COMPLIANCE AUDIT

Newberry Township Police Pension Plan

York County, Pennsylvania

For the Period

January 1, 2015 to December 31, 2018

April 2019

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
Newberry Township
York County
Etters, PA 17319

We have conducted a compliance audit of the Newberry Township Police Pension Plan for the period January 1, 2015 to December 31, 2018. We also evaluated compliance with some requirements subsequent to that period when possible. The audit was conducted pursuant to authority derived from Section 402(j) of Act 205 and in accordance with the standards applicable to performance audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our finding conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our finding 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 finding contained in our prior audit 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 audit 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.

- We determined whether annual employer contributions were calculated and deposited in accordance with the plan's governing document and applicable laws and regulations by examining the municipality's calculation of the plan's annual financial requirements and minimum municipal obligation (MMO) and comparing these calculated amounts to amounts actually budgeted and deposited into the pension plan as evidenced by supporting documentation.

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

- We determined whether retirement benefits calculated for the plan member who retired during the current audit represent payments to all (and only) those entitled to receive them and were properly determined and disbursed in accordance with the plan's governing document, applicable laws and regulations by recalculating the amount of the monthly pension benefit due to the retired individual and comparing this amount to supporting documentation evidencing amounts determined and actually paid to recipient.

- We determined whether the January 1, 2013, January 1, 2015 and January 1, 2017 actuarial valuation reports were prepared and submitted by March 31, 2014, 2016 and 2018, 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.

- We determined whether provisions of the Deferred Retirement Option Plan (DROP) were in accordance with the provisions of Act 205 by examining provisions stated in the plan's governing documents.

Newberry Township contracted with an independent certified public accounting firm for annual audits of its basic financial statements for the years ended December 31, 2017, 2016 and 2015, which are available at the township's offices. Those financial statements were not audited by us and, accordingly, we express no opinion or other form of assurance on them.

Township officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Newberry Township Police Pension Plan is administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies. In conducting our audit, we obtained an understanding of the township's internal controls as they relate to the township's compliance with those requirements and that we considered to be significant within the context of our audit objectives, and assessed whether those significant controls were properly designed and implemented. Additionally and as previously described, we tested transactions, assessed official actions, performed analytical procedures, and interviewed selected officials 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 Newberry Township Police Pension Plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies, except as noted in the following finding further discussed later in this report:

Finding – Noncompliance With Prior Audit Recommendation – Pension Benefit Not Authorized By Act 600 And The Plan's Governing Document

The finding contained in this audit report repeats a condition that was cited in our previous audit report that has not been corrected by township officials. We are concerned by the township's failure to correct this previously reported audit finding and strongly encourage timely implementation of the recommendation noted in this audit report.

The accompanying supplementary information is presented for purposes of additional analysis. We did not audit the information or conclude on it and, accordingly, express no form of assurance on it.

The contents of this report were discussed with officials of Newberry 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.

Eugene A. DePasquale

April 1, 2019

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. Section 402(j) of Act 205 specifically requires the Auditor General, as deemed necessary, to make an audit of every municipality which receives general municipal pension system state aid and of every municipal pension plan and fund in which general municipal pension system state aid is deposited.

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 Newberry Township Police Pension Plan is also governed by implementing regulations adopted by the former Public Employee Retirement Commission published at Title 16, Part IV of the Pennsylvania Code and applicable provisions of various other state statutes including, but not limited to, the following:

Act 600 - Police Pension Fund Act, Act of May 29, 1956 (P.L. 1804, No. 600), as amended, 53 P.S. § 767 et seq.

The Newberry Township Police Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Ordinance No. 141, as amended. The plan is also affected by the provisions of collective bargaining agreements between the township and its police officers. The plan was established January 1, 1977. Active members are required to contribute 5 percent of compensation to the plan. As of December 31, 2018, the plan had 16 active members, no terminated members eligible for vested benefits in the future, and 12 retirees receiving pension benefits from the plan.

BACKGROUND – (Continued)

As of December 31, 2018, selected plan benefit provisions are as follows:

Eligibility Requirements:

Normal Retirement	Later of attained age 50 or 25 years of service.
Early Retirement	20 years of service.
Vesting	100% vesting after 12 years of service.

Retirement Benefit:

Benefit equals 50% of final 36 months average salary multiplied by the accrued benefit adjustment.

Survivor Benefit:

Before Retirement Eligibility	Refund of member contributions plus interest.
After Retirement Eligibility	A monthly benefit equal to 50% of the participant's vested accrued pension.

