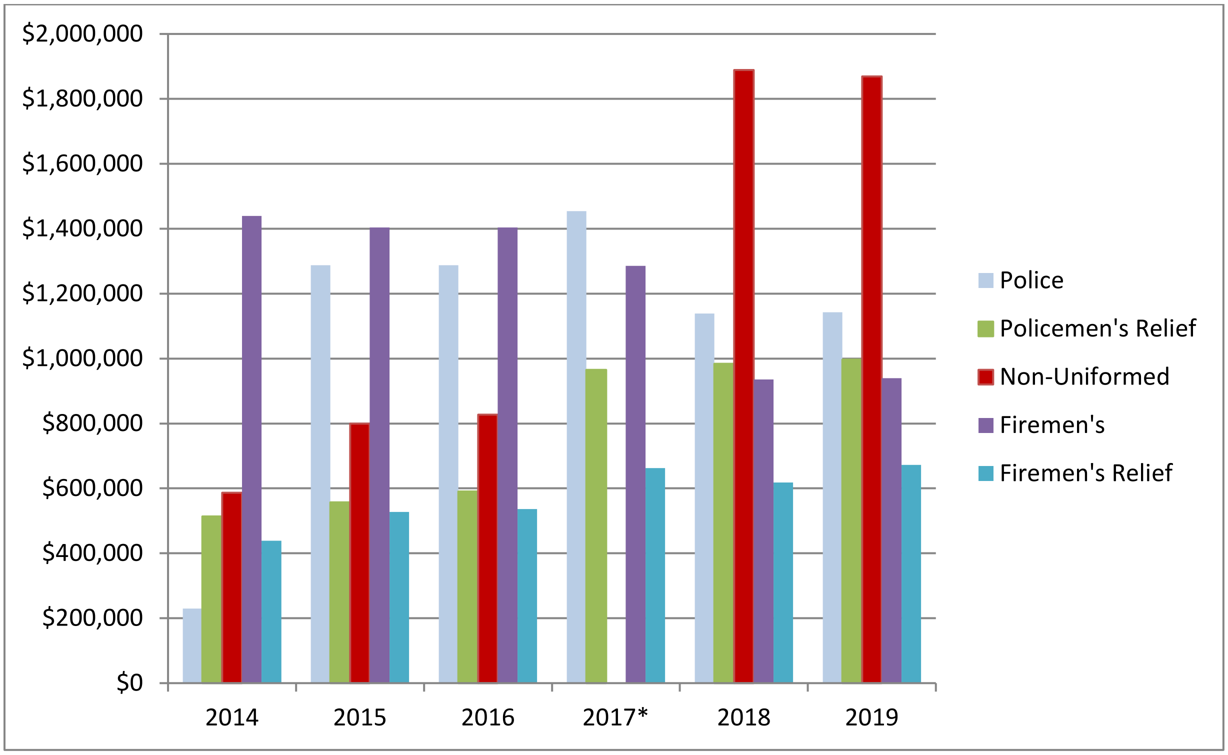
Based on this information, the City of Wilkes-Barre is currently in Level II moderate distress status.

A graphic illustration of the changes in the plans' funding status since 2015 is presented below:



We are extremely concerned about the historical trend information contained in the respective schedules of funding progress included in this report, which indicate a continued decline of assets available to satisfy the long-term liabilities of the plans. This condition has required increased municipal contributions to fund the plans in accordance with Act 205 funding standards.

A graphic illustration of the increase in the city's annual required contributions to its pension plans since 2014 is presented below. The city's total employer contributions for 2010-2019 are included on Page 24.



* *The amortization contribution component from the January 1, 2015 actuarial valuation report used in the determination of the city's required contribution for the non-uniformed pension plan for 2017 resulted in no required contributions per Act 205. However, based on the funding status of the plan, this report data was only utilized for 2017. For 2018, the city's required municipal obligation for the non-uniformed pension plan increased to $1.9 million.*

We encourage city officials to develop a long-term strategic plan and make fiscally responsible decisions as plan fiduciaries that will benefit the City of Wilkes Barre and its taxpayers to ensure that the City's pension plans have adequate resources to meet current and future benefit obligations to the City's hard working police officers, firefighters, and non-uniformed employees that will ensure the plans' long-term financial stability.

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

January 5, 2021

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 City of Wilkes-Barre Aggregated Pension Trust Fund 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 147	-	Special Ad Hoc Municipal Police and Firefighter Postretirement Adjustment Act, Act of December 14, 1988 (P.L. 1192, No. 147), as amended, 53 P.S. § 896.101 et seq.
Act 177	-	General Local Government Code, Act of December 19, 1996 (P.L. 1158, No. 177), as amended, 53 Pa.C.S. § 101 et seq.
Act 317	-	The Third Class City Code, Act of November 24, 2015 (P.L. 242, No. 67), as amended, 11 Pa. C.S. § 10101 et seq.

