

COMPLIANCE AUDIT

Athens Borough Police Pension Plan Bradford County, Pennsylvania For the Period January 1, 2020 to December 31, 2023

September 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
Athens Borough
Bradford County
Athens, PA 18810

We have conducted a compliance audit of the Athens Borough Police Pension Plan for the period January 1, 2020 to December 31, 2023. 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 that there were no employee contributions required for the years covered by our audit period due to the fact that employee contributions were appropriately waived by the municipality.
- We determined that there were no benefit calculations prepared for the years covered by our audit period.
- We determined whether the January 1, 2019, January 1, 2021, and January 1, 2023 actuarial valuation reports were prepared and submitted by March 31, 2020, 2022, and 2024, 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.

Athens Borough contracted with an independent certified public accounting firm for annual audits of its basic financial statements 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 Athens 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.

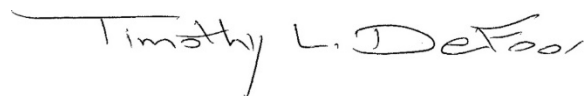
The results of our procedures indicated that, in all significant respects, the Athens Borough Police Pension Plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies, except as noted in the following finding further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

Finding No. 1 – Partial Compliance With Prior Audit Recommendation –
Incorrect Data On Certification Form AG 385 Resulting In An
Overpayment Of State Aid

Finding No. 2 – Inconsistent Pension Benefit

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 Athens Borough and, where appropriate, their responses have been included in the report. We would like to thank borough officials for the cooperation extended to us during the conduct of the audit.



Timothy L. DeFoor
Auditor General
September 6, 2024

CONTENTS

	<u>Page</u>
Background.....	1
Status of Prior Finding.....	2
Findings and Recommendations:	
Finding No. 1 – Partial Compliance With Prior Recommendation - Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid.....	3
Finding No. 2 – Inconsistent Pension Benefit.....	4
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 Athens 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 Athens Borough Police Pension Plan is a single-employer defined benefit pension plan locally controlled by the provisions of Ordinance No. 569, 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 January 1, 1958. Active members are required to contribute five percent of compensation to the plan; however, member contributions were waived during the audit period. As of December 31, 2023, the plan had five active members, no terminated members eligible for vested benefits in the future, and six retirees receiving pension benefits from the plan.

ATHENS BOROUGH POLICE PENSION PLAN
STATUS OF PRIOR FINDING

Partial Compliance With Prior Recommendation

Athens Borough has partially complied with the prior recommendation concerning the following:

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

During the current audit period, the borough reimbursed \$3,596 to the Commonwealth for the overpayment of state aid received in 2019; however, the borough failed to calculate and pay the required interest due on the reimbursement, as further discussed in Finding No. 1 in the Findings and Recommendations section of this report.

ATHENS BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – Partial Compliance With Prior Audit Recommendation – Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid

Condition: As disclosed in the Status of Prior Finding section of this report, the borough partially complied with the prior recommendation by reimbursing \$3,596 to the Commonwealth for the overpayment of state aid received in 2019; however, the borough failed to calculate and pay the required interest due on the reimbursement. It was recommended in the prior audit report that the total excess state aid be returned to the Commonwealth, with interest compounded annually from the date of receipt to the date of repayment. However, as of the completion of the current audit fieldwork completion, no such interest had been paid on the excess state aid reimbursement.

Criteria: The case of Peyton v. Margiotti, 398 Pa. 86, (1959), states that a person has the right to collect interest of money which is unlawfully withheld from him. When interest is not expressly provided for... it is due... from the date of withholding. Id. at 94.

Cause: Municipal officials noted that they inquired about the interest at the time of the prior audit and were told to only return the excess state aid.

Effect: The pension plan retained the interest earned on the state aid overpayment.

Recommendation: We again recommend that the interest due on the state aid overpayment received in 2019, compounded annually from date of receipt to date of repayment, at a rate earned by the pension plan, be reimbursed to the Commonwealth. A check 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 the payment.

Management's Response: Municipal officials indicated they will reach out to their pension consultants right away to have the interest calculated and paid.

Auditor's Conclusion: Based on the management response it appears municipal officials intend to comply with the finding recommendation. Compliance will be monitored subsequent to the release of the audit report and through our next audit of the pension plan.

ATHENS BOROUGH POLICE PENSION PLAN
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – Inconsistent Pension Benefit

Condition: The collective bargaining agreement between the police officers and the borough contains a benefit provision that is not provided in the pension plan’s governing document, as follows:

<u>Benefit Provision</u>	<u>Governing Document</u>	<u>Collective Bargaining Agreement</u>
Early Retirement	No early retirement benefit is provided under this plan.	The early retirement benefit shall be provided to a member of the police force with twenty (20) or more years of service who terminates employment prior to the completion of superannuation retirement age and service requirements and who files a written application for an early retirement benefit with the governing body of the municipality...

Criteria: The plan’s governing document and the collective bargaining agreement should contain consistent benefit provisions to ensure the sound administration of retirement benefits.

Cause: The inconsistent pension benefit occurred due to an oversight by municipal officials resulting in the failure to update the plan’s governing document to include all of the provisions contained in the collective bargaining agreement. Plan officials failed to establish adequate internal control procedures to ensure the plan’s governing document and the collective bargaining agreement contained consistent benefit provisions.

Effect: Inconsistent plan documents could result in inconsistent or improper benefit calculations and incorrect benefit payments from the pension plan.

Recommendation: We recommend that municipal officials take appropriate action to ensure the plan’s governing document and the collective bargaining agreement contain consistent benefit provisions at their earliest opportunity to do so.

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.

ATHENS 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, 2019, 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)
01-01-19	\$ 2,449,244	\$ 2,249,491	\$ (199,753)	108.9%
01-01-21	3,060,618	2,435,202	(625,416)	125.7%
01-01-23	2,701,373	2,593,908	(107,465)	104.1%

ATHENS 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.

ATHENS 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
2018	\$ 34,687	128.8%
2019	3,005	306.2%
2020	4,391	270.4%
2021	16,056	100.0%
2022	None	N/A
2023	None	N/A

N/A – Not applicable

ATHENS 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, 2023
Actuarial cost method	Entry age normal
Amortization method	Not applicable
Remaining amortization period	None
Asset valuation method	Market value
Actuarial assumptions:	
Investment rate of return	6.0%
Projected salary increases	3.5%
Cost-of-living adjustments	3.0%

ATHENS 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 Francis Roupp, III
Mayor

Mr. Scott Riley
Council President

Mr. Mark Burgess
Borough Manager

Ms. Tara Campbell
Secretary/Treasurer

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