

# COMPLIANCE AUDIT

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## West Pittston Borough Police Pension Plan Luzerne County, Pennsylvania For the Period January 1, 2019 to December 31, 2022

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May 2024



Commonwealth of Pennsylvania  
Department of the Auditor General

Timothy L. DeFoor • Auditor General



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**TIMOTHY L. DEFOOR  
AUDITOR GENERAL**

The Honorable Mayor and Borough Council  
West Pittston Borough  
Luzerne County  
West Pittston, PA 18643

We have conducted a compliance audit of the West Pittston Borough Police Pension Plan for the period January 1, 2019 to December 31, 2022. 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 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.
- 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 that there were no benefit calculations prepared for the years covered by our audit period.
- We determined whether the January 1, 2019 and January 1, 2021 actuarial valuation reports were prepared and submitted by March 31, 2020 and 2022, 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.

West Pittston Borough contracted with an independent certified public accounting firm for annual audits of its financial statements prepared in conformity with the accounting practices prescribed or permitted by the Department of Community and Economic Development of the Commonwealth of Pennsylvania, which are available at the borough's offices. Those financial statements were not audited by us and, accordingly, we express no opinion or other form of assurance on them.

Borough officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the West Pittston Borough 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 objectives.

The results of our procedures indicated that, in all significant respects, the West Pittston Borough 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 findings further discussed later in this report:

Finding – Failure To Implement Act 44 Mandatory Distressed Provisions

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

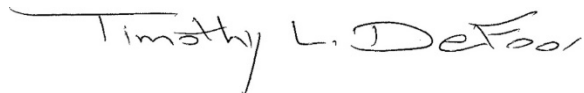
The accompanying supplementary information is presented for purposes of additional analysis. We did not audit the information or conclude on it and, accordingly, express no form of assurance on it.

As previously noted, one of the objectives of our audit of the West Pittston Borough Police Pension Plan was to determine compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies. Among several provisions relating to municipal pension plans, Act 205, which was amended through the adoption of Act 44 of 2009, provides for the implementation of a distress recovery program. Three levels of distress have been established:

<u>Level</u>	<u>Indication</u>	<u>Funding Criteria</u>
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. **However, we are extremely concerned about the funded status of the plan contained in the schedule of funding progress included in this report which indicates a decline of assets available to satisfy the long-term liabilities of the plan. The plan's funded ratio went from 67.5% as of January 1, 2019, to a ratio of 49.7% as of January 1, 2021, which is the most recent data available.** Based on this information, and the funding status of the borough's non-uniformed plan, the Municipal Pension Reporting Program issued a notification that the borough is currently in Level II moderate distress status. We encourage borough officials to monitor the funding of the police pension plan to ensure its long-term financial stability.

The contents of this report were discussed with officials of West Pittston Borough and, where appropriate, their responses have been included in the report.

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 to the left of the name.

Timothy L. DeFoor  
Auditor General  
March 14, 2024

## CONTENTS

	<u>Page</u>
Background.....	1
Status of Prior Finding.....	2
Finding and Recommendation:	
Finding – Failure To Implement Act 44 Mandatory Distressed Provisions .....	3
Supplementary Information .....	5
Report Distribution List .....	9

## 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 Pittston Borough 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 Pittston Borough Police Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Ordinance No. 442, as amended, adopted pursuant to Act 600. The plan is also affected by the provisions of collective bargaining agreements between the borough and its police officers. The plan was established February 15, 1959. Active members are required to contribute five percent of compensation to the plan. As of December 31, 2022, the plan had no active members, no terminated members eligible for vested benefits in the future, and five retirees receiving pension benefits from the plan.

West Pittston Borough entered into an intermunicipal cooperation agreement with Exeter Borough, Exeter Township, West Wyoming Borough, and Wyoming Borough to create the Wyoming Area Regional Police Department (WARP) through the adoption of Ordinance No. 625 of 2022 on January 4, 2022. The regional police department now provides police services to the residents of West Pittston Borough. West Pittston Borough Council disbanded the West Pittston Borough Police Department by enacting Ordinance No. 630 of 2022, effective December 31, 2022 at 11:59 pm. As of fieldwork completion date, the borough has not transferred any assets or related liabilities of the West Pittston Borough Police Pension Plan to the Wyoming Area Regional Police Department as there is currently no pension plan for the active members of the regional police department in place.

WEST PITTSTON BOROUGH POLICE PENSION PLAN  
STATUS OF PRIOR FINDING

Status of Prior Finding

· Inconsistent Pension Benefits

During the current audit period, the borough partially complied with the prior recommendation by adopting Ordinance No. 617 which amended the service-related disability benefit bringing it into conformity with the current collective bargaining agreement. However, the survivor's benefit, killed in service benefit and refund of member's contributions benefit remains inconsistent with Act 600 and the current collective bargaining agreement. A governing document which contains clearly defined and updated benefit provisions is a prerequisite for the consistent, sound administration of retirement benefits. In addition, the police pension plan's benefit structure should be in compliance with Act 600, accordingly. Inconsistent plan documents could result in inconsistent or improper benefit calculations and incorrect benefit payments from the pension plan.