Service Related Disability Benefit:

Benefit equals 50% of the member's salary at the time the disability was incurred, offset by Social Security disability benefits received for the same injury.

NEWBERRY TOWNSHIP POLICE PENSION PLAN
STATUS OF PRIOR FINDING

Noncompliance With Prior Audit Recommendation

The township has not complied with the prior audit recommendation concerning the following as further discussed in the Finding and Recommendation section of this report:

- Pension Benefit Not Authorized By Act 600 And The Plan's Governing Document

Finding – Noncompliance With Prior Audit Recommendation – Pension Benefit Not Authorized By Act 600 And The Plan's Governing Document

Condition: As disclosed in our prior audit report, plan officials provided pension benefits in excess of those authorized by the plan's governing document and Act 600. Plan officials included accumulated unused sick and vacation leave in the determination of final average salary used to calculate monthly pension benefits for 4 police officers who retired during the prior audit period which is contrary to provisions in the plan document. We previously recommended that the pension benefits for the 4 retirees be adjusted prospectively from the date of our last report; however, excess benefits continue to be paid to these recipients from the pension plan as of the date of this report. In addition, a similar condition occurred during the current period. Plan officials again included accumulated unused sick and vacation leave in the determination of final average salary used to calculate monthly pension benefits for an additional police officer who retired during the current audit period even though plan documents specifically exclude such inclusion.

Criteria: Section 4.01 of the plan's separately executed plan agreement indicates a monthly benefit as follows:

> An Active Participant's monthly accrued benefit as of any date, subject to modifications below, will be equal to the product of (a) and (b) below:
>
> (a) An amount equal to 50% of his Average Compensation.
>
> (b) His accrued Benefit Adjustment.

Average compensation is defined, in part, in Section 1.02 of the pension plan agreement as follows:

> Compensation means the total earnings, except as modified in this definition, from the Employer during any specified period. Earnings as used in this definition includes salary, court pay, holiday pay, overtime pay <u>and other remuneration with the following exclusions: unused sick pay and unused vacation pay</u>. [Emphasis Added.]

Furthermore, Section XVI of the collective bargaining agreements covering the periods January 1, 2011 through December 31, 2013, January 1, 2014 through December 31, 2016 and January 1, 2017 through December 31, 2020 between the township and its police association, states in part:

> Upon retirement, an officer is entitled to a payment equal to fifty (50%) percent of his or her sick leave accumulation at the rate then in effect. Consistent with previous contract language and past practice, such payment shall not be included in the calculation of an officer's final average salary for pension purposes.

Finding – (Continued)

In addition, Section 5(c) of Act 600 states, in part:

> Monthly pension or retirement benefits other than length of service increments shall be computed at one-half monthly average salary of such member during not more than the last sixty nor less than the last thirty-six months of employment

Although Act 600 does not define "salary", the department has concluded, based on a line of court opinions, that the term does not encompass lump-sum payments for leave that was not earned during the pension computation period. Moreover, since the plan document and collective bargaining agreement are more stringent and specifically exclude these types of accrued leave payouts from pension benefit calculations, pension benefits should be determined in accordance with the plan documents, accordingly.

It was noted that subsequent to the current audit period, township officials enacted Ordinance No. 404 adopted April 24, 2018 which states, in part:

> For purposes of calculating a retiree's pension benefit for officers hired after January 1, 2017, the payment amount for only those accumulated, but unused sick and vacation days earned with the last thirty-six (36) months of employment shall be included.

However, for the five aforementioned retirees, this provision was not in effect as of their respective retirement dates.

Cause: Former plan officials believed that their methodology for calculating pension benefits was authorized by Act 600. In addition, there was recent turnover of plan officials responsible for administering the township's police pension plan. Current plan officials were unaware of the issue previously raised in the prior audit report and, operating on the existing practice of including accumulated unused leave, as was used in the benefit calculations for the four previous retirees' monthly pension benefits when determining the monthly pension benefit for the additional police officer who retired during the current audit period, were unaware that such practice was contrary to the plan's governing document, Act 600, and the prior recommendation.

Effect: The plan is paying pension benefits to five retirees in excess of those authorized by the plan's governing document and Act 600. In addition, annual COLAs have been calculated and determined based on these excess monthly benefit amounts further compounding these excess monthly pension amounts. As of the date of this report, the retirees are receiving total excess benefits of $4,148 per month, which have totaled approximately $200,275 from their respective retirement dates through the date of this report.

