

# COMPLIANCE AUDIT

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## West Penn Township Police Pension Plan Schuylkill County, Pennsylvania

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September 2023



Commonwealth of Pennsylvania  
Department of the Auditor General

Timothy L. DeFoor • Auditor General



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**TIMOTHY L. DEFOOR  
AUDITOR GENERAL**

Board of Township Supervisors  
West Penn Township  
Schuylkill County  
New Ringgold, PA 17960

We have conducted a compliance audit of the West Penn Township Police Pension Plan pursuant to authority derived from the Municipal Pension Plan Funding Standard and Recovery Act (Act 205 of 1984, as amended, 53 P.S. § 895.402(j)), which requires the Auditor General, as deemed necessary, to audit every municipality which receives general municipal pension system state aid and every municipal pension plan and fund in which general municipal pension system state aid is deposited. The audit was not conducted, nor was it required to be, in accordance with Government Auditing Standards issued by the Comptroller General of the United States. We planned and performed the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

The objective of the audit was to determine whether 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 area related to the objective identified above. To determine whether the pension plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies, our methodology included the following:

- For the period January 1, 2022 to December 31, 2022, 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 the period January 1, 2022 to December 31, 2022, 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.
- For the period January 1, 2022 to December 31, 2022, we determined that there were no employee contributions required due to the fact that employee contributions were waived by the municipality.
- For the period January 1, 2021 to December 31, 2022, we determined whether retirement benefits calculated for plan members who elected to vest during the period noted 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 pension benefits due to the retired individuals and comparing these amounts to supporting documentation evidencing amounts determined and payable to the recipients.
- We determined whether the January 1, 2021 actuarial valuation report was prepared and submitted by March 31, 2022, in accordance with Act 205 and whether selected information provided on this report 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.
- For the period January 1, 2022 to December 31, 2022, 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 West Penn Township Police Pension Plan is administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies. As previously described, we tested transactions, interviewed selected officials, and performed procedures to the extent necessary to provide reasonable assurance of detecting instances of noncompliance with legal and regulatory requirements or noncompliance with provisions of contracts, administrative procedures, and local ordinances and policies that are significant within the context of the audit objective.

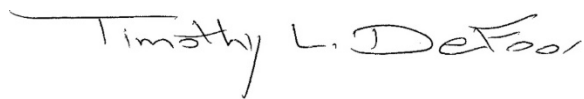
The results of our procedures indicated that, in all significant respects, the West Penn Township Police Pension Plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies for the periods noted above, except as noted in the following findings further discussed later in this report:

Finding No. 1 – Vested Pension Benefits Not In Compliance With Act 600

Finding No. 2 – Pension Benefits Modified Without Prior Cost Estimate

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

The contents of this report were discussed with officials of West Penn 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.

A handwritten signature in black ink that reads "Timothy L. DeFoor". The signature is written in a cursive style with a long horizontal line extending from the start of the name.

Timothy L. DeFoor  
Auditor General  
September 13, 2023

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## BACKGROUND

On December 18, 1984, the Pennsylvania Legislature adopted the Municipal Pension Plan Funding Standard and Recovery Act (P.L. 1005, No. 205, as amended, 53 P.S. § 895.101 et seq.). The Act established mandatory actuarial reporting and funding requirements and a uniform basis for the distribution of state aid to Pennsylvania's public pension plans.

Annual state aid allocations are provided from a two percent foreign (out-of-state) casualty insurance premium tax, a portion of the foreign (out-of-state) fire insurance tax designated for paid firefighters and any investment income earned on the collection of these taxes. Generally, municipal pension plans established prior to December 18, 1984, are eligible for state aid. For municipal pension plans established after that date, the sponsoring municipality must fund the plan for three plan years before it becomes eligible for state aid. In accordance with Act 205, a municipality's annual state aid allocation cannot exceed its actual pension costs.