The City of Wilkes-Barre Aggregated Pension Trust Fund serves as a common investment and administrative agent for the city's two police, non-uniformed, and two firemen's pension plans. The fund is comprised of the City's single-employer defined benefit pension plans, locally controlled by the provisions of the City's Ordinance No. 57 of 1998. The plans are also affected by the provisions of collective bargaining agreements between the city and its police officers, non-uniformed employees, and firefighters.

Police Pension Plan

The police pension plan was established July 8, 1976, for police officers hired prior to such date. Active members are required to contribute 5 percent of compensation to the plan. As of December 31, 2019, the plan had no active members, no terminated members eligible for vested benefits in the future, and 75 retirees receiving pension benefits from the plan.

Policemen's Relief Pension Plan

The policemen's relief pension plan was established for police officers hired after July 8, 1976. Active members are required to contribute 5 percent of compensation to the plan. As of December 31, 2019, the plan had 81 active members, 3 terminated members eligible for vested benefits in the future, and 52 retirees receiving pension benefits from the plan.

Non-Uniformed Pension Plan

The non-uniformed pension plan was established July 19, 1927. Active members are required to contribute 5 percent of compensation to the plan. As of December 31, 2019, the plan had 119 active members, 3 terminated members eligible for vested benefits in the future, and 160 retirees receiving pension benefits from the plan.

Firemen's Pension Plan

The firemen's pension plan covers firefighters who were hired prior to July 8, 1976. The plan was established January 2, 1969. Active members are required to contribute 5 percent of compensation to the plan. As of December 31, 2019, the plan had no active members, no terminated members eligible for vested benefits in the future, and 64 retirees receiving pension benefits from the plan.

Firemen's Relief Pension Plan

The firemen's relief pension plan covers firefighters who were hired after July 8, 1976. Active members are required to contribute 5 percent of compensation to the plan. As of December 31, 2019, the plan had 66 active members, 1 terminated member eligible for vested benefits in the future, and 52 retirees receiving pension benefits from the plan.

CITY OF WILKES-BARRE AGGREGATED PENSION TRUST FUND
STATUS OF PRIOR FINDINGS

Noncompliance With Prior Audit Recommendations

The City of Wilkes-Barre has not complied with the prior audit recommendations concerning the following as further discussed in the Findings and Recommendations section of this report:

Policemen's Relief Pension Plan

- Plan Provision Inconsistent With The Third Class City Code; and

- Unauthorized Service Buyback Provision.

Firemen's Relief Pension Plan

- Plan Provisions Inconsistent With The Third Class City Code

Non-Uniformed Pension Plan

- Unauthorized Service Buyback Provision

Partial Compliance With Prior Audit Recommendation

The City of Wilkes-Barre has partially complied with the prior audit recommendation concerning the following:

Non-Uniformed Pension Plan

- Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid

  In June 2019, the city returned $20,206 to the Commonwealth for overpayment of state aid received in 2018, including interest; however, municipal officials failed to comply with the instructions that accompany Certification Form AG 385 to assist them in accurately reporting the required pension data in the year 2019 for the policemen's relief pension plan, as further discussed in Finding No. 3 in this report.

Policemen's Relief Pension Plan

Finding No. 1 – Noncompliance With Prior Audit Recommendation – Plan Provision Inconsistent With The Third Class City Code

Condition: As previously disclosed in prior audit reports, the plan document for the policemen's relief pension plan continues to contain a provision regarding the basis of pension that is inconsistent with the Third Class City Code, as follows:

Provision	Plan Governing Document	Third Class City Code
Basis of pension	The basis of the apportionment of pension shall be determined by the rate of the monthly pay of the member at the date of injury, death, honorable discharge, or retirement, whichever is the higher, and except as to service increments provided for in subsection (b) of this section [section V (b) of File of Council No. 11 of 2001], shall not in any case exceed in any year one-half the annual pay of such member computed at such monthly or average annual rate, whichever is the higher.	The basis of the apportionment of the pension shall be determined by the rate of the monthly pay of the member at the date of injury, death, honorable discharge, vesting under section 14302.1 or retirement, or the highest average annual salary that the member received during any 5 years of service preceding injury, death, honorable discharge, vesting under section 14302.1 or retirement, whichever is higher, and, except as to service increments provided for in subsection (d), may not exceed in any year one-half the annual pay of the member computed at the monthly or average annual rate, whichever is higher. (§14303(b))

Criteria: The pension plan's benefit structure should be in compliance with the provisions of the Third Class City Code.

Cause: The city has been unsuccessful through the collective bargaining process to amend plan provisions to comply with the Third Class City Code and ensure compliance with the prior audit recommendation.

Finding No. 1 – (Continued)

Effect: The provision of inconsistent benefits could result in members not receiving benefits to which they are entitled under the Third Class City Code.

Recommendation: We again recommend that the city comply with the Third Class City Code at its earliest opportunity to do so.

Management's Response: City officials agreed with the finding without exception and provided the following response:

> The City was unable to correct the prior audit findings through negotiations for the Police Relief, Fire Relief, and Non-Uniform Plans. The City will continue to work to eliminate the findings.

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

Finding No. 2 – Noncompliance With Prior Audit Recommendation – Unauthorized Service Buyback Provision

Condition: As previously disclosed in prior audit reports, the city enacted a service buyback provision which is not authorized in the Third Class City Code. File of Council No. 11 of 2001, Section I, states:

> Effective January 1, 2002, City employees are permitted to buy all of the time which represents time served as a City of Wilkes-Barre employee and a participant in another City Pension Fund into the City Pension Fund in which they currently participate.
>
> The buyback amount shall be calculated by the City and shall include an amount equal to the employee's contributions, plus interest, at a rate established by the City at the time of the buyback.
>
> The buyback must be initiated at the time of hire into another City job classification or after the effective date of this ordinance, whichever is later.

Criteria: The Third Class City Code does not authorize buybacks of prior service credits from another pension fund.

Finding No. 2 – (Continued)

Cause: The city has been unsuccessful through the collective bargaining process to limit pension benefits to those authorized by the Third Class City Code and ensure compliance with the prior audit recommendation.

Effect: During the prior audit period, a police officer with 16 years of service as a police officer with the city elected to retire on March 18, 2017, and was allowed to purchase an additional 12 years and 3 months of prior city service time as a non-uniformed employee for use in the determination of his final monthly pension benefit. The member is receiving a monthly benefit of $4,293, of which $1,431 represent benefits in excess of those authorized by the Third Class City Code. From the date of retirement to the date of this report, the excess benefits paid to the member total approximately $65,826.

The provision of unauthorized benefits could increase the plan's pension costs and reduces the amount of funds available for investment purposes or the payment of authorized benefits or administrative expenses. Since the city received its state aid allocations based on unit value during the audit period, it did not receive excess state aid allocations attributable to the unauthorized benefits provided. However, providing unauthorized pension benefits could result in the receipt of state aid in excess of the city's entitlement in the future, or increase required municipal contributions to the plan.

Recommendation: We again recommend that the city eliminate the unauthorized service buyback provision at its earliest opportunity to do so. To the extent that the city has already obligated itself to pay benefits in excess of those authorized by the Third Class City Code, the excess benefits must be reflected in the Act 205 actuarial valuation reports for the plan and funded in accordance with Act 205 funding standards. Furthermore, such benefits will be deemed ineligible for funding with state pension aid. In such case, the plan's actuary may be required to determine the impact, if any, of the unauthorized benefits on the city's future state aid allocations and submit this information to the department. If it is determined the unauthorized benefits had an impact on the city's future state aid allocations after the submission of this information, the plan's actuary would then be required to contact the department to verify the overpayment of state aid received. Plan officials would then be required to reimburse the overpayment to the Commonwealth.

Management's Response: City officials agreed with the finding without exception and provided the following response:

> The City was unable to correct the prior audit findings through negotiations for the Police Relief, Fire Relief, and Non-Uniform Plans. The City will continue to work to eliminate the findings.

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

Finding No. 3 – Partial Compliance With Prior Audit Recommendation - Incorrect Data On Certification Form AG 385 Resulting In An Underpayment Of State Aid

Condition: As disclosed in the Status of Prior Findings section of this report, the city partially complied with the prior audit recommendation by reimbursing $20,206 to the Commonwealth for the overpayment of state aid received in 2018. However, municipal officials again failed to comply with the instructions that accompany Certification Form AG 385 to assist them in accurately reporting the required pension data. The city failed to certify 1 eligible police officer (2 units) on the Certification Form AG 385 filed in 2019. 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.

Cause: Plan officials did not certify a member who was terminated in October 2017, but rehired effective October 18, 2018 and received back pay and service credit from the date of termination to the date of rehire pursuant to a Memorandum of Understanding between the city and the police officers' bargaining unit. The reinstatement resulted in the employee being eligible for certification.

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 city's state aid allocation was based on unit value, the city received an underpayment of state aid of $10,241 as identified below:

Year	Type Of Plan	Units Understated	Unit Value	State Aid Underpayment
2019	Policemen's Relief	2	$ 5,120.50	$ 10,241

Although the additional state aid will be allocated to the city, the full amount of the 2019 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, 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.

Firemen's Relief Pension Plan

Finding No. 4 – Noncompliance With Prior Audit Recommendation – Plan Provisions Inconsistent With The Third Class City Code

Condition: As previously disclosed in prior audit reports, the city adopted a home rule charter pursuant to the Home Rule Charter and Optional Plans Law, 53 Pa. C.S. § 2901 et seq. (previously 53 P.S. § 1-101 et seq.) and provided benefits to its firefighters participating in the firemen's relief pension plan inconsistent with the Third Class City Code, as follows:

Benefits	Plan Governing Document	Third Class City Code
Basis of pension	Average monthly compensation for the firefighter's final year average salary.	Monthly salary or the highest average annual salary which was received during any 5 years of service preceding retirement, whichever is the higher. (§14322(a)(2))
Definitions	Monthly compensation – basic monthly compensation plus longevity payments, acting officer's pay, EMT bonuses, overtime pay, night shift differential, educational incentive payments, holiday pay and annual buyback of sick leave.	Salary - the fixed amount of compensation paid at regular, periodic intervals by the city to the member and from which pension contributions have been deducted; this is interpreted to exclude buybacks of leave earned outside of the pension computation period. (§14319)
Service increment contribution	Not provided by ordinance, although members do make contributions to fund this benefit.	A sum not to exceed $1 per month, payable only until the employee reaches age 65 (§14322(b)(2)).

Finding No. 4 – (Continued)

Benefits	Plan Governing Document	Third Class City Code
Service increment	1.25% of final year average salary multiplied by the number of years of service in excess of 20 years, not to exceed the following: Effective January 1, 1997: 75%; Effective June 29, 1999: 70%.	2.5% of pension benefit multiplied by the number of whole years in excess of 20 years, not to exceed $100 per month. No credit for service after the employee is 65 years old. (§14322(b)(1)) After June 19, 2002, a city may agree to make service increment payments in excess of $100 per month as long as the payments do not exceed $500 per month, and, in computing the service increments, no employment after age sixty-five years shall be included, provided that any agreement to provide an increase in service increment payments shall include a proportionate increase in the amount each contributor shall pay into the retirement fund under paragraph (2), not to exceed $5 per month. (§14322(b)(6))
Survivor's benefit for children of retirees	The guardian of any minor children of the retiree receives the pension benefit the retiree was receiving if the retiree's spouse is deceased or remarried.	Not authorized

Finding No. 4 – (Continued)

Benefits	Plan Governing Document	Third Class City Code
Type of discharge required for non-intervening military service credit	Honorable or general discharge	No requirement
Purchase of non-intervening military service credit	Does not require the member to pay interest on the equivalent of the city's contributions.	Requires the payment of the equivalent of the city's contributions, plus interest. (§14321(c)(2))
Years of service required for vested benefits	10 years	12 years (§14320.1(b))
Commencement of vested benefits	At age 50. If however such participant elects to receive such benefit upon termination of employment, the monthly benefit to which he or she is entitled shall be further reduced by 4 percent times each year short of age 50.	Date which would have been the member's retirement date had he continued full-time employment with the fire department. (§14320.1(c))
Vested portion of base retirement benefits	A fraction, as follows: the number of full years of service completed divided by 20, pension commences at age 50. If however such participant elects to receive such benefit upon termination of employment, the monthly benefit to which he or she is entitled shall be further reduced by 4 percent times each year short of age 50.	The percentage that the years of service actually rendered bears to the years of service which would have been rendered had the member continued to be employed by the department until the minimum retirement date. (No provision for early payment) (§14320.1(d)(2))

Finding No. 4 – (Continued)

Benefits	Plan Governing Document	Third Class City Code
Members' contributions disposition for terminating non-vested, non-retiring members	Participant elects whether to leave contributions in the firemen's pension relief fund or to have them refunded.	Members' contributions must be refunded to the member. (§14327(a))
Vesting conditions	None provided	The vesting member must file a written notice of intent to vest, at least 30 days prior to termination, which includes the member's intended termination date, and the member must be in good standing on the date of notice. The board must indicate on the notice to vest the basis for calculating the vested benefit. (14320.1(b))
Basis for calculating the vested benefit	Average monthly compensation for the firefighter's final year average salary prior to retirement or termination of employment	Rate of the monthly pay of the member as of the date of the notice to vest or the highest average annual salary which the member received during any 5 years of service preceding the date, whichever is the higher. (§14320.1(b)(5))
Interest on refunds of members' contributions	5 percent	Not authorized (§14327(a))

Finding No. 4 – (Continued)

Benefits	Plan Governing Document	Third Class City Code
Time limit on buyback of prior service time	Buyback must be elected in writing within 6 months of rehire and must be completed within 24 months of the written election.	No time limit provided. (§14327(b))
Credit for periods of termination	Upon rehire, employees may buy back the time between employment periods.	Not authorized
Early Retirement	Participants with 20 years of service may retire before the age of 50 with a pension reduced by 4% for each year such participant's age is short of age 50.	Not authorized
Composition of Pension Board	5 members, as follows: the mayor, the city controller, the director of human resources, and 2 pension plan participants elected by the plan members.	7 members, as follows: 1) the mayor, 2) the director of the department of accounts and finance, 3) the director of the department having charge of the fire department, or in cities where the mayor is also the director of the department having charge of the fire department, then the director of the department of public safety, 4) the city controller, 5) the chief of the bureau of fire, and 2 members of the fire department chosen by the fire department members. (§14320(d)(2))

Finding No. 4 – (Continued)

It was noted that a settlement agreement between the city and its firefighters' local union, executed August 22, 2012, extended the most current collective bargaining agreement (CBA) two additional years covering the period January 1, 2015 through December 31, 2016, and effectively added new language to Section 6(F) and (G) of Article 21 of the continuing CBA as follows:

> All fire fighters hired after January 1, 2013 shall be entitled to pension benefits not in excess of the Third Class City Code.
>
> Fire Fighters participating in the Fireman's Relief Pension Fund and hired on or after January 1, 2013 shall be entitled to a service increment not to exceed five hundred ($500) dollars per month and each member shall be required to make an additional monthly contribution to the pension plan of five ($5.00) dollars.

Moreover, according to an arbitration award between the city and its firefighters' local union, awarded November 28, 2017, it effectively extended the current terms of the CBA an additional two years covering the period January 1, 2017 through December 31, 2018, relative to pensions. Item 7 of the award cites the following:

> Pensions for all employees hired after the date of this Award will be in full compliance with the Third Class City Code. Specifically, pensions shall be based upon base salary and longevity only, and employee contributions to the pension shall be based upon base salary and longevity only. This provision is not intended to have any impact on any ongoing legal proceedings over Section 7(f) of the parties' August 2012 Settlement Agreement with respect to employees hired prior to the issuance of this Award.

A recent arbitration award between the city and its firefighters' local union, awarded August 30, 2019, effectively extended the current terms of the CBA an additional four years covering the period January 1, 2019 through December 31, 2022, relative to pensions.

Although it appears that the city has taken some measures to limit benefits not authorized by the Third Class City Code through collective bargaining, the city failed to update the plan's governing document accordingly and, therefore, benefits remain inconsistent with the Third Class City Code.

<u>Criteria</u>: As disclosed previously, on January 24, 2001, the Commonwealth Court of Pennsylvania issued its opinion in *Municipality of Monroeville v. Monroeville Police Department Wage Policy Committee.* Therein, the court held that Section 2962(c)(5) of the Home Rule Charter and Optional Plans Law, 53 Pa. C.S. § 2962(c)(5), "clearly precludes home rule municipalities from providing pension benefits different from those prescribed in general law including Act 600." The court's holding was in accord with the position taken by this Department since at least January 1995.

Finding No. 4 – (Continued)

Cause: Municipal officials have been unable to amend the plan's governing ordinances to comply with the Third Class City Code due to the fact that pension benefits are a mandatory subject of collective bargaining. Although the city has attempted to amend these benefits to comply with the Third Class City Code through the collective bargaining process, the city has been unsuccessful in doing so completely and has been subject to ongoing arbitration in efforts to amend benefits as they are currently prescribed in the city's governing ordinances.

Effect: The provision of unauthorized benefits increases the plan's pension costs and reduces the amount of funds available for investment purposes or the payment of authorized benefits or administrative expenses. Since the city received its state aid allocations based on unit value during the audit period, it did not receive any excess state aid allocations attributable to unauthorized pension benefits provided. However, the provision of unauthorized pension benefits could result in the receipt of excess state aid in the future, or could increase required contributions to the plan.

Recommendation: The department acknowledges that its position has changed over the years and that, until *Monroeville*, there was no definitive decision as to whether home rule municipalities were obliged to comply with applicable pension law. The department seeks, therefore, to implement the decision in as equitable a fashion as possible, while paying necessary deference to the court's ruling. Accordingly, the department will not penalize a home rule municipality for granting benefits not authorized by the Third Class City Code to existing retirees or to individuals who began full-time employment before January 24, 2001 (the effective date of the *Monroeville* decision). However, the department recommends the city incorporate the changes to its pension plan benefit structure agreed to during collective bargaining and the arbitration process which limits pension benefits to those authorized by the Third Class City Code for employees who began full-time employment on or after the aforementioned dates to ensure consistency in the administration of plan benefits among the varying plan documents.

To the extent that the city is not in compliance with the Third Class City Code and/or is contractually obligated to provide benefits in excess of those authorized by the Third Class City Code to employees who began employment on or after January 24, 2001, the excess benefits must be reflected in the Act 205 actuarial valuation reports for the plan and funded in accordance with Act 205 funding standards. Furthermore, such benefits will be deemed ineligible for funding with state pension aid. In such case, the plan's actuary may be required to determine the impact, if any, of the unauthorized benefits on the city's future state aid allocations and submit this information to the department. If it is determined the unauthorized benefits had an impact on the city's future state aid allocations after the submission of this information, the plan's actuary would then be required to contact the department to verify the overpayment of state aid received. Plan officials would then be required to reimburse the overpayment to the Commonwealth.

Finding No. 4 – (Continued)

Management's Response: City officials agreed with the finding without exception and provided the following response:

> The City was unable to correct the prior audit findings through negotiations for the Police Relief, Fire Relief, and Non-Uniform Plans. The City will continue to work to eliminate the findings.

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

Non-Uniformed Employees' Pension Plan

Finding No. 5 – Noncompliance With Prior Audit Recommendation – Unauthorized Service Buyback Provision

Condition: As disclosed in prior audit reports, the city enacted a service buyback provision that is not authorized by the Third Class City Code. File of Council No. 13 of 2001, Section I, states:

> Effective January 1, 2002, City employees are permitted to buy all of the time which represents time served as a City of Wilkes-Barre employee and a participant in another City Pension Fund into the City Pension Fund in which they currently participate.
>
> The buyback amount shall be calculated by the City and shall include an amount equal to the employee's contributions, plus interest at a rate established by the City at the time of the buyback.
>
> The buyback must be initiated at the time of hire into another City job classification or after the effective date of this ordinance, whichever is later.

Criteria: The Third Class City Code does not authorize buybacks of prior service credits from another pension fund.

Cause: The city has been unsuccessful through the collective bargaining process to limit pension benefits to those authorized by the Third Class City Code and ensure compliance with the prior audit recommendation.

Effect: The provision of unauthorized benefits could increase the plan's pension costs and reduces the amount of funds available for investment purposes or the payment of authorized benefits or administrative expenses. Since the city received its state aid allocations based on unit value during the audit period, it did not received excess state aid allocations attributable to the unauthorized benefits provided. However, providing unauthorized pension benefits could result in the receipt of state aid in excess of the city's entitlement in the future, or increase required municipal contributions to the plan.

Finding No. 5 – (Continued)

Recommendation: We again recommend that the city eliminate the unauthorized service buyback provision at its earliest opportunity to do so. To the extent that the city has already obligated itself to pay benefits in excess of those authorized by the Third Class City Code, the excess benefits must be reflected in the Act 205 actuarial valuation reports for the plan and funded in accordance with Act 205 funding standards. Furthermore, such benefits will be deemed ineligible for funding with state pension aid. In such case, the plan's actuary may be required to determine the impact, if any, of the unauthorized benefits on the city's future state aid allocations and submit this information to the department. If it is determined the unauthorized benefits had an impact on the city's future state aid allocations after the submission of this information, the plan's actuary would then be required to contact the department to verify the overpayment of state aid received. Plan officials would then be required to reimburse the overpayment to the Commonwealth.

Management's Response: City officials agreed with the finding without exception and provided the following response:

> The City was unable to correct the prior audit findings through negotiations for the Police Relief, Fire Relief, and Non-Uniform Plans. The City will continue to work to eliminate the findings.

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

CITY OF WILKES-BARRE AGGREGATED PENSION TRUST FUND
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, 2015, is as follows:

Police Pension Plan

	(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)
01-01-15	$ 6,606,283	$ 17,145,009	$ 10,538,726	38.5%
01-01-17	5,304,983	16,304,328	10,999,345	32.5%
01-01-19	4,110,522	15,320,713	11,210,191	26.8%

Note: The market values of the plan's assets at 01-01-15, 01-01-17, and 01-01-19 have been adjusted to reflect the smoothing of gains and/or losses subject to a corridor between 80 to 120 percent of the market value of assets. These methods 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.

CITY OF WILKES-BARRE AGGREGATED PENSION TRUST FUND
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, 2015, is as follows:

Policemen's Relief Pension Plan

	(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)
01-01-15	$ 21,189,859	$ 27,780,930	$ 6,591,071	76.3%
01-01-17	22,670,691	32,491,000	9,820,309	69.8%
01-01-19	24,271,734	37,935,520	13,663,786	64.0%

Note: The market values of the plan's assets at 01-01-15, 01-01-17, and 01-01-19 have been adjusted to reflect the smoothing of gains and/or losses subject to a corridor between 80 to 120 percent of the market value of assets. These methods 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.

CITY OF WILKES-BARRE AGGREGATED PENSION TRUST FUND
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, 2015, is as follows:

Non-Uniformed Employees' Pension Plan

	(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)
01-01-15	$ 21,692,262	$ 41,456,578	$ 19,764,316	52.3%
01-01-17	18,909,782	41,790,553	22,880,771	45.2%
01-01-19	15,756,172	43,131,463	27,375,291	36.5%

Note: The market values of the plan's assets at 01-01-15, 01-01-17, and 01-01-19 have been adjusted to reflect the smoothing of gains and/or losses subject to a corridor between 80 to 120 percent of the market value of assets. These methods 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.

CITY OF WILKES-BARRE AGGREGATED PENSION TRUST FUND
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, 2015, is as follows:

Firemen's Pension Plan

	(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)
01-01-15	$ 7,956,229	$ 17,275,022	$ 9,318,793	46.1%
01-01-17	7,031,118	16,069,702	9,038,584	43.8%
01-01-19	5,551,598	14,644,795	9,093,197	37.9%

Note: The market values of the plan's assets at 01-01-15, 01-01-17, and 01-01-19 have been adjusted to reflect the smoothing of gains and/or losses subject to a corridor between 80 to 120 percent of the market value of assets. These methods 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.

CITY OF WILKES-BARRE AGGREGATED PENSION TRUST FUND
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, 2015, is as follows:

Firemen's Relief Pension Plan

	(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)
01-01-15	$ 23,541,158	$ 26,778,996	$ 3,237,838	87.9%
01-01-17	25,910,291	29,620,878	3,710,587	87.5%
01-01-19	28,482,792	35,105,053	6,622,261	81.1%

Note: The market values of the plan's assets at 01-01-15, 01-01-17, and 01-01-19 have been adjusted to reflect the smoothing of gains and/or losses subject to a corridor between 80 to 120 percent of the market value of assets. These methods 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.

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.

CITY OF WILKES-BARRE AGGREGATED PENSION TRUST FUND
SUPPLEMENTARY INFORMATION
(UNAUDITED)

SCHEDULE OF CONTRIBUTIONS

Year Ended December 31	Actuarially Determined Contribution	Actual Contributions	Contribution Deficiency (Excess)	Covered-Employee Payroll	Contributions as a Percentage of Covered-Employee Payroll
2010	$ 1,541,861	$ 1,541,861	$ -		
2011	3,397,835	3,397,835	-		
2012	2,455,295	2,455,295	-		
2013	3,142,155	3,142,155	-		
2014	3,207,426	3,207,426	-	$16,638,379	19.28%
2015	4,575,102	4,575,102	-	17,219,631	26.57%
2016	4,645,186	4,645,186	-	16,710,687	27.80%
2017	4,367,511	4,367,511	-	17,145,597	25.47%
2018	5,563,955	5,563,955	-	17,745,693	31.35%
2019	5,619,979	5,619,979	-	16,912,530	33.23%

* This schedule is presented pursuant to the implementation of GASB Statement No. 67, *Financial Reporting for Pension Plans* by reporting entities responsible for administering the pension plan to improve financial reporting by state and local governmental pension plans. Due to the statement being implemented only recently, the amount of Covered-Employee Payroll was not provided for years prior to 2014.

CITY OF WILKES-BARRE AGGREGATED PENSION TRUST FUND
SUPPLEMENTARY INFORMATION
(UNAUDITED)

Police Pension Plan

SCHEDULE OF CONTRIBUTIONS FROM EMPLOYER
AND OTHER CONTRIBUTING ENTITIES

Year Ended December 31	Annual Required Contribution	Percentage Contributed
2014	$ 229,648	100.0%
2015	1,287,607	100.0%
2016	1,287,607	100.0%
2017	1,454,242	100.0%
2018	1,138,352	100.0%
2019	1,142,352	100.0%

CITY OF WILKES-BARRE AGGREGATED PENSION TRUST FUND
SUPPLEMENTARY INFORMATION
(UNAUDITED)

Policemen's Relief Pension Plan

SCHEDULE OF CONTRIBUTIONS FROM EMPLOYER
AND OTHER CONTRIBUTING ENTITIES

Year Ended December 31	Annual Required Contribution	Percentage Contributed
2014	$ 513,294	100.0%
2015	557,006	100.0%
2016	590,391	100.0%
2017	965,042	100.0%
2018	983,682	100.0%
2019	996,875	100.0%

CITY OF WILKES-BARRE AGGREGATED PENSION TRUST FUND
SUPPLEMENTARY INFORMATION
(UNAUDITED)

Non-Uniformed Employees' Pension Plan

SCHEDULE OF CONTRIBUTIONS FROM EMPLOYER
AND OTHER CONTRIBUTING ENTITIES

Year Ended December 31	Annual Required Contribution	Percentage Contributed
2014	$ 586,710	100.0%
2015	799,331	100.0%
2016	826,913	100.0%
2017	None	N/A
2018	1,888,821	100.0%
2019	1,869,146	100.0%

CITY OF WILKES-BARRE AGGREGATED PENSION TRUST FUND
SUPPLEMENTARY INFORMATION
(UNAUDITED)

Firemen's Pension Plan

SCHEDULE OF CONTRIBUTIONS FROM EMPLOYER
AND OTHER CONTRIBUTING ENTITIES

Year Ended December 31	Annual Required Contribution	Percentage Contributed
2014	$ 1,439,056	100.0%
2015	1,403,688	100.0%
2016	1,403,688	100.0%
2017	1,285,903	100.0%
2018	935,428	100.0%
2019	939,428	100.0%

CITY OF WILKES-BARRE AGGREGATED PENSION TRUST FUND
SUPPLEMENTARY INFORMATION
(UNAUDITED)

Firemen's Relief Pension Plan

SCHEDULE OF CONTRIBUTIONS FROM EMPLOYER
AND OTHER CONTRIBUTING ENTITIES

Year Ended December 31	Annual Required Contribution	Percentage Contributed
2014	$ 438,718	100.0%
2015	527,470	100.0%
2016	536,587	100.0%
2017	662,324	100.0%
2018	617,672	100.0%
2019	672,178	100.0%

Police Pension Plan

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, 2019
Actuarial cost method	Entry age normal
Amortization method	Level dollar
Remaining amortization period	1 year
Asset valuation method	Plan assets are valued using the method described in Section 210 of Act 205, as amended, subject to a corridor between 80-120% of the market value of assets.
Actuarial assumptions:	
Investment rate of return	8.0% compounded annually
Projected salary increases	3.5% compounded annually
Cost-of-living adjustments	None assumed

CITY OF WILKES-BARRE AGGREGATED PENSION TRUST FUND
SUPPLEMENTARY INFORMATION
NOTES TO SUPPLEMENTARY SCHEDULES
(UNAUDITED)

Policemen's Relief Pension Plan

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, 2019
Actuarial cost method	Entry age normal
Amortization method	Level dollar
Remaining amortization period	18 years
Asset valuation method	Plan assets are valued using the method described in Section 210 of Act 205, as amended, subject to a corridor between 80-120% of the market value of assets.
Actuarial assumptions:	
Investment rate of return	8.0% compounded annually
Projected salary increases	3.5% compounded annually
Cost-of-living adjustments	None assumed

Non-Uniformed Pension Plan

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, 2019
Actuarial cost method	Entry age normal
Amortization method	Level dollar
Remaining amortization period	19 years
Asset valuation method	Plan assets are valued using the method described in Section 210 of Act 205, as amended, subject to a corridor between 80-120% of the market value of assets.
Actuarial assumptions:	
Investment rate of return	8.0% compounded annually
Projected salary increases	3.5% compounded annually
Cost-of-living adjustments	None assumed

Firemen's Pension Plan

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, 2019
Actuarial cost method	Entry age normal
Amortization method	Level dollar
Remaining amortization period	1 year
Asset valuation method	Plan assets are valued using the method described in Section 210 of Act 205, as amended, subject to a corridor between 80-120% of the market value of assets.
Actuarial assumptions:	
Investment rate of return	8.0% compounded annually
Projected salary increases	3.5% compounded annually
Cost-of-living adjustments	None assumed

Firemen's Relief Pension Plan

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, 2019
Actuarial cost method	Entry age normal
Amortization method	Level dollar
Remaining amortization period	15 years
Asset valuation method	Plan assets are valued using the method described in Section 210 of Act 205, as amended, subject to a corridor between 80-120% of the market value of assets.
Actuarial assumptions:	
Investment rate of return	8.0% compounded annually
Projected salary increases	3.5% compounded annually
Cost-of-living adjustments	None assumed

CITY OF WILKES-BARRE AGGREGATED PENSION TRUST FUND
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