As disclosed in the Background section of this report, since borough council disbanded the West Pittston Borough Police Department by enacting Ordinance No. 630 of 2022, effective December 31, 2022, and there are no active members remaining in the pension plan, additional corrective action is not required at this time. However, if the borough re-instates its police department in the future and re-establishes a police pension plan for the benefits of its police officers, we recommend the borough ensure that the plan's governing document and any subsequent collective bargaining agreements contain consistent benefit provisions.



WEST PITTSTON BOROUGH POLICE PENSION PLAN  
FINDING AND RECOMMENDATION

**Finding – Failure To Implement Act 44 Mandatory Distressed Provisions**

Condition: Among several provisions relating to municipal pension plans, Act 205, which was amended through the adoption of Act 44 of 2009, provides for the implementation of a distress recovery program based on a pension plan’s level of distress, as follows:

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

Based on the plan’s funded ratio of 67.5% as of January 1, 2019, and 49.7% as of January 1, 2021, in aggregation with the funded ratio of the borough’s non-uniformed pension plan, the MPRP issued a notification in 2020 and 2022 that the borough was in Level I minimal distress status as and Level II moderate distress status, respectively, as of the aforementioned valuation dates.

Included with the determination notice, the MPRP sent the municipality the Act 205 Recovery Program Election Form outlining the mandatory remedies that must be implemented along with the voluntary remedies that the municipality could elect to implement. This form was required to be signed by the plan’s Chief Administrative Officer and returned to the MPRP.

The municipality never signed and returned the election forms to the MPRP and additionally, failed to implement the mandatory remedies of Act 205.

Criteria: Section 605(a) of Act 205, states:

Recovery program level II.

- (a) Mandatory remedies. Any municipality to which level II of the recovery program applies shall utilize the following remedies:
  - (1) The aggregation of trust funds pursuant to section 607(b).
  - (2) The submission of a plan for administrative improvement pursuant to section 607(i).

Cause: Municipal officials did not follow mandatory distress remedies due to the regionalization of the police department.

Effect: The municipality is not in compliance with the Act 44 mandatory distress remedy provisions applicable to Level II which are designed to improve the funding status and administrative efficiency of its pension plans.

WEST PITTSTON BOROUGH POLICE PENSION PLAN  
FINDING AND RECOMMENDATION

**Finding – (Continued)**

Recommendation: We recommend that municipal officials contact the Municipal Pension Reporting Program for guidance in the implementation of the mandatory distress remedies applicable to Level II pursuant to Act 44 of 2009.

Management’s Response: Municipal officials agreed with the finding without exception and through conversation with the borough’s solicitor at the time of the exit conference, he indicated that the borough is still in the process of carrying out the executed intermunicipal agreement specifically pertaining to Section 6.5 which states in part:

“Each municipality shall take such steps where possible to terminate its existing police pension plan and police pension fund and transfer all pension assets that may be transferable to the Commission.”

The solicitor is adamant that the Wyoming Area Regional Police Commission (WARP) receive all the borough’s pension plan assets as stated in the agreement which would, in turn, greatly improve the borough’s current distressed situation.

Auditor’s Conclusion: Based on the management response, we acknowledge the borough’s situation; however, until such time as the borough terminates its current police pension plan and transfers all remaining plan assets and subsequent liabilities for all future benefit obligations, the finding will remain as stated. Supplemental action taken by the borough, along with compliance in subsequent periods will be evaluated during our next audit of the plan.

WEST PITTSTON BOROUGH 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 Liability (AAL) - Entry Age (b)	Unfunded (Assets in Excess of) Actuarial Liability (b) - (a)	Funded Ratio (a)/(b)
01-01-17	\$1,029,036	\$ 1,365,081	\$ 336,045	75.4%
01-01-19	952,450	1,410,582	458,132	67.5%
01-01-21	875,085	1,761,343	886,258	49.7%

Note: The market values of the plan’s assets at 01-01-17, 01-01-19, and 01-01-21 have been adjusted to reflect the smoothing of gains and/or losses over a five-year averaging period. 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.

WEST PITTSTON BOROUGH 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 PITTSTON BOROUGH POLICE PENSION PLAN  
SUPPLEMENTARY INFORMATION  
(UNAUDITED)

SCHEDULE OF CONTRIBUTIONS FROM EMPLOYER  
AND OTHER CONTRIBUTING ENTITIES

Year Ended December 31	Annual Required Contribution	Percentage Contributed
2017	\$ 13,985	163.1%
2018	8,617	328.8%
2019	60,400	100.0%
2020	59,649	100.0%
2021	75,919	100.0%
2022	75,923	100.0%

WEST PITTSTON BOROUGH 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	5-year smoothing with the actuarial value of assets limited to a maximum of 120% and a minimum of 80% of the market value of assets.
Actuarial assumptions:	
Investment rate of return	7.0%
Projected salary increases	5.0%

WEST PITTSTON BOROUGH POLICE PENSION PLAN  
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

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

**The Honorable Angelo Alfano**  
Mayor

**Ms. Ellen Quinn**  
Council President

**Mr. Savino Bonita**  
Borough Manager

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