In addition to Act 205, the West Penn Township Police Pension Plan is also governed by implementing regulations published at Title 16, Part IV of the Pennsylvania Code and applicable provisions of various other state statutes including, but not limited to, the following:

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

The West Penn Township Police Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Ordinance No. 1 of 2011, as amended, adopted pursuant to Act 600. The plan was established January 1, 2011. Active members are required to contribute five percent of compensation to the plan; however, member contributions are currently waived. As of December 31, 2022, the plan had two active members, two terminated members eligible for vested benefits in the future, and no retirees receiving pension benefits.

WEST PENN TOWNSHIP POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 1 – Vested Pension Benefits Not In Compliance With Act 600**

Condition: The township provides a vested benefit provision contrary to the provisions of Act 600. The township adopted Ordinance No. 2 of 2020, effective August 17, 2020, which effectively amended Section 4.6 of Ordinance No. 1 of 2011 and reduced the vesting period from twelve (12) years to ten (10) years. Subsequently, the township adopted Resolution No. 25 of 2020, dated December 21, 2020, which declared Ordinance No. 2 of 2020 invalid, and later adopted Resolution No. 23 of 2021, dated September 20, 2021, which declared Ordinance No. 2 of 2020 valid.

Two police officers terminated employment with the township on January 1, 2021 and August 14, 2021, respectively, and their vested pension calculations were prepared based on 10.00 years of credited service and 10.62 years of credited service, respectively, contrary to the provisions of Act 600 which prescribes twelve (12) years of service for vested benefits. Benefit payments are set to commence on January 1, 2036, which is 25 years from the effective date of the pension plan and attainment of 55 years of age for both individuals.

Criteria: Section 4 (h) of Act 600 states, in part:

...should a police officer, before completing superannuation retirement age and service requirements but after having completed **twelve years of total service**, for any reason cease to be employed as a full-time police officer by the municipality or regional police department in whose pension fund he has been a member, he shall be entitled to vest his retirement benefits by filing with the governing body within ninety days of the date he ceases to be a full-time police officer a written notice of his intention to vest. (Emphasis added.)

In addition, in Wynne v. Lower Merion Township, 181 Pa. Superior Ct., 524, the Pennsylvania Superior Court held that an ordinance may be amended only by another ordinance and not by a resolution.

Cause: There was initial uncertainty at the township as to whether the township was required to adhere to the vesting schedule contained in Act 600 when the township's full-time police force was reduced to two active police officers.

Effect: Two plan members are set to receive vested monthly pension benefits to which they are not statutorily entitled in the respective amounts of \$808 and \$1,027 per month commencing January 1, 2036. 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. The provision of unauthorized pension benefits may result in the receipt of excess state aid and could increase the municipal contributions necessary to fund the plan in accordance with Act 205 funding standards.

WEST PENN TOWNSHIP POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 1 – (Continued)**

Recommendation: We recommend that municipal officials, after consulting with their solicitor, take whatever action is necessary to bring the police pension plan’s benefit structure into compliance with Act 600, as amended, at their earliest opportunity to do so. To the extent that the township is not in compliance with Act 600 and/or is contractually obligated to pay benefits to the terminated plan members in excess of those authorized by Act 600, 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, municipal officials should consult with the plan’s actuary to determine if Supplemental Actuarial Information Form AG-MP-1 should be prepared. If it is determined the excess benefits have an impact on the township’s state aid allocations received subsequent to the date of this report, the form should be submitted to the department. and any resulting overpayment of state aid should be reimbursed to the Commonwealth.

Management’s Response: Municipal officials indicated they are in the process of adopting an Ordinance that rescinds Ordinance No. 2 of 2020, Resolution No. 25 of 2020, and Resolution No. 23 of 2021, and declares Ordinance No. 1 of 2011 valid and in full force and effect.

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

**Finding No. 2 – Pension Benefits Modified Without Prior Cost Estimate**

Condition: The municipality reduced the vesting period from twelve (12) years to ten (10) years without a cost estimate of the effect of the benefit modification on the plan, as required by Act 205.

Criteria: Section 305(a) of Act 205 states:

Prior to the adoption of any benefit plan modification by the governing body of the municipality, the chief administrative officer of each pension plan shall provide to the governing body of the municipality a cost estimate of the effect of the proposed benefit plan modification.

Further, Section 305(b) of Act 205 states, in part:

If the pension plan is a defined benefit plan which is self-insured in whole or in part, the cost estimate shall be prepared by an approved actuary....



WEST PENN TOWNSHIP POLICE PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 2 – (Continued)**

Cause: Township officials were relying on the advice of their legal counsel when making changes to the pension plan document and were not aware a cost study was necessary.

Effect: Benefit increases without a prior cost estimate could have a negative effect on the plan's ability to meet its current or future obligations. Act 205 requires that any unfunded liability resulting from a benefit change for active members must be amortized in 20 years and for retired members in 10 years.

Recommendation: We recommend that all future benefit modifications be preceded by a cost estimate in accordance with the applicable Act 205 provisions.

Management's Response: Municipal officials provided the following response:

The Township did not believe a cost study was necessary because the pension plan changes were being adopted on a prospective basis, and the active members' prior service was not being credited. However, we agree with the finding as presented, and all future benefit modifications will be preceded by a cost estimate in accordance with the applicable Act 205 provisions.

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

WEST PENN 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, 2017, is as follows:

	(1)	(2)	(3)	(4)
Actuarial Valuation Date	Actuarial Value of Assets (a)	Actuarial Accrued Liability (AAL) - Entry Age (b)	Unfunded (Assets in Excess of) Actuarial Accrued Liability (b) - (a)	Funded Ratio (a)/(b)
01-01-17	\$ 98,428	\$ 95,197	\$ (3,231)	103.4%
01-01-19	126,163	151,181	25,018	83.5%
01-01-21	197,363	200,288	2,925	98.5%

WEST PENN TOWNSHIP POLICE PENSION PLAN  
SUPPLEMENTARY INFORMATION  
(UNAUDITED)

The comparability of trend information is affected by changes in actuarial assumptions, benefit provisions, actuarial funding methods, accounting policies, and other changes. Those changes usually affect trends in contribution requirements and in ratios that use the actuarial accrued liability as a factor.

Analysis of the dollar amount of the actuarial value of assets, actuarial accrued liability, and unfunded (assets in excess of) actuarial accrued liability in isolation can be misleading. Expressing the actuarial value of assets as a percentage of the actuarial accrued liability (Column 4) provides one indication of the plan's funding status on a going-concern basis. Analysis of this percentage, over time, indicates whether the system is becoming financially stronger or weaker. Generally, the greater this percentage, the stronger the plan.

WEST PENN TOWNSHIP POLICE PENSION PLAN  
 SUPPLEMENTARY INFORMATION  
 (UNAUDITED)

SCHEDULE OF CONTRIBUTIONS

<u>Year Ended December 31</u>	<u>Actuarially Determined Contribution</u>	<u>Actual Contributions</u>	<u>Contribution Deficiency (Excess)</u>	<u>Covered- Employee Payroll</u>	<u>Contributions as a Percentage of Covered- Employee Payroll</u>
2014	\$ 15,645	\$ 18,704	\$ (3,059)	\$ 134,098	13.95%
2015	18,326	19,061	(735)	137,694	13.84%
2016	18,433	19,840	(1,407)	138,564	14.32%
2017	14,109	14,109	-	97,359	14.49%
2018	15,296	16,981	(1,685)	107,012	15.87%
2019	17,052	17,324	(272)	112,378	15.42%
2020	17,630	19,495	(1,865)	116,481	16.74%
2021	19,570	19,570	-	117,208	16.70%
2022	17,716	20,359	(2,643)	104,000	19.58%

WEST PENN 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, 2021
Actuarial cost method	Entry age normal
Amortization method	Level dollar
Remaining amortization period	15 years
Asset valuation method	Market value
Actuarial assumptions:	
Investment rate of return	6.5%
Projected salary increases	4.0%

WEST PENN TOWNSHIP POLICE PENSION PLAN  
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

**The Honorable Joshua D. Shapiro**  
Governor  
Commonwealth of Pennsylvania

**Mr. Anthony Prudenti**  
Chairman, Board of Township Supervisors

**Ms. Karen Wittig**  
Chief Administrative Officer

**Ms. Katie Orlick**  
Township Secretary

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).