

# A Review of New Jersey's Lifeguard Pension Law and Municipal Programs

AUDIT DIVISION REPORT



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Issued July 23, 2025



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# Executive Summary

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The Audit Division of the Office of the State Comptroller (OSC) has issued reports based on performance audits of nine municipalities in Atlantic, Cape May, and Monmouth counties identified as having a lifeguard pension program in accordance with N.J.S.A. 43:13-23 to -29 ("Lifeguard Pension Law"). Additionally, we sent letters to two other municipalities that are legally required to have lifeguard pension programs but currently do not, informing them of their obligations under the Lifeguard Pension Law. As a result of this work, we have questioned the ongoing value of state law mandating that pensions be provided by a small number of municipalities with beaches to a small fraction of the lifeguards hired by the municipalities. This report shares the findings from our review of the Lifeguard Pension Law and recommends that the Legislature make changes.

Specifically, our review of the law and our audits of the cities' programs adopted in compliance with the law found:

- The benefits required in the Lifeguard Pension Law are overly generous as compared to state-administered pension programs that do not provide benefits to seasonal employees.
- Beach municipalities organized as townships, boroughs, and villages are not required by statute to provide lifeguard employees with similar benefits, leading to inconsistent treatment of municipalities and lifeguards.
- Most of the people receiving lifeguard pensions are also enrolled in other pension programs. Of the 206 lifeguard retirees receiving pensions in 2022, 104 also participate in a state-administered pension program, such as Public Employees' Retirement System (PERS), Teachers' Pension and Annuity Fund (TPAF), or Police and Firemen's Retirement System (PFRS). This is inconsistent with overarching state policy on pensions, which has made it difficult to obtain double pensions by limiting the simultaneous accrual of annual pension credits in state-administered pensions programs.
- Lifeguard pension programs making payments to retirees cost municipalities approximately \$1.8 million per year, or an average of about \$9,100 per retiree.
- The total liability for lifeguard pensions for six municipalities – Atlantic City, Brigantine, Longport Borough, Margate City, Sea Isle City, and Ventnor City – is \$37 million, according to actuarial estimates. Of that amount, \$34.2 million is unfunded in the pension funds maintained by those municipalities, which means today's and tomorrow's taxpayers will be responsible for funding pension obligations that have accrued over past decades. The remaining six municipalities likely face liabilities in the millions, if not tens of millions.
- The Lifeguard Pension Law does not specify whether cities are required to return employees' pension contributions, which amount to four percent of their pay, at any time. As a result, all but one city keeps all of the funds contributed by lifeguards, most of whom never get close to the required years of service to receive a pension. This effectively taxes the labor of more junior lifeguards to pay for retiree benefits. This is inconsistent with state law establishing other pension programs, which allow funds contributed by public

employees to be returned to them when they stop accruing eligible time toward their pension.

These findings suggest that the law is outdated and inequitable, imposing excessive financial burdens on a few municipalities and certain lifeguards while offering disproportionately generous benefits to other lifeguards, and overall serving as an outlier compared to state pension policies.<sup>1</sup> In view of the findings in this report and the nine audit reports OSC released simultaneously with this report, we recommend that the Legislature reform this system by:

1. Amending the Lifeguard Pension Law to prospectively eliminate the requirement for fourth-class cities to provide lifeguard pensions, aligning them going forward with all other municipalities with beaches in New Jersey. The amendments should allow for a phased closure of the program that requires cities to fulfill their legal obligations and negotiate as necessary with existing retirees and others who have a vested interest in a lifeguard pension.
2. Requiring prospectively the return of employee contributions to employees who do not meet the minimum retirement requirements under the Lifeguard Pension Law to ensure fairness and to align the program with state-administered retirement programs that authorize the return of employee contributions.

## History of the Lifeguard Pension Program

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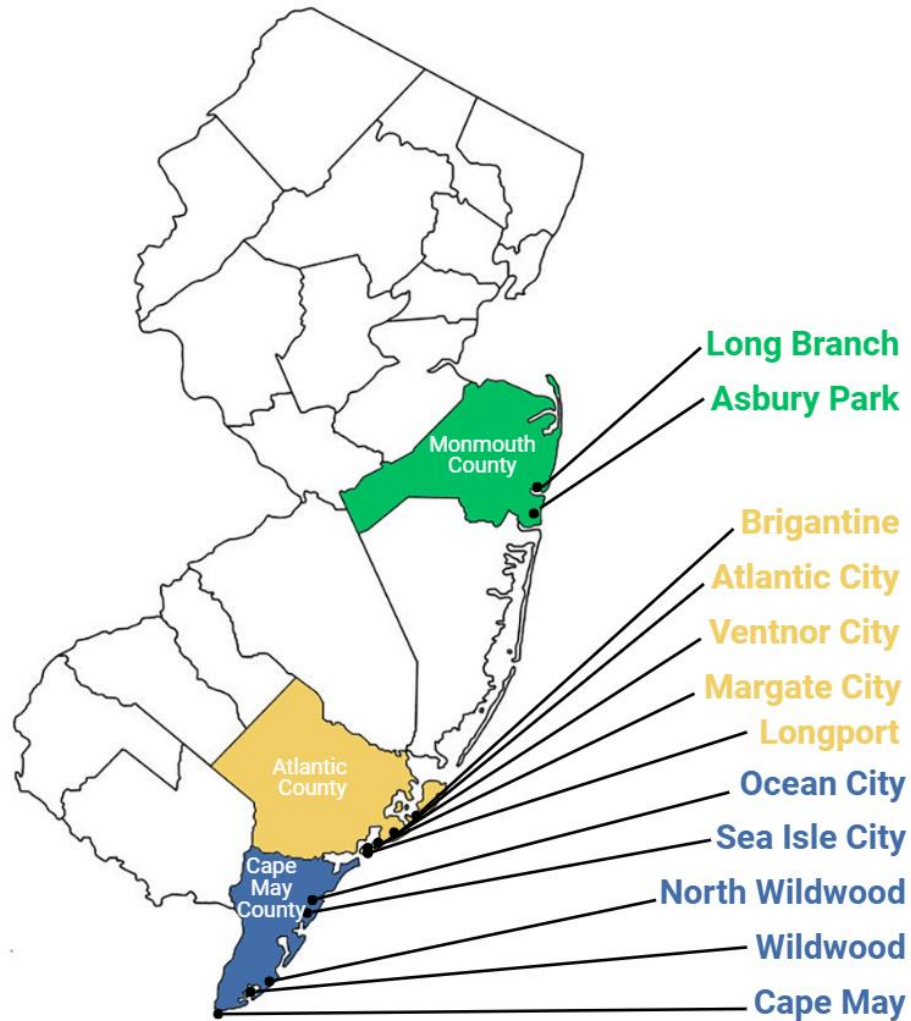
In 1882, the Legislature created a system of classification of New Jersey cities.<sup>2</sup> The classification system, which is currently codified as N.J.S.A. 40A:6-4, established four classes of cities. The first three classes divide cities by population. The fourth class includes cities that border the Atlantic Ocean. Under this system, there are currently 11 fourth-class cities in New Jersey.

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<sup>1</sup> An examination of municipal pension statutes covering first-class city employees (N.J.S.A. 43:13-1.1 to 22.75), water department employees (N.J.S.A. 43:13-30 to -37), employees in towns (N.J.S.A. 43:13-37.1 to 37.18), and village employees in first-class counties (N.J.S.A. 43:13-38 to -54) for potential reforms may also be warranted but is outside the scope of this review.

<sup>2</sup> L. 1882, c. 46.

**Figure 1: Municipalities with Lifeguard Pension Obligations**



In 1928, the Legislature adopted a law that required fourth-class cities to provide a pension upon retirement for lifeguard officers and lifeguards.<sup>3</sup> The law was amended in 1929 to provide pension benefits to surviving spouses and minor children.<sup>4</sup> In 1936, the law was amended again to increase the retirement age, the required years of service, and the amount of employee contributions.<sup>5</sup> The Lifeguard Pension Law also mandates that fourth-class cities establish a pension fund, with contributions from both the city and the lifeguard, and appoint a commission to manage the fund and administer the pension program. The statutes empower the pension commission to make all necessary rules and regulations. For nearly a century, this law has remained unchanged.

The table below summarizes the lifeguard pension program funding, eligibility criteria, retiree compensation, and pension commission requirements established by the Lifeguard Pension Law.

<sup>3</sup> P. L. 1928, c. 272.

<sup>4</sup> P. L. 1929, c. 59.

<sup>5</sup> P. L. 1936, c. 108.

**Figure 2: Lifeguard Pension Law Requirements**

<b>Topic</b>	<b>Program Provisions</b>
<b>Plan Funding</b>	
Employee Contribution *; ^	4% of salaries
Employee Withdrawal of Contributions ^^	Laws neither authorize nor prohibit withdrawal of employee contributions
Employer Contribution *; ^	4% of lifeguard salaries plus related fines, penalties, and donations
Unfunded Pension Liabilities *; ^	Met through taxation
<b>Retiree Eligibility Criteria</b>	
Years of Service †; °	20 years, with continuous service for a period of 10 years preceding retirement application
Year of Service Defined ‡; **	Part of the calendar year as the lifeguard force is normally employed
Minimum Age †; °	45 years of age
Disability Benefit §; †	Yes, receive half pay
Surviving Spouse and Children Benefit ‡; ††	Yes, with restrictions
<b>Retiree Compensation</b>	
Retiree Compensation †; °	Half pay
Year's Salary Defined ‡; **	Salary a lifeguard receives during normal employment in any calendar year
<b>Pension Commission</b>	
Number of Commissioners †; §§	Four
How a Commissioner Is Appointed †; §§	By Mayor or Chief Executive Officer, with the advice and consent of the governing body
Commission Members †; §§	One senior lifeguard, one standard lifeguard, and two non-lifeguard residents
Who Manages and Controls the Fund ‡; °°	Pension Commission
<b>Current Statutes:</b> ^ N.J.S.A. 43:13-27; ° N.J.S.A. 43:13-24; **N.J.S.A. 43:13-23; †† N.J.S.A. 43:13-25; ‡‡ N.J.S.A. 43:13-26; §§ N.J.S.A. 43:13-28; °° N.J.S.A. 43:13-29	
<b>Legislation:</b> * L. 1928, c. 272 as amended by L 1936, c. 108; † L. 1928, c. 272 as amended by L 1929, c. 59 and L. 1936, c. 108; ‡ L. 1928, c. 272 as amended by L. 1929, c. 59; § L. 1928, c. 272, †L. 1928, c. 272	
^^ No Statutes or Legislation Applicable	

With the exception of Atlantic City, New Jersey's fourth-class cities largely ignored the requirements of the Lifeguard Pension Law until the 1980s. In 1984, Ventnor City argued before the New Jersey Superior Court that the establishment of a pension program was optional and not obligatory. The court held that the intent of the legislation was to require the creation of a pension program for lifeguards employed by fourth-class cities and that the use of the word "may" in N.J.S.A. 43:13-24 did not mean the law was optional, but rather indicated that lifeguards could, but were not required to, retire at age 45.<sup>6</sup> By the mid-1990s, eight additional fourth-class cities established pension programs for their lifeguard employees. In 1999, a court again rejected an

<sup>6</sup> Paludi v. Ventnor City, 194 N.J. Super. 565 (Law Div. 1984).

argument regarding the use of the word “may” in the statute. The court noted that the Legislature had acquiesced to the earlier interpretation of the law as requiring the payment of pensions to qualifying lifeguards and had not amended the statute.<sup>7</sup>

Between 2001 and 2008, members of the Senate and Assembly introduced bills that would amend the Lifeguard Pension Law. The bills sought to remove the requirement for continuous service prior to retirement, standardize the calculation of retirement benefits, allow for the return of employee contributions plus interest, and require that the State pay for any increased costs resulting from the amendments.

In 2013, Ocean City unanimously passed a resolution requesting that the State consider eliminating the requirements of the Lifeguard Pension Law. The resolution cited the effect on the municipal budget and noted that the Legislature in other contexts had ended the practice of part-time and/or seasonal employees being members of pension systems.

In spring 2016, members of both the Senate and Assembly introduced bills that would allow municipalities with a lifeguard pension fund established through the Lifeguard Pension Law to eliminate eligibility for a pension prospectively.<sup>8</sup> These bills never cleared committee and were not voted on by either house.

In March 2024, lifeguards from the Borough of Avalon sued the Borough, seeking a declaration that Avalon is a city of the fourth class for the purposes of N.J.S.A. 43:13-24 to - 26.<sup>9</sup> Avalon argued that the Lifeguard Pension Law does not apply because it is not a city. The lifeguards’ argument, if accepted, would have expanded the applicability of the pension statute to every New Jersey municipality along the Atlantic Ocean employing lifeguards. In September 2024, the court dismissed the lifeguards’ complaint.

## Scope of Review

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We identified 11 fourth-class cities required to have a lifeguard pension program pursuant to the Lifeguard Pension Law. We also learned that Longport Borough established a pension program in 1987 even though it is not considered a fourth-class city. The cities of Asbury Park and Long Branch reported that they do not have operating lifeguard pension programs. We sent letters to both cities regarding the application of the Lifeguard Pension Law. Both cities provided detailed responses to our letters, contending that the law is outdated and possibly unconstitutional. Asbury Park and Long Branch contend that the law unfairly imposes costs on certain municipalities without a rational basis for the unequal treatment of municipalities in similar circumstances.

The table below lists the 12 municipalities that have or are required to have a local pension program for lifeguards.

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<sup>7</sup> City of Cape May v. Colosi, 325 N.J. Super. 288 (App. Div. 1999).

<sup>8</sup> S. 2085, (N.J. 2016), [https://pub.njleg.state.nj.us/Bills/2016/S2500/2085\\_I1.PDF](https://pub.njleg.state.nj.us/Bills/2016/S2500/2085_I1.PDF): A. 3727, (N.J. 2016), [https://pub.njleg.state.nj.us/Bills/2016/A4000/3727\\_I1.PDF](https://pub.njleg.state.nj.us/Bills/2016/A4000/3727_I1.PDF).

<sup>9</sup> Wolf v. Borough of Avalon, Docket No. CPM-L-000113-24.

**Figure 3: Municipal Lifeguard Pension Programs at a Glance for 2022**

Municipality	Number of Retirees	Active Employees	Payments to Retirees	Employer Contribution	Funds Reserved for Future Benefits
<b>Asbury Park</b>	Reported No Lifeguard Pension Plan				
<b>Atlantic City</b>	89	153	\$1,098,200	\$1,026,000	-
<b>Brigantine</b>	12	106	\$81,800	\$60,000	\$562,000
<b>Cape May</b>	11	88	\$79,900	\$40,000	\$652,000
<b>Long Branch</b>	Reported No Lifeguard Pension Plan				
<b>Longport Borough</b>	11	67	\$76,200	\$22,400	\$333,400
<b>Margate City</b>	10	70	\$74,600	\$118,800	\$740,300
<b>North Wildwood</b>	11	97	\$48,500	\$27,500	\$ 171,400
<b>Ocean City</b>	46	163	\$300,300	\$240,000	\$28,700
<b>Sea Isle City</b>	2	100	\$9,400	\$10,000	\$1,058,100
<b>Ventnor City</b>	9	75	\$58,400	-	\$149,100
<b>Wildwood</b>	5	95	\$39,700	\$ 231,200	\$658,000
<b>Statewide Total</b>	<b>206</b>	<b>1,014</b>	<b>\$1,867,000</b>	<b>\$1,775,900</b>	<b>\$4,353,000</b>
Data for the year ending December 31, 2022					

We identified ten municipalities with operating lifeguard pension programs. We included data from Brigantine in this report but excluded it from the scope of work performed. We issued a performance audit of Brigantine and its lifeguard pension program in December 2022.<sup>10</sup> We reviewed the remaining nine operating lifeguard pension programs for the period 2020 through 2022. The purpose of this review was to determine whether the Lifeguard Pension Program provided benefits consistent with other state-administered pension programs and to examine the costs and liabilities involved with lifeguard pensions. The individual audit reports of the nine municipalities, which can be found on the OSC website, are summarized and in full in Appendix A of this report.

## Review Findings and Conclusion

### Findings

Seasonal employees are ineligible for participation in state-administered pension programs. In contrast, the Lifeguard Pension Law provides an overly generous employee benefit to seasonal employees that is inconsistent with the benefits provided by other retirement programs operated by the State, such as Public Employees' Retirement System (PERS).

Of the 206 lifeguard retirees receiving pensions in 2022, 104 also participated in another state-administered pension program such as PERS, Teachers' Pension and Annuity Fund (TPAF), or Police and Firemen's Retirement System (PFRS).

<sup>10</sup> STATE OF N.J. OFFICE OF THE STATE COMPTROLLER, AUDIT REPORT: A PERFORMANCE AUDIT OF EMPLOYEE BENEFITS: CITY OF BRIGANTINE (Dec. 2022), [https://www.nj.gov/comptroller/news/docs/brigantine\\_audit\\_report.pdf](https://www.nj.gov/comptroller/news/docs/brigantine_audit_report.pdf).

The Lifeguard Pension Law does not require cities to return employee contributions.

The employee benefits required by the Lifeguard Pension Law add significant additional costs to the municipalities that offer a pension program for lifeguards compared to similar municipalities organized as townships, boroughs, or villages.

### Basis for Comparison

The State established PERS after the repeal of the law creating the former State Employees' Retirement System.<sup>11</sup> PERS covers substantially all full-time employees working in local and state employment who are not required to be members of another state-administered retirement system.<sup>12</sup> Unlike police officers, firefighters, and teachers, no pension system at the state level requires the enrollment of lifeguards. Therefore, a lifeguard meeting all other pension eligibility criteria would enroll in PERS. The Legislature enacted significant changes to the laws establishing PERS between 2007 and 2011.<sup>13</sup> The amendments created five tiers of membership for PERS based on the date the employee became eligible for pension enrollment. In 2010 and 2011, the Legislature enacted changes<sup>14</sup> to pension and health care benefits for public employees. The legislation gradually increased pension contributions for all PERS employees to 7.5 percent of an employee's base pay. Additionally, for local government employees hired after June 28, 2011, the amendments required employees to work at least 32 hours per week, increased the retirement age for most PERS employees to 65, and reduced the pension benefit for each year of service. These reforms affect the fifth tier of PERS membership. Tier 5 members include employees eligible for enrollment on or after June 28, 2011. Benefits for non-veteran, Tier 5 PERS members are an appropriate basis for comparison to the benefits required by the Lifeguard Pension Law.

### Seasonal Employee Benefits Excluded from PERS

Under state law, seasonal employees, including lifeguards, are ineligible to join PERS and other state-administered pension programs. Seasonal employment is defined as occasionally working in a position that does not lead to permanent employment and does not extend beyond six consecutive months for employing locations that report on a twelve-month basis, or five months for employing locations that report on a ten-month basis. The Lifeguard Pension Law requires fourth-class cities to provide retirement benefits to seasonal employees who typically work between June and September. The Lifeguard Pension Law provides benefits for lifeguards that far exceed other seasonal employees who are ineligible for state-administered pension programs. We continue our comparison of the pension programs below despite this notable difference to highlight other inconsistencies in the design of the pension programs.

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<sup>11</sup> L. 1954, c. 84.

<sup>12</sup> Enrollment in specific state-administered pension systems is required for employees working in certain capacities in government. For example, police officers meeting all other eligibility criteria are required to enroll in PERS, and certified teachers meeting all other eligibility criteria are required to enroll in TPAF.

<sup>13</sup> L. 2007, c. 92 and 103, L. 2008, c. 89, L. 2010, c. 1 and 3, L. 2011, c.78.

<sup>14</sup> L. 2010, c. 1 & 3, L. 2011, c. 78.

## Benefit Comparison

We reviewed statutory benefits available to newly hired, non-veteran PERS Tier 5 members and newly hired lifeguard employees in fourth-class cities. The table below identifies the more significant differences between the state-administered PERS program for Tier 5 members without veteran status and the state-mandated system under the Lifeguard Pension Law.

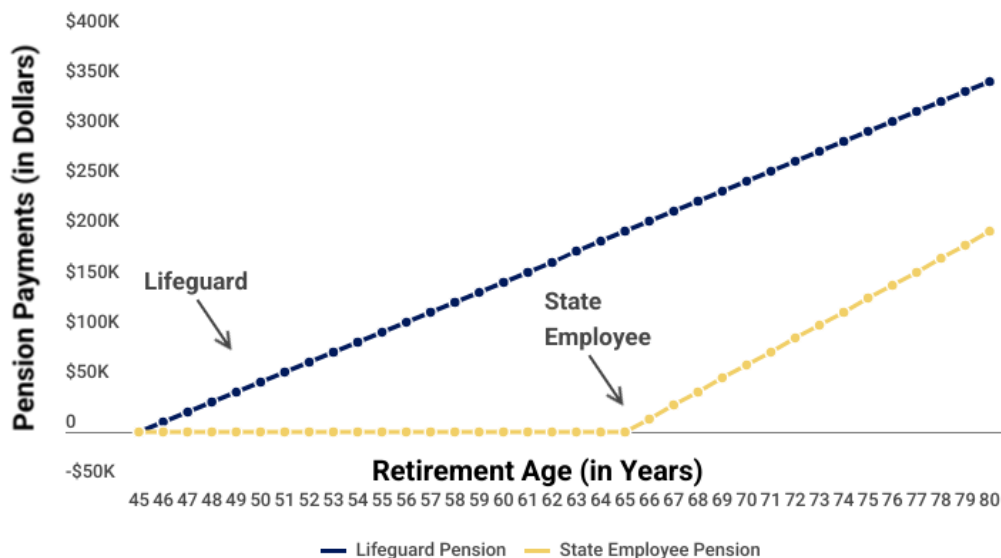
**Figure 4: Comparing Benefits and Eligibility of NJ's Lifeguard Pension and PERS**

	Lifeguard Pension Program	PERS Tier 5 Membership Program
<b>Plan Funding</b>		
Employee Contribution	4% of Total Salary	7.5% of Base Salary
Extra Compensation Pensionable	✓ Yes	✗ No
Authorizes the Return of Employee Contributions	✗ No	✓ Yes
<b>Retiree Eligibility Criteria</b>		
Minimum Years of Service	20 Total Years of Service with 10 Continuous Years of Service Prior to Retirement	Age 65 or Older → No Minimum Under Age 65 → 10 Years of Service Required
Minimum Age for Full Benefits	Age: 45	Non-Veterans: Age 65 Veterans: Age 55
Provides Disability Benefit	✓ Yes	✓ Yes
Benefits provided to dependents upon death	✓ Yes, with restrictions	✓ Yes, with restrictions
<b>Program Benefits</b>		
Retiree Compensation	Half Pay	Years of Service Divided by 60 and Multiplied by the Average of Employee's Highest 5 Years' Salary
Benefits for Additional Years of Service	✗ No	✓ Yes
Restrictions on post-retirement employment	✗ No	✓ Yes

## Retirement Age and Employee Contributions

As identified in the table above, PERS eligibility requirements and benefits for typical Tier 5 members differ in significant ways from the programs created by the Lifeguard Pension Law. Pension programs for lifeguards require a smaller employee contribution rate of four percent and a much lower retirement age of 45 compared to PERS, which requires a seven and a half percent contribution and permits retirement at 65. To illustrate the differences, a 25 year-old lifeguard who works for 20 years earning \$20,000 each year would contribute \$16,000 into the pension fund during their career.<sup>15</sup> That employee could retire at 45 and receive annual payments of \$10,000 for the rest of their lives. If the employee lives to age 80, they would receive \$350,000 in total payments. In contrast, a 25 year-old PERS Tier 5 employee earning \$20,000 each year would contribute \$60,000 into the pension fund while working until the PERS retirement age of 65. The PERS employee could retire at age 65 and receive annual payments of approximately \$13,300 after 40 years of service. If the employee lives to age 80, they would receive total payments of \$200,000. Under this hypothetical scenario, seasonal lifeguards contribute less to the pension fund, may retire earlier, and receive significantly more in lifetime benefits compared to their PERS counterparts.

**Figure 5: A Retired Lifeguard Would Receive About \$150,000 More in Lifetime Payments than a Retired State Employee**



## Pension-Eligible Compensation

State-administered pension programs like PERS exclude extra compensation such as overtime, stipends, or bonuses from pension eligible salary. The Lifeguard Pension Law does not similarly exclude extra compensation and thus is vulnerable to abuse. Six of the ten operating lifeguard

<sup>15</sup> Our example makes a number of assumptions regarding the hypothetical employee's lifespan, veteran status, retirement type, retirement age, salary, and years of service. The calculations exclude interest earnings on employee contributions held by the employer.

pension programs use total employee compensation reported on an employee's annual IRS Form W-2, which would include overtime and other forms of additional pay, to calculate retiree benefits. As of December 31, 2022, the 206 retired lifeguards received payments averaging approximately \$9,100 per year. In 2022, the highest individual retirement benefit paid that year was approximately \$60,900 while the lowest was around \$500.

### Return of Employee Contributions

The Lifeguard Pension Law requires active lifeguards to contribute four percent of their compensation to the program but does not require fourth-class cities to return pension contributions to employees. Our review found that only North Wildwood permitted the return of employee contributions. Employee contributions remain with each fourth-class city to fund retiree benefit payments. To illustrate, an employee with average annual earnings of \$15,000 would contribute \$600, on average, for each year of service. If this employee left employment after 10 years, their accumulated contributions of \$6,000 would remain with their employer unless they worked in North Wildwood. This program design is contrary to the design of the three largest state-administered plans, including PERS. PERS allows employees to withdraw their contributions with interest after terminating employment. The failure of the law, and all but one of the programs created under it, to require the return of employee contributions effectively creates a wage tax for many lifeguards to provide benefits to relatively few retirees.

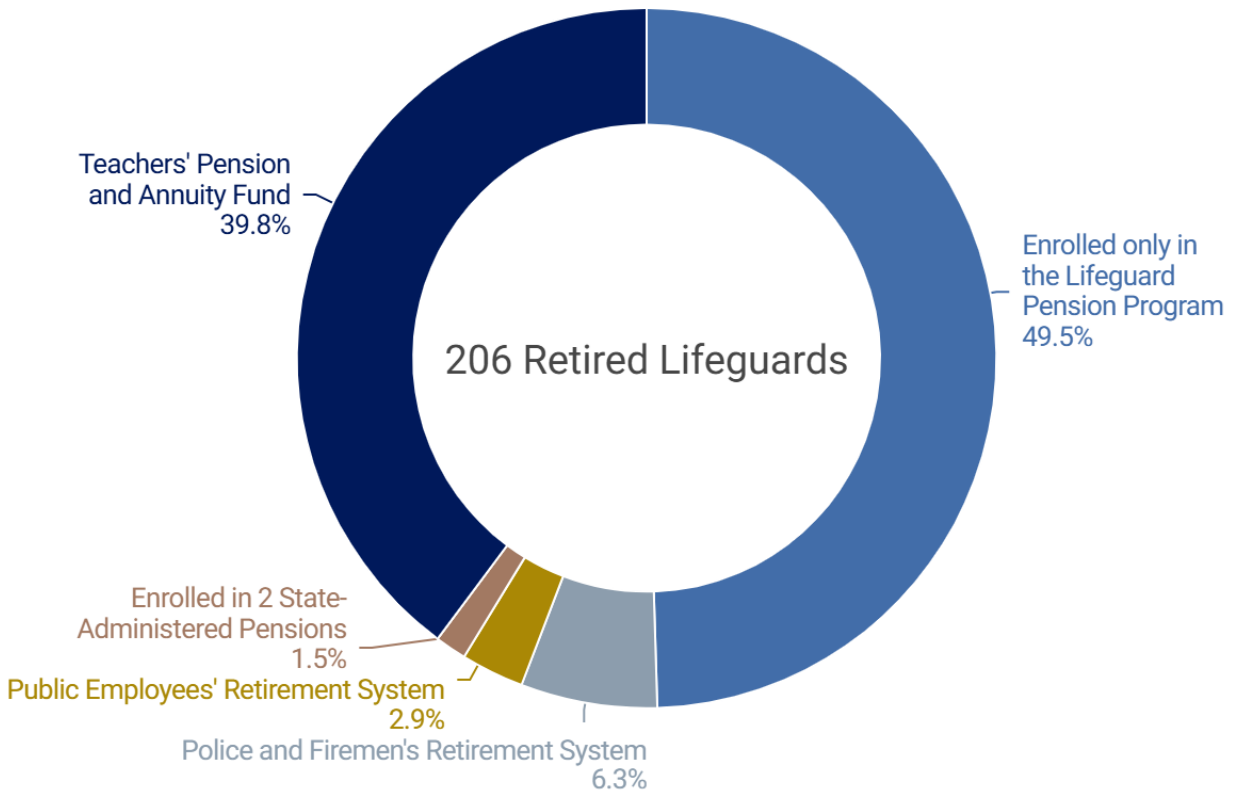
### Duplication of Benefits

Our review revealed that 104 of 206 retired lifeguards—slightly more than half— are receiving pension benefits from the lifeguard pension program while also enrolled as active employees in or receiving benefits as retirees from New Jersey-administered<sup>16</sup> pension programs. Four of five lifeguards who are double-enrolled in pension systems appear to be teachers or otherwise employed in New Jersey schools, which is made possible by the ten-month school year. We identified three lifeguard pensioners who are also enrolled in two state-administered pension systems.

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<sup>16</sup> Pensions received from federal government sources or other states were not included in this analysis.

**Figure 6: More Than 50 Percent of Retired Lifeguards Have a Second State Pension**



In 2015, the New Jersey Pension and Health Benefits Study Commission highlighted the practice of “double-dipping” – employees who obtain one or more public positions and draw pensions or benefits from each of those positions. The report noted that while reforms have limited the practice, “double-dippers have become the ‘face’ of a dysfunctional public pension system.”<sup>17</sup>

Double-dipping is discouraged but not prohibited by state law. The Legislature enacted reforms involving pensions in 2010 that eliminated an employee’s ability to earn pension credit for multiple positions within one state-administered pension system at the same time. The Legislature also placed limits on post-retirement employment for employees receiving pension payments to reduce the burden on taxpayers and decrease the frequency of double-dipping.<sup>18</sup> At the time those changes were enacted, the Legislature did not amend the Lifeguard Pension Law. Thus, under current law, lifeguards may be double- or triple-enrolled in pension systems and in a given year earn pension credit in more than one pension system, thus boosting their retirement income.

<sup>17</sup> N.J. PENSION AND HEALTH BENEFITS STUDY COMMISSION, A ROADMAP TO RESOLUTION, 131 (Feb. 2015), <https://www.nj.gov/treasury/pdf/FinalFebruaryCommissionReport.pdf>.

<sup>18</sup> Those reforms did not eliminate all forms of double-dipping involving state pensions. Even with the reforms, in limited circumstances, employees can receive more than one state-administered pension from different pension systems. For example, a police officer enrolled in PFRS, prior to retirement, could become a teacher, enroll in TPAF, and earn a second pension in TPAF. Changes to PERS and TPAF created a hurdle for new members seeking enrollment in multiple pension systems at the same time by requiring a 32-hour minimum workweek in each full-time position for enrollment.

## Effect of the Lifeguard Pension Law on Participating Municipalities

The pension program for lifeguards required by the Lifeguard Pension Law differs from the benefits offered to other seasonal employees. The benefits provided by the law have not been amended to be consistent with current pension laws for local and state government employees. The laws have significant effect on the current and future finances of the municipalities with an operating lifeguard pension program.

We summarized reported expenditures for each fourth-class city and the Borough of Longport from 2018 through 2022. The reported payments for retiree benefits averaged \$1.8 million annually and totaled approximately \$9.1 million during the five-year period. The table below details payments by the municipalities required to have lifeguard pension programs.

**Figure 7: Lifeguard Pension Program Expenditures 2018 to 2022**

<b>Municipality</b>	<b>2022 Lifeguard Retirees</b>	<b>Retiree Payments</b>	<b>Average Annual Payment</b>
Asbury Park	Reported No Lifeguard Pension Program		
Atlantic City	89	\$5,668,000	\$1,134,000
Brigantine	12	\$340,000	\$68,000
Cape May	11	\$316,000	\$63,000
Long Branch	Reported No Lifeguard Pension Program		
Longport Borough	11	\$289,000	\$58,000
Margate City	10	\$328,000	\$66,000
North Wildwood	11	\$287,000	\$57,000
Ocean City	46	\$1,401,000	\$280,000
Sea Isle City	2	\$47,000	\$9,000
Ventnor City	9	\$280,000	\$56,000
Wildwood	5	\$174,000	\$35,000
<b>Totals</b>	<b>206</b>	<b>\$9,130,000</b>	<b>\$1,826,000</b>

## Actuarial Estimates of Future Program Costs

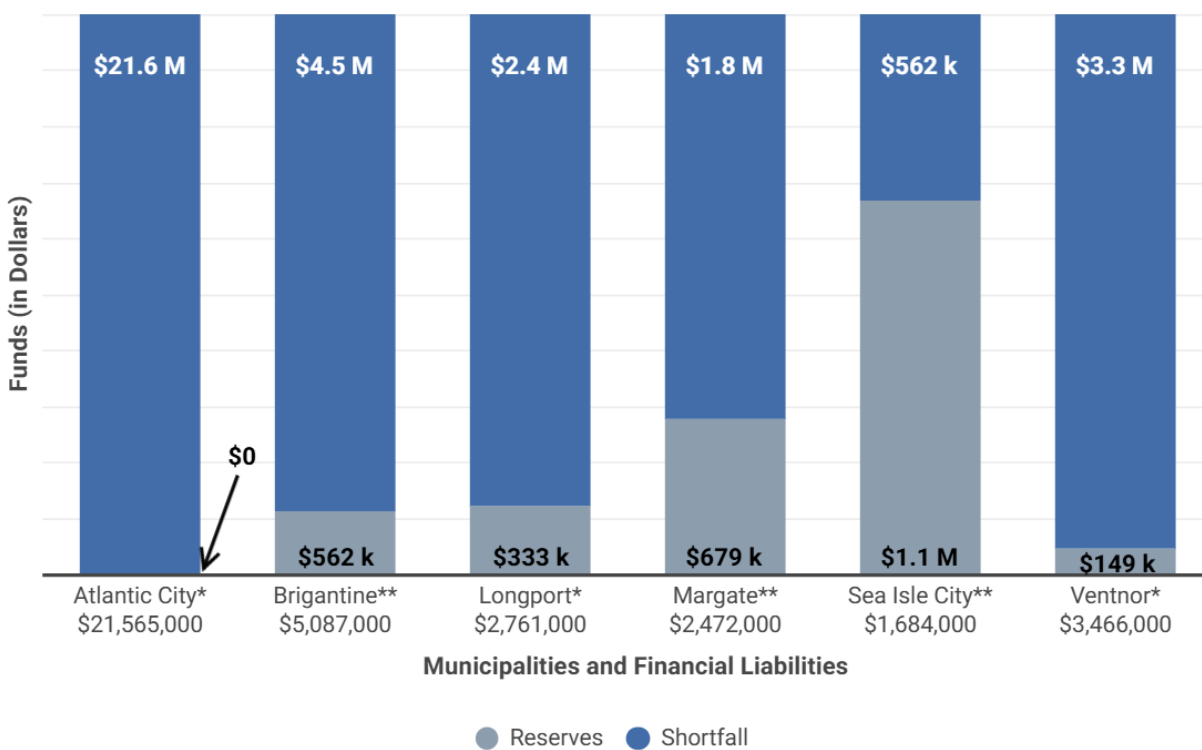
Municipalities are required to report financial activity and year-end balances for lifeguard pension programs in their annual audit report. N.J.A.C. 5:30-6.1 establishes the guidelines for municipal audit reports and requires local governments to comply with Governmental Accounting Standards Board (GASB) in making disclosures in the notes to the financial statements. GASB issued Statement 73 to improve the usefulness of information about pensions included in financial reports of state and local governments.<sup>19</sup> GASB Statement 73 requires the use of an actuary to calculate the employer's total pension program liability and the disclosure of that liability and any offsetting reserves.

<sup>19</sup> GOVERNMENTAL ACCOUNTING STANDARDS BOARD, STATEMENT NO. 73, "ACCOUNTING AND FINANCIAL REPORTING FOR PENSIONS AND RELATED ASSETS THAT ARE NOT WITHIN THE SCOPE OF GASB STATEMENT 68, AND AMENDMENTS TO CERTAIN PROVISIONS OF GASB STATEMENTS 67 AND 68" (June 2015), [GASB Statement No. 73](#).

Our review found that only Brigantine, Margate City, Longport, Ventnor City, and Sea Isle City obtained the required actuarial reports related to their lifeguard pension program prior to the end of our fieldwork. The remaining five municipalities with lifeguard pension programs failed to obtain actuary reports. The overall failure to obtain actuarial calculations of pension liabilities and make the required financial disclosures prevents local taxpayers and policymakers from learning what the lifeguard pension program costs and ensuring it is funded responsibly.

We engaged the services of an actuary to calculate the liability of three municipalities to provide an estimate of the financial effect of their lifeguard pension programs. These calculations included assumptions regarding salary increases, inflation, and life expectancy, all of which are subject to significant judgment. The calculations relied on the data obtained as part of this project. We made reasonable assumptions when requested information was not provided. Actuarial calculations of total pension program liabilities can change materially based upon changes in assumptions used to calculate the pension liability and the availability of additional data. The table below shows the actuarial estimates of pension liabilities and reserves for six municipalities with lifeguard pension programs.

**Figure 8: Accumulated Liability and Reserves**



Measurement Date 1/1/2022-12/31/2022

\* - Data from OSC actuarial reports

\*\* - Data from municipal audit reports

The estimated future cost for lifeguard pensions in the six municipalities above is approximately \$37 million. The municipalities have reserved approximately \$2.8 million for payments to future retirees. This leaves approximately \$34.2 million that must come from future employees or

municipal budgets. We did not estimate the costs of the lifeguard pension program in the remaining municipalities. The failure to obtain actuarial calculations and make required financial reporting disclosures prevents the public from understanding the true cost of this program.

## Conclusion

The Lifeguard Pension Law requires the creation of a costly long-term benefit program that fails many of its stakeholders. The Lifeguard Pension Law, passed nearly a century ago and last amended in 1936, requires retirement benefits for seasonal employees in only 11 coastal cities.

During our reviews, two lifeguard officers shared their view that the lifeguard pension program provides an incentive for experienced lifeguards to seek continued employment as lifeguards. We have no reason to doubt that lifeguard pensions incentivize longer service, but only 11 of the approximately 40 municipalities that hire beach lifeguards are required to have such a program, and it does not appear that requiring lifelong pension payments is a cost efficient or the only way of incentivizing longevity of service.

The State's ongoing interest in mandating that this unusual program continue is not evident. The retirement benefits provided to fourth-class city lifeguards far exceed those offered to similar employees working for the State or the other municipal governments along the Atlantic Ocean. The benefits are inconsistent with retirement benefits for seasonal employees in state-administered pension programs who are ineligible for pension program enrollment. In addition, the Lifeguard Pension Law demands contributions from lifeguard employees but does not mandate municipalities to refund these contributions if the employees do not qualify for retirement benefits. Due to the statutory nature of the lifeguard pension program, common sense reforms require legislative action to correct almost a century of the arbitrary and uneven treatment of fourth-class cities, their employees, and their taxpayers.



**Kevin D. Walsh**  
**Acting State Comptroller**

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### **Summary of Audit Findings of Municipal Lifeguard Pension Programs**

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City of North Wildwood

City of Ocean City

City of Sea Isle City

City of Ventnor City

City of Wildwood

#### **A Letter from OSC Regarding the Lifeguard Pension Program**

City of Asbury Park

City of Long Branch

### **Summary of Audit Findings of Municipal Lifeguard Pension Programs**

The Office of the State Comptroller (OSC) sent engagement letters to 11 municipalities informing their governing bodies of a planned performance audit of their lifeguard pension program. Our audits of the individual municipalities sought to accomplish four objectives: determine whether the municipality complied with the Lifeguard Pension Law; determine whether the municipality complied with non-statutory compliance requirements; determine whether the municipality complied with GASB Statement 73 requirements for lifeguard pension disclosures within its financial report; and determine whether the municipality had adequately designed and implemented internal controls to ensure compliance with program statutes and internal guidelines for the operation of its lifeguard pension program. We provided recommendations, when applicable, to improve internal controls and ensure compliance with applicable statutes, ordinances, plan documents, financial reporting standards, and collective bargaining agreements.

OSC found that the cities of Asbury Park and Long Branch do not have pension programs for lifeguards. OSC notified the governing bodies of both cities regarding their lack of compliance with the Lifeguard Pension Law. Both cities provided responses to OSC's letter that criticize the impracticality of the law and the burden its enforcement would place on the cities. OSC summarized the findings reported in our performance audits of operating lifeguard pension programs below.

Objective	Atlantic City	Cape May City	Longport Borough	Margate City	North Wildwood City	Ocean City	Sea Isle City	Ventnor City	Wildwood City
Created a lifeguard pension plan without a statutory requirement to create such a program.			X						
Inconsistently applied or did not deduct the required four percent pension deduction to total lifeguard wages.	X	X						X	
The City did not budget the required four percent employer pension contribution, failing to contribute to the fund.							X	X	
Did not use the highest three years' salary when calculating pension payments.								X	
Approved retirement benefits for an ineligible retiree.	X				X				
The City's pension commission did not comply with state or local requirements.	X		X	X				X	
Audit reports did not disclose the City's total lifeguard pension liability calculated by an actuary as required.	X	X	X	X	X	X	X	X	X
Payroll data was insufficient to verify retiree eligibility and accurate pension calculations.	X	X							
The City lacked adequate internal controls for tracking lifeguard service years.		X	X		X			X	X

Note:

- Asbury Park and Long Branch do not have pension programs for lifeguards.
- OSC issued a [performance audit of Brigantine](#) and its lifeguard pension program in December 2022.
- The detailed reports for each audited municipality and the auditee responses are also available [online](#).

# A Performance Audit of the Lifeguard Pension Program: City of Atlantic City

AUDIT DIVISION REPORT



Kevin D. Walsh  
Acting State Comptroller

Issued July 23, 2025



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# Audit Authority

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We performed this audit pursuant to the State Comptroller’s authority set forth in N.J.S.A. 52:15C-1 to -24. We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS)<sup>1</sup> applicable to performance audits. Those standards require that we plan and perform 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.

## Background

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In 1928, the Legislature adopted a law that required fourth-class cities<sup>2</sup> to provide a pension upon retirement for lifeguard officers and lifeguards. The law was amended in 1929 to provide pension benefits to surviving spouses and minor children. In 1936, the law was amended again to increase the retirement age, the required years of service, and the level of employee contributions. N.J.S.A. 43:13-23 to -29, which this report will refer to as the Lifeguard Pension Law, mandates that fourth-class cities establish a pension fund, with contributions from both the city and its lifeguard employees, and appoint a commission to manage the fund and its administration. The statutes empower the pension commission to make all necessary rules and regulations as long as they are consistent with the law.

The City of Atlantic City (City or Atlantic City) instituted its pension plan for lifeguards in 1928. A collective bargaining agreement (CBA) and related settlement agreement define the number of working days required to earn a year of pension-eligible service.

In 2022, the City paid pension benefits to 89 retirees at a cost of approximately \$1.1 million. The City’s 2022 budget included \$1.4 million for payments to lifeguard retirees. The City does not have a lifeguard pension fund and must provide for retiree payments through its annual budget.

### Lifeguard Pension Reserve Activity 2020 through 2022

Year	Balance January 1st	Employee Contributions	Employer Contributions	Other Revenue	Payments to Retirees	Balance December 31st
2020	-	\$ 73,241	\$ 1,059,247	-	\$1,132,488	-
2021	-	\$ 71,779	\$ 1,058,174	-	\$1,129,953	-
2022	-	\$ 71,028	\$ 1,026,009	\$ 1,139	\$1,098,176	-

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<sup>1</sup> UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE, GOVERNMENT AUDITING STANDARDS 2018 REVISION (Apr. 2021) (“GAGAS”), <https://www.gao.gov/assets/gao-21-368g.pdf>.

<sup>2</sup> Fourth-class cities include cities known as seaside or summer resorts that also border the Atlantic Ocean. N.J.S.A. 40A:6-4.

## Active and Retired Lifeguard Population

Year	Active Lifeguards	Retirees Receiving Benefits
2020	161	93
2021	162	89
2022	153	89

## Executive Summary

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Our audit identified weaknesses related to the administration of Atlantic City's lifeguard pension program in the areas of compliance, financial reporting, and internal controls.

Specifically, our audit found that the City:

- Did not withhold approximately \$25,400 in employee contributions as required by the Lifeguard Pension Law and the City's pension plan;
- Improperly paid an ineligible retiree approximately \$3,000;
- Failed to appoint pension commission members in compliance with the Lifeguard Pension Law;
- Did not obtain actuary reports and disclose pension liabilities of approximately \$21.6 million in accordance with Governmental Accounting Standards Board (GASB) Statement 73; and
- Failed to accurately track lifeguard service years, review eligibility, and maintain payroll records needed to administer its pension plan.

We make six recommendations to improve the City's internal controls and improve compliance with its CBA, applicable law, and financial reporting requirements.

## Audit Objectives

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The objectives of our performance audit were to examine the operations of the City's lifeguard pension program to determine whether the program complied with applicable local and state statutory requirements, disclosed required financial information, and maintained adequate internal controls.

## Audit Scope

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The period January 1, 2020 through December 31, 2022.

# Audit Methodology

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To accomplish our objectives, we reviewed relevant statutes, regulations, GASB requirements, and the City's policies and procedures addressing the administration of its lifeguard pension program. We reviewed financial records, payroll records, CBAs, and other supporting documentation. Additionally, we interviewed local officials responsible for the lifeguard pension program to understand program operations.

GAGAS requires auditors to plan and perform audit procedures to assess internal control when internal control is determined to be significant to the objective. The Government Accountability Office's Standards for Internal Control in the Federal Government, or "Green Book,"<sup>3</sup> provides a framework for internal control systems for public entities. The Green Book establishes five components of an internal control system: control environment, risk assessment, control activities, information and communication, and monitoring. The five components include 17 principles that support the effective design, implementation, and operation of an internal control system. GAGAS requires written communication of deficiencies in internal control that warrant the attention of those charged with governance. Deficiencies significant to our audit objectives are included in this report. We communicate internal control deficiencies that are not significant to our audit objectives through separate correspondence to those charged with governance.

We reviewed all items within populations of like transactions identified during the scope of our audit to provide conclusions about the adequacy of internal controls and compliance with applicable laws, regulations, policies, and procedures.

## Audit Findings and Recommendations

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### Lifeguard Pension Program

#### Objectives

*Determine whether the City complied with the Lifeguard Pension Law, N.J.S.A. 43:13-23 to -29.*

*Determine whether the City complied with its CBA requirements.*

*Determine whether the City complied with GASB Statement 73 requirements for lifeguard pension program disclosures within its financial report.*

*Determine whether the City had adequately designed and implemented internal controls to ensure compliance with program statutes and internal guidelines for the operation of its lifeguard pension program.*

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<sup>3</sup> UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE, STANDARDS FOR INTERNAL CONTROL IN THE FEDERAL GOVERNMENT, (SEPT. 2014) ("Green Book"), <https://www.gao.gov/assets/gao-14-704g.pdf>.

## Findings

The City inconsistently applied the required four percent pension deduction to total lifeguard wages as required by N.J.S.A. 43:13-27(a), which cost the City approximately \$25,400.

The City approved retirement benefits for an ineligible retiree resulting in improper payments of approximately \$3,000.

The City's pension commission did not consist of four members as required by N.J.S.A. 43:13-28. In addition, the City did not provide evidence that members were appointed by the mayor with the advice and consent of the governing body.

Annual audit reports did not disclose the City's total lifeguard pension liability calculated by an actuary as required by GASB Statement 73. The estimated total lifeguard pension liability was approximately \$21.6 million as of December 31, 2022.

The City did not provide sufficient payroll data to verify retiree eligibility and whether pension benefits were accurately calculated.

## Criteria

The Lifeguard Pension Law requires fourth-class cities to provide a retirement benefit equal to half-pay to lifeguard employees who are at least 45 years of age and have worked 20 years of eligible service. The pension benefits are funded by contributions from active employees, interest earnings, and budget appropriations. Every fourth-class city with a beach on the ocean that hires lifeguards must budget to provide the fund with the required annual four percent contribution plus any additional amount needed to meet the requirements of the pension program.

The Lifeguard Pension Law requires the mayor or chief executive officer of municipalities subject to the law to appoint, with the advice and consent of the governing body of the city, a lifeguard pension commission consisting of four members, including a superior officer of the lifeguards, a lifeguard, and two citizens who are not lifeguards. They shall serve for a term of four years and until their successors are appointed and have qualified and shall not receive any compensation for their services.

The City must also comply with the CBA it negotiated with its lifeguards. The CBA establishes the minimum of number of days an employee must work within a calendar year to earn a year of pension-eligible service. In 2018, the number of days required for service credit increased from 45 to 70 days per year.

The financial activity and year-end balances for the City's lifeguard pension program are reported in its annual audit report. N.J.A.C. 5:30-6.1 establishes the guidelines for municipal audit reports and requires local governments to include GASB disclosures in the notes to the City's financial statements. GASB issued Statement 73 to improve the usefulness of information about pensions

included in financial reports of local and state governments.<sup>4</sup> GASB Statement 73 requires actuarial reports and disclosure of pension liabilities and reserves.

The Green Book provides a framework for internal control systems for public entities. The Green Book's five components and the related 17 principles of an internal control system serve as the basis for our assessment of the design, implementation, and operation of the City's internal control system.

### Methodology

To meet these objectives, we:

- Reviewed the Lifeguard Pension Law and the City's CBA;
- Interviewed relevant City officials;
- Reviewed payroll and other financial documentation; and
- Performed audit procedures designed to meet our audit objectives.

### Audit Results

We audited the City's lifeguard pension program to assess compliance with statutes, the CBA, and GASB Statement 73. We reviewed the pension program's operations, assessed internal controls, and tested the design and implementation of the program.

#### **Compliance with Statutes and Local Guidelines**

Our audit examined whether the City collected pension contributions from lifeguards between 2020 and 2022. The Lifeguard Pension Law requires the City to withhold four percent of an employee's total compensation. We found that the City failed to deduct contributions from income related to settlements and compensation provided by the American Rescue Plan Act of 2021 in response to the COVID-19 pandemic. The statute requires the deduction be withheld from, "every payment of salary." The failure to withhold lifeguard pension deductions cost the City approximately \$25,400 over the three-year period.

We identified two employees who retired between 2020 and 2022. We requested payroll data to verify that each retiree met the City's criteria for retirement. The City provided payroll data from 2005 to 2020. The lack of payroll data for years prior to 2005 prevented the verification that the retirees worked the minimum number of days in at least 20 years to qualify for retirement benefits. The pension commission confirmed that each retiree met the eligibility of continuous service requirement and minimum years of service, however it is unclear what documentation it reviewed to verify the days worked in years prior to 2005.

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<sup>4</sup> GOVERNMENTAL ACCOUNTING STANDARDS BOARD, STATEMENT NO. 73, "ACCOUNTING AND FINANCIAL REPORTING FOR PENSIONS AND RELATED ASSETS THAT ARE NOT WITHIN THE SCOPE OF GASB STATEMENT 68, AND AMENDMENTS TO CERTAIN PROVISIONS OF GASB STATEMENTS 67 AND 68" (June 2015), [GASB Statement No. 73](#).

Our review of the payroll data found that one of the two retirees did not work continuously for ten years prior to submitting a retirement application contrary to N.J.S.A. 43:13-24.<sup>5</sup> In August 2022, the City improperly approved annual payments of approximately \$7,400 to the retiree. The retiree received payments of almost \$3,000 for the remainder of 2022.

The City failed to appoint a fourth member to its pension commission, as required by N.J.S.A. 43:13-28. The City provided evidence that its pension commission had three members. However, the City did not provide evidence that the current pension commission members were appointed by the mayor with the advice and consent of the governing body.

### **Compliance with Financial Reporting Standards**

We reviewed the City's audit reports for 2020 through 2022 and found that its lifeguard pension disclosures failed to comply with GASB Statement 73 requirements. Most significantly, the City did not disclose its pension plan liability in its annual audit reports. In addition, the City's auditor did not report the City's failure to disclose required and likely material information about the pension program in the City's annual audit reports. The City's failure to obtain required actuary reports limits transparency and impairs oversight of program funding by the governing body.

We engaged an actuary to estimate the City's pension liability. This calculation included assumptions regarding salaries, inflation, and life expectancy subject to significant judgment and relied on the data obtained as part of this audit. We made reasonable assumptions when requested data was not provided.<sup>6</sup> We estimated the future costs associated with Atlantic City's lifeguard pension program as of December 31, 2022 was approximately \$21.6 million. The City does not have a lifeguard pension fund and must provide for retiree payments through its annual budget.

### **Design, Implementation, and Operation of Internal Controls**

We audited the City's internal policies, processes, and other internal lifeguard pension program activities. A well-designed system aids in compliance with applicable law, including local guidelines, and guards against errors.

Our review found that the City lacked formal written guidelines to administer its lifeguard pension program. The City relies on a series of informal practices based on the Lifeguard Pension Law and its CBA to administer its pension program. Management should establish an organizational structure, assign responsibility, and delegate authority to achieve the entity's objectives.<sup>7</sup> Management can improve compliance with the Lifeguard Pension Law and improve accountability in the areas of tracking employee years of service and by memorializing its procedures and practices in a written communication to employees administering the City's lifeguard pension program.

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<sup>5</sup> Article 13(c) of the lifeguard agreement allows for a pension break for employees with ten years of service who are at least 35 years old.

<sup>6</sup> Actuarial calculations of total pension program liabilities could change materially based upon changes in assumptions used to calculate the pension liability and the availability of historical pension program data.

<sup>7</sup> U.S. GOVERNMENT ACCOUNTABILITY OFFICE, Green Book at 9.

We requested documentation to determine whether the City's system used to track employees' years of pension-eligible service agreed with payroll information. The City provided an employee roster that contained active employees and their years of service. However, the years of service data reports the years since the employees' hire date with no regard to the number of days worked. We compared the employee roster to payroll data for 2022 and found that 127 employees worked fewer than the 70 days required to receive a year of pension-eligible service. In addition, 13 employees who worked at least 70 days that year were not on the roster. The City's process confirms an employee's pension-eligible years of service only upon receipt of a retirement application. The lack of a systematic way to track employees' service credit on an ongoing basis prevents management insight into future retirements.

### Causes

The City lacked detailed policies and procedures for withholding employee contributions from total compensation.

The City incorrectly approved benefits for one retiree who did not meet eligibility criteria.

The City lacked a process to document pension commission members' eligibility and proper approvals.

The City failed to obtain actuary reports required for annual financial report disclosures.

The City lacked a formal process to track lifeguard service credit.

### Effects/Potential Effects

The failure to withhold employee contributions cost from total compensation cost the pension fund approximately \$25,400.

The City provided retirement benefits of approximately \$3,000 to an ineligible retiree.

The failure to maintain documentation for Atlantic City's pension commission members limits transparency into the commission's membership.

The failure to disclose its pension liabilities in its annual audit reports prevents public insight into the current and future costs of the lifeguard pension program estimated to be approximately \$21.6 million.

An inaccurate system tracking pension-eligible service may result in improper lifeguard retirement approvals.

### Recommendations

1. Develop and implement written policies and procedures to ensure the four percent deduction is applied to the lifeguards' total compensation as required by the Lifeguard Pension Law.

2. Develop and implement written policies and procedures to ensure that retirees meet the eligibility criteria as required in the Lifeguard Pension Law and its CBA. Ensure that adequate documentation is maintained to support the City's approval or denial of pension benefits.
3. Appoint a fourth member to the lifeguard pension commission in accordance with N.J.S.A. 43:13-28. Memorialize the appointment of members by the mayor with the advice and consent of the governing body through resolution.
4. Obtain periodic actuary calculations of the City's lifeguard pension fund as required by GASB Statement 73. Improve the adequacy of lifeguard pension disclosures to comply with the requirements of GASB Statement 73.
5. Improve the City's system of tracking pension eligible service to ensure the accuracy of pension data including days worked and total wages earned through an employee's lifeguard career.
6. Develop and implement written procedures to assign responsibility for administering the City's lifeguard pension program, ensure compliance with statutes, and memorialize internal practices that are not explicitly outlined in the statute or City CBAs. The procedures should include an annual reconciliation of days worked for pension purposes and wages in the tracking system to payroll records for agreement. Any differences noted in the reconciliation should be investigated by the pension commission or appropriate City employees.

## Reporting Requirements

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We provided a draft copy of this report to City officials for their review and comment. The City generally agreed with our audit findings and conclusions, and its response indicated the City has taken steps and will continue to implement corrective actions to address our recommendations. The City's comments were considered in preparing our final report and are attached as Appendix A.

We are required by statute to monitor the implementation of our recommendations. In accordance with N.J.A.C. 17:44-2.8(a), within 90 days following the distribution of the final audit report, the City is required to provide a plan detailing the corrective action taken or underway to implement the recommendations contained in the report and, if not implemented, the reason therefore. We will review the corrective action plan to evaluate whether the steps taken by the City effectively implement our recommendations.

We thank the management and staff of the City for the courtesies and cooperation extended to our auditors during this engagement.



## CITY OF ATLANTIC CITY

CITY SOLICITOR'S OFFICE

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June 25, 2025

Mr. Christopher Jensen, CPA  
Audit Director  
Office of the State Comptroller  
P.O. 024  
Trenton, NJ 08625-0024

Dear Mr. