

# COMPLIANCE AUDIT

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## Jackson Township Non-Uniformed Employees' Pension Plan Monroe County, Pennsylvania For the Period January 1, 2016 to December 31, 2019

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May 2020



Commonwealth of Pennsylvania  
Department of the Auditor General

Eugene A. DePasquale • Auditor General



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**EUGENE A. DePASQUALE  
AUDITOR GENERAL**

Board of Township Supervisors  
Jackson Township  
Monroe County  
Reeders, PA 18352

We have conducted a compliance audit of the Jackson Township Non-Uniformed Employees' Pension Plan for the period January 1, 2016 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 conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our 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 finding contained in our prior report; and
2. 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 objectives identified above. To determine if municipal officials took appropriate corrective action to address the finding 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 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. State aid allocations that were deposited into the pension plan for the years ended December 31, 2014 to December 31, 2019, are presented on the Summary of Deposited State Aid and Employer Contributions.
- 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. Employer contributions that were deposited into the pension plan for the years ended December 31, 2014 to December 31, 2019, are presented on the Summary of Deposited State Aid and Employer Contributions.
- 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, 2015, January 1, 2017, and January 1, 2019 actuarial valuation reports were prepared and submitted by March 31, 2016, 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 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.

Township officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Jackson Township Non-Uniformed 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 Jackson Township Non-Uniformed 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 finding further discussed later in this report:

Finding - Receipt Of State Aid In Excess Of Entitlement

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

April 21, 2020



EUGENE A. DEPASQUALE  
Auditor General

## CONTENTS

	<u>Page</u>
Background.....	1
Status of Prior Finding.....	2
Finding and Recommendation:	
Finding - Receipt Of State Aid In Excess Of Entitlement .....	3
Summary of Deposited State Aid and Employer Contributions.....	7
Report Distribution List .....	8

## **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 Jackson Township Non-Uniformed 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.

The Jackson Township Non-Uniformed Employees' Pension Plan is a single-employer defined contribution pension plan locally controlled by the provisions of Plan Agreement date December 22, 1997, as amended. The plan is also affected by the provisions of collective bargaining agreements between the township and its non-uniformed employees. Active members are not required to contribute to the plan. The municipality is required to contribute \$2,815 per member in 2016, \$3,008 per member in 2017, \$2,750 per member in 2018 and \$3,100 per member in 2019. As of December 31, 2019, the plan had 9 active members, 1 terminated member eligible for vested benefits in the future, and no retirees receiving pension benefits.

## **BACKGROUND**

### Compliance With Prior Audit Recommendation

Jackson Township has complied with the prior audit recommendation concerning the following:

- Failure To Appoint A Chief Administrative Officer

The township appointed the CAO by Resolution as previously recommended.

JACKSON TOWNSHIP NON-UNIFORMED EMPLOYEES' PENSION PLAN  
FINDING AND RECOMMENDATION

**Finding - Receipt Of State Aid In Excess Of Entitlement**

Condition: The township received state aid in excess of the non-uniformed pension plan's defined contribution pension costs in the years 2016 and 2017, as illustrated below:

	<u>2016</u>	<u>2017</u>
State aid allocation	\$ 22,519	\$ 21,056
Actual municipal pension costs	(22,000)	(19,250)
Excess state aid	\$ 519	\$ 1,806

Criteria: Section 402(f)(2) of Act 205 states:

No municipality shall be entitled to receive an allocation of general municipal pension system State aid in an amount which exceeds the aggregate actual financial requirements of any municipal pension plans for police officers, paid firefighters or employees other than police officers or paid firefighters maintained by the municipality, less the amount of any aggregate annual member or employee contributions during the next succeeding plan year, as reported in the most recent complete actuarial report filed with the commission.

Section 4.1 of Article IV, of the separately executed money purchase pension plan document, as amended by Resolution 2016-04, states:

The total amount of the contribution to the Trust to be made by the Employer for each Plan year on behalf of each Participant shall be:

\$2,750 (*Effective August 11, 2016*)

Section 21.1 of Article 21, of the Collective Bargaining Agreement date July 1, 2016 through June 30, 2021, states:

Employer agrees to make contributions to a retirement plan effective July, 1 2016 at a minimum of \$2,750.00 per year per employee each year of the Agreement. This amount may be adjusted to a higher level on an annual basis according to state allocations by resolution of the Jackson Township Board of Supervisors. These contributions apply to all employees per Article 8 – Wages.

Moreover, the township filed actuarial valuation report form Type A for the pension plan with the Municipal Pension Reporting Program identifying the plan as a defined contribution plan with a flat dollar contribution requirement of \$2,750.



JACKSON TOWNSHIP NON-UNIFORMED EMPLOYEES' PENSION PLAN  
FINDING AND RECOMMENDATION

**Finding (Continued)**

Section 102 of Act 205 defines a defined contribution pension plan, as follows:

A type of pension benefit plan which provides for a fixed contribution rate or amount and which provides for periodic benefit payments calculable at retirement dependent on the accumulated contributions, investment income, experience gains and losses credited to the member and the expected mortality of the member.  
[Emphasis added]

Accordingly, Section V, B, of the actuarial valuation report form Type A provides for reporting a defined contribution rate either at a specified percentage of payroll or as a specified flat dollar amount. No other types of reporting are provided for defined contribution pension plans.

Cause: Plan officials failed to adhere to the contributory requirements contained in the township's plan documents and the department's previous recommendation expressed during the conduct of the prior engagement to limit future state aid contributions to the plan's actual defined contribution pension costs specified under the plan document.

Effect: It is this department's opinion that because the entire proceeds of the insurance premium tax on foreign casualty insurance companies are distributed annually to each eligible recipient municipality, it is inappropriate to use state aid in one year to offset pension costs in other years. Consequently, the overpayment of state aid in the years 2016 and 2017 must be returned to the Commonwealth for redistribution.

Recommendation: We recommend that the municipality return the \$2,325 of excess state aid received during the years 2016 and 2017 to the Commonwealth. A check in this amount, with interest compounded annually from date of receipt to date of repayment, at a rate earned by the plan, should be made payable to: Commonwealth of Pennsylvania and mailed to: Department of the Auditor General, Municipal Pension & Fire Relief Programs Unit, 321 Finance Building, Harrisburg, PA 17120. A copy of the interest calculation must be submitted along with evidence of payment.

We also recommend that plan officials adhere to the criteria contained in the township's pension plan document and implement procedures to limit future state aid contributions to the plan's actual defined contribution pension costs prescribed in the plan document and reimburse any excess state aid received to the Commonwealth.

JACKSON TOWNSHIP NON-UNIFORMED EMPLOYEES' PENSION PLAN  
FINDING AND RECOMMENDATION

**Finding (Continued)**

Management's Response: Plan officials indicated that Jackson Township Board of Supervisors sets the pension amount for each employee after receiving the state aid allocation amount not prior to then. The minimum is \$2,750 per employee. The allocation amount is typically increased by Jackson Township so each employee gets the same amount not to be less than \$2,750 per employee. If the allocation is more than per employee, Jackson Township adds it to make it an even amount again to make it the same amount for each employee and a resolution is done to indicate the different amount. A resolution can't be made until the township receives notification from the State indicating the allocation amount.

In addition, subsequent to completion of the plan engagement, the township's solicitor provided the following additional response regarding this disclosure:

Be advised that the Township disputes this finding and declines to implement the recommended repayment. On the contrary, even if the Township were to accept this finding—which it does not—the circumstances warrant a written warning, not a refund.

The Bureau's finding quotes from both the Township's plan document and CBA, but then misinterprets them. The plan document provides, at Article IV, Section 4.1 that, "[t]he total amount of the contribution to the Trust to be made by the Employer for each Plan year on behalf of each Participant shall be: Effective August 11, 2016 - \$2,750." The collective bargaining agreement mirrors the Plan, but characterizes the contribution as a floor, not a ceiling:

Employer agrees to make contributions to a retirement plan effective July 1, 2016 at a minimum of \$2,750.00 per year per employee each year of the Agreement. This amount may be adjusted to a higher level on an annual basis according to state allocations by resolution of the Jackson Township Board of Supervisors. These contributions apply to all employees per Article 8 – Wages. [CBA, Art. 21, Section 21.1]

The Bureau's finding characterizes the CBA as requiring the Township to contribute "only" the amount of the plan's actual defined contribution pension costs. On the contrary, the CBA requires the Township to contribute \$2,750 "at a minimum" and allows for upward adjustments by resolution of the Board of Supervisors. To the extent the Bureau believes the CBA requires annual contributions of "only" \$2,750, it is mistaken.

JACKSON TOWNSHIP NON-UNIFORMED EMPLOYEES' PENSION PLAN  
FINDING AND RECOMMENDATION

**Finding (Continued)**

The Township concedes that it should have adopted resolutions in 2016 and 2017 for the additional contributions. However, this issue has never been flagged before by any prior audit or by the Township's independent accountant despite the same issue of "excess" contributions being made in those years. In 2018, when the Township's plan administrator was advised of the need for a resolution, the Board adopted one. It will continue to do so, as appropriate, in future years.

In this circumstance, a written warning would have been appropriate instead of a refund. Since the Bureau's finding merely recommends that the Township repay the money, the Township will respectfully decline that recommendation. Instead, the Township has put into place measures to ensure future compliance with the CBA and Act 205.

Auditor's Conclusion: General municipal state aid issued under the Municipal Pension Plan Funding Standard & Recovery Act (Act of December 18, 1984, P.L. 1005, No. 205) is solely to provide reimbursement to a municipality for the costs associated with providing pension coverage for its municipal employees. However, it is not the intent of state aid to create a "windfall" for participants in excess of the benefits prescribed under the plan document adopted by a municipality for administering its pension plan. Additionally, it should be noted that this issue was disclosed previously to plan officials during the conduct of the prior engagement. Therefore, since the amount of state aid allocated to the pension plan exceeds the contributory rates prescribed in the plan document as well as the actuarial valuation reports, the issue remains as stated and compliance will be subject to verification during the next plan engagement.

JACKSON TOWNSHIP NON-UNIFORMED EMPLOYEES' PENSION PLAN  
SUMMARY OF DEPOSITED STATE AID AND EMPLOYER CONTRIBUTIONS

Year Ended December 31	State Aid	Employer Contributions
2014	\$ 24,664	\$ 86
2015	24,270	480
2016	22,519	1
2017	21,056	None
2018	20,399	\$ 4,351
2019	27,676	224

JACKSON TOWNSHIP NON-UNIFORMED EMPLOYEES' PENSION PLAN  
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

**The Honorable Tom W. Wolf**  
Governor  
Commonwealth of Pennsylvania

**Mr. Donald C. Kresge Sr.**  
Chairman, Board of Township Supervisors

**Ms. Jacqueline R. Elliott**  
Administrative Assistant/Treasurer

This report is a matter of public record and is available online at [www.PaAuditor.gov](http://www.PaAuditor.gov). Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 229 Finance Building, Harrisburg, PA 17120; via email to: [news@PaAuditor.gov](mailto:news@PaAuditor.gov).