Finding – (Continued)

Providing unauthorized pension benefits increases the plan's pension costs and reduces the amount of funds available for investment purposes or for the payment of authorized benefits or administrative expenses. Since the township received state aid based on unit value for its pension plans during the current audit period, it did not receive allocations attributable to the excess pension benefits provided. However, the increased costs to the pension plan as a result of the excess pension benefits could result in the receipt of excess state aid in the future and increase the municipal contributions necessary to fund the plan in accordance with Act 205 funding standards.

Recommendation: We again recommend that monthly pension benefits of any retiree whose benefit was not determined in accordance with the provisions of the plan's governing document be adjusted prospectively. In addition, any excess benefit payments made from the plan will be deemed ineligible for funding with state aid. Accordingly, the pension plan's actuary may be required to determine the impact, if any, of the excess benefit payments on the township's future state aid allocations and submit this information to the Department. If it is determined the excess benefit payments had an impact on the township'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.

We further recommend that future pension benefits be calculated and paid in accordance with the applicable provisions contained in the plan's governing document in effect at the time of a plan member's retirement.

Management's Response: Management officials stated that once the audit report is received by the township, officials will respond accordingly.

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

NEWBERRY TOWNSHIP POLICE PENSION PLAN
SUPPLEMENTARY INFORMATION
(UNAUDITED)

The supplementary information contained on Pages 7 through 10 reflects the implementation of GASB Statement No. 67, *Financial Reporting for Pension Plans*. The objective of this statement is to improve financial reporting by state and local governmental pension plans.

SCHEDULE OF CHANGES IN THE NET PENSION
LIABILITY AND RELATED RATIOS
FOR THE YEARS ENDED DECEMBER 31, 2014 AND 2015

	2014	2015
Total Pension Liability		
Service cost	$ 200,071	$ 200,714
Interest	521,554	544,694
Difference between expected and actual experience	-	(214,963)
Changes of assumptions	-	272,621
Benefit payments, including refunds of member contributions	(227,846)	(314,247))
Net Change in Total Pension Liability	493,779	488,819
Total Pension Liability – Beginning	6,433,283	6,927,062
Total Pension Liability – Ending (a)	$ 6,927,062	$ 7,415,881
Plan Fiduciary Net Position		
Contributions – employer	$ 111,743	$ 120,911
Contributions – state aid	170,398	156,833
Contributions – member	65,083	63,254
Net investment income	283,501	(54,645)
Benefit payments, including refunds of member contributions	(227,846)	(314,247)
Administrative expense	(4,625)	(7,165)
Net Change in Plan Fiduciary Net Position	398,254	(35,059)
Plan Fiduciary Net Position – Beginning	5,241,993	5,640,247
Plan Fiduciary Net Position – Ending (b)	$ 5,640,247	$ 5,605,188
Net Pension Liability – Ending (a-b)	$ 1,286,815	$ 1,810,693
Plan Fiduciary Net Position as a Percentage of the Total Pension Liability	81.4%	75.6%
Estimated Covered Employee Payroll	$ 1,363,366	$ 1,318,495
Net Pension Liability as a Percentage of Covered Employee Payroll	94.4%	137.3%

NEWBERRY TOWNSHIP POLICE PENSION PLAN
SUPPLEMENTARY INFORMATION
(UNAUDITED)

SCHEDULE OF CHANGES IN THE NET PENSION
LIABILITY AND RELATED RATIOS
FOR THE YEARS ENDED DECEMBER 31, 2016 AND 2017

	2016	2017
Total Pension Liability		
Service cost	$ 210,248	$ 243,154
Interest	579,409	607,721
Difference between expected and actual experience	-	(172,400)
Changes of assumptions	-	15,332
Benefit payments, including refunds of member contributions	(299,778)	(300,559)
Net Change in Total Pension Liability	489,879	393,248
Total Pension Liability – Beginning	7,415,881	7,905,760
Total Pension Liability – Ending (a)	$ 7,905,760	$ 8,299,008
Plan Fiduciary Net Position		
Contributions – employer	$ 179,299	$ 217,679
Contributions – state aid	166,236	132,883
Contributions – member	68,009	69,531
Net investment income	304,995	909,640
Benefit payments, including refunds of member contributions	(299,778)	(300,559)
Administrative expense	(5,915)	(5,915)
Net Change in Plan Fiduciary Net Position	412,846	1,023,259
Plan Fiduciary Net Position – Beginning	5,605,188	6,018,034
Plan Fiduciary Net Position – Ending (b)	$ 6,018,034	$ 7,041,293
Net Pension Liability – Ending (a-b)	$ 1,887,726	$ 1,257,715
Plan Fiduciary Net Position as a Percentage of the Total Pension Liability	76.1%	84.8%
Estimated Covered Employee Payroll	$ 1,294,477	$ 1,334,855
Net Pension Liability as a Percentage of Covered Employee Payroll	145.8%	94.2%

NEWBERRY TOWNSHIP POLICE PENSION PLAN
SUPPLEMENTARY INFORMATION
(UNAUDITED)

Sensitivity of the Net Pension Liability to Changes in the Discount Rate

The following presents the net pension liability of the township as of December 31, 2015, 2016 and 2017, calculated using the discount rate of 7.75%, as well as what the township's net pension liability would be if it were calculated using a discount rate that is 1 percentage-point lower or 1 percentage-point higher than the current rate:

	1% Decrease (6.75%)	Current Discount Rate (7.75%)	1% Increase (8.75%)
Net Pension Liability – 12/31/15	$ 2,778,228	$ 1,810,693	$ 1,006,590
Net Pension Liability – 12/31/16	$ 2,907,297	$ 1,887,726	$ 1,039,626
Net Pension Liability – 12/31/17	$ 2,327,658	$ 1,257,715	$ 367,680

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
2008	$ 216,806	$ 216,896	$ (90)	$ 1,081,351	20.1%
2009	204,437	204,437	-	1,013,314	20.2%
2010	316,021	346,297	(30,276)	1,247,603	27.8%
2011	312,016	312,016	-	1,224,220	25.5%
2012	269,261	269,261	-	1,247,486	21.6%
2013	273,238	273,238	-	1,278,036	21.4%
2014	282,141	282,141	-	1,363,366	20.7%
2015	277,744	277,744	-	1,318,495	21.1%
2016	345,535	345,535	-	1,294,477	26.7%
2017	350,562	350,56	-	1,334,855	26.3%
2018	367,654	395,154	(27,500)	*	*

* Due to the timing of this audit, covered-employee payroll for 2017 was not provided in this schedule.

NEWBERRY TOWNSHIP POLICE PENSION PLAN
SUPPLEMENTARY INFORMATION
(UNAUDITED)

SCHEDULE OF INVESTMENT RETURNS

Annual Money-Weighted Rate of Return, Net of Investment Expense:

2017	15.30%
2016	5.52%
2015	(0.98%)
2014	5.46%

NEWBERRY TOWNSHIP POLICE PENSION PLAN
SUPPLEMENTARY INFORMATION
(UNAUDITED)

SCHEDULE OF FUNDING PROGRESS

Historical trend information about the plan is presented herewith as supplementary information. It is intended to help users assess the plan's funding status on a going-concern basis, assess progress made in accumulating assets to pay benefits when due, and make comparisons with other state and local government retirement systems.

The actuarial information is required by Act 205 biennially. The historical information, beginning as of January 1, 2013, is as follows:

	(1)	(2)	(3)	(4)
Actuarial Valuation Date	Actuarial Value of Assets (a)	Actuarial Accrued Liability (AAL) - Entry Age (b)	Unfunded (Assets in Excess of) Actuarial Accrued Liability (b) - (a)	Funded Ratio (a)/(b)
01-01-13	$ 4,370,233	$ 5,946,811	$ 1,576,578	73.5%
01-01-15	5,561,810	6,984,720	1,422,910	79.6%
01-01-17	6,416,881	7,748,692	1,331,811	82.8%

Note: The market value of the plan's assets at 01-01-13, 01-01-15, and 01-01-17 have been adjusted to reflect the smoothing of gains and/or losses over a 5-year averaging period subject to a corridor between 80 and 120 percent of the market value of assets. This method will lower contributions in years of less than expected returns and increase contributions in years of greater than expected returns. The net effect over long periods of time is to have less variance in contribution levels from year to year.

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.

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

The information presented in the supplementary schedules was determined as part of the actuarial valuation at the date indicated. Additional information as of the latest actuarial valuation date follows:

Actuarial valuation date	January 1, 2017
Actuarial cost method	Entry age normal.
Amortization method	Level dollar.
Remaining amortization period	10 years
Asset valuation method	5-year smoothing – the actuarial value of the assets will be limited to a maximum of 120% and a minimum of 80% of the fair market value of assets.
Actuarial assumptions:	
Investment rate of return	7.75%
Projected salary increases	4.75%
Cost-of-living adjustments	3.0%

NEWBERRY TOWNSHIP POLICE PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom W. Wolf
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