

# COMPLIANCE AUDIT

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## Somerset Township Non-Uniformed Pension Plan Somerset County, Pennsylvania

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December 2024



Commonwealth of Pennsylvania  
Department of the Auditor General

Timothy L. DeFoor • Auditor General



**Commonwealth of Pennsylvania  
Department of the Auditor General  
Harrisburg, PA 17120-0018  
Facebook: Pennsylvania Auditor General  
Twitter: @PAAuditorGen  
www.PaAuditor.gov**

**TIMOTHY L. DEFOOR  
AUDITOR GENERAL**

Board of Township Supervisors  
Somerset Township  
Somerset County  
Somerset, PA 15501

We have conducted a compliance audit of the Somerset Township Non-Uniformed 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 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 findings 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 findings 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:

- For the period January 1, 2022 to December 31, 2023, 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. State aid allocations that were deposited into the pension plan for the years ended December 31, 2018 to December 31, 2023, are presented on the Summary of Deposited State Aid and Employer Contributions.
- For the period January 1, 2022 to December 31, 2023, 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, 2018 to December 31, 2023, are presented on the Summary of Deposited State Aid and Employer Contributions.
- For the period January 1, 2022 to December 31, 2023, 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 the years in the period noted and examining documents evidencing the deposit of these employee contributions into the pension plan. We also tested individual employee contributions for all 13 active employees employed during the period noted amounting to \$24,528 and \$23,207, for the years 2022 and 2023, respectively.
- For the period January 1, 2022 to December 31, 2023, and through the completion of our fieldwork procedures, we determined whether retirement benefits calculated for plan members who separated employment and received a lump-sum distribution during the period noted, and subsequent to December 31, 2023, 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 actually paid to the recipients.
- We determined whether the January 1, 2023 actuarial valuation report was prepared and submitted by March 31, 2024 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.

Township officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Somerset Township Non-Uniformed 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.

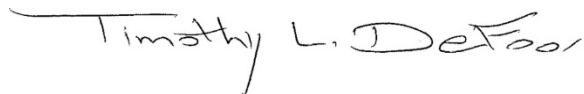
The results of our procedures indicated that, in all significant respects, the Somerset Township Non-Uniformed Pension Plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies for the periods noted above, except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

Finding No. 1 – Partial Compliance With Prior Recommendation - Withdrawal Of Plan Assets Prior To Retirement

Finding No. 2 – Receipt Of State Aid In Excess Of Entitlement

Finding No. 1 contained in this audit report repeats a condition that was cited in our previous report that has not been corrected by township officials. We are concerned by the township's failure to correct this previously reported finding and strongly encourage timely implementation of the recommendations noted in this audit report.

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



Timothy L. DeFoor  
Auditor General  
November 14, 2024

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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 Somerset Township Non-Uniformed 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 69 - The Second Class Township Code, Act of May 1, 1933 (P.L. 103, No. 69), as reenacted and amended, 53 P.S. § 65101 et seq.

The Somerset Township Non-Uniformed Pension Plan is a single-employer defined contribution pension plan locally controlled by the provisions of a resolution dated March 19, 1984, as amended. The plan was established March 19, 1984. Active members are not required to contribute to the plan; however, members may voluntarily contribute up to \$2,000 per year to the plan. The municipality is required to contribute \$425 per month per member to the plan. As of December 1, 2023, the plan had 13 active members.

SOMERSET TOWNSHIP NON-UNIFORMED PENSION PLAN  
STATUS OF PRIOR FINDINGS

Compliance With Prior Recommendation

Somerset Township has complied with the prior recommendation concerning the following:

- Failure To Implement Mandatory Provisions Of Act 205

The township adopted Resolution No. 1 of 2019 which established formal written procedures for the procurement of professional services in accordance with Act 205 provisions.

Partial Compliance With Prior Recommendation

- Withdrawal Of Plan Assets Prior To Retirement

The township implemented internal control procedures to ensure that distributions made from the plan are in accordance with provisions contained in the plan's governing document; however, the township failed to comply with the prior recommendation regarding the individual fund accounting of participants' account balances as further discussed in the Findings and Recommendations section of this report.

SOMERSET TOWNSHIP NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 1 – Partial Compliance With Prior Recommendation - Withdrawal Of Plan Assets Prior To Retirement**

Condition: As disclosed in the Status of Prior Findings section of this report, the township failed to comply with the prior recommendation regarding the individual fund accounting of participants' account balances. As previously disclosed in the prior report, during 2018, pension funds amounting to \$19,494 maintained in the unallocated pension plan trust account were improperly withdrawn and distributed to an ex-spouse of an active, participating member of the township's pension plan. Although the plan member was fully vested in his account balance, this individual had not yet met the eligible requirements for such distribution according to the plan document and/or terminated employment with the township as of the date of this report. The prior report recommended that plan officials review and analyze the individual fund accounting performed of this participant and other participants' account balances at December 31, 2018, however, as of the date of our audit fieldwork completion, no such action had been taken.

Criteria: Article IX of the plan document prescribes provisions for distributions of a participant's accrued benefits under the plan and includes authorized provisions relative to the following: retirement, disability, death or termination of employment.

In addition, Section 102 of Act 205 contains the following definitions:

“Pension plan or system.” The various aspects of the relationship between a municipality and its employees with respect to the retirement coverage provided by a municipality to the employees.

“Defined contribution pension plan.” 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.

Therefore, Act 205 funding (state aid) is intended to provide benefit payments upon eligibility for retirement, not for distributions prior to retirement benefit eligibility.

Cause: As previously disclosed in the prior report, township officials based the distribution on provisions contained in a Qualified Domestic Relations Order (QDRO) that awarded the sum of \$19,494 to the active member's ex-wife from the employee's retirement account and contend that the timing for the distribution was to be made as soon as practical according to the executed order. In addition, the township failed to adopt adequate internal control procedures to ensure full compliance with the prior recommendation.



SOMERSET TOWNSHIP NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 1 – (Continued)**

Effect: Allowing distributions from member accounts prior to a participant’s eligibility to receive such retirement benefits violates the purpose for which state aid was allocated to the municipality, adversely affects the retirement income of an annuitant, and undermines the integrity of the pension plan. In addition, it was noted that only \$15,010 was actually taken/credited against the individual member’s account while the remaining \$4,484, which was designated by the QDRO recipient for federal income tax purposes, was taken/credited against the overall accumulated earnings maintained in the unallocated pension plan trust account prior to allocation to the other eligible participants of the pension plan.

Recommendation: We again recommend that plan officials review and analyze the individual fund accounting performed of the aforementioned participant’s account balance at December 31, 2018, which only shows a reduction in the amount of \$15,010 of the \$19,494 awarded by the QDRO after distribution, to ensure that the balance accurately reflects the participant’s remaining account balance, as well as the account balances of the other participants in the township’s pension plan.

Management Response: Municipal officials agreed with the finding without exception,

Auditor Conclusion: We are concerned that the municipality has not fully complied with the prior recommendation and encourage compliance at the earliest opportunity to do so.

**Finding No. 2 – 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 year 2023, as illustrated below:

State aid allocation	\$ 69,537
Actual municipal pension costs	<u>(62,898)</u>
Excess state aid	<u>\$ 6,639</u>

In addition, as of the date of our audit fieldwork completion, the excess state aid remains in the township’s general fund and has not been deposited into the pension plan according to municipal records.

SOMERSET TOWNSHIP NON-UNIFORMED PENSION PLAN  
FINDINGS AND RECOMMENDATIONS

**Finding No. 2 – (Continued)**

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.

Cause: Plan officials failed to establish adequate internal control procedures to reconcile the township's state aid allocation with the plan's actual defined contribution pension costs.

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 year 2023 must be returned to the Commonwealth for redistribution.

Recommendation: We recommend that the municipality return the \$6,639 of excess state aid received in the year 2023 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 and Liquor Control Audits, 314 Finance Building, Harrisburg, PA 17120. A copy of the interest calculation must be submitted along with evidence of payment.

Furthermore, we recommend that, in the future, plan officials reconcile the township's annual state aid allocation with the plan's annual defined contribution pension costs and reimburse any excess state aid received to the Commonwealth.

Management's Response: Municipal officials agreed with the finding without exception.

Auditor's Conclusion: Compliance will be monitored subsequent to the release of the audit report and through our next audit of the pension plan.

SOMERSET TOWNSHIP NON-UNIFORMED PENSION PLAN  
SUMMARY OF DEPOSITED STATE AID AND EMPLOYER CONTRIBUTIONS  
(UNAUDITED)

Year Ended December 31	State Aid	Employer Contributions
2018	\$ 60,897	\$ 5,403
2019	66,566	None
2020	63,817	2,058
2021	62,365	9,460
2022	66,300	None
2023	62,898	None

SOMERSET TOWNSHIP NON-UNIFORMED PENSION PLAN  
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

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

**Mr. Donald K. Miller**  
Chairman, Board of Township Supervisors

**Ms. Tami L. Yutzy**  
Secretary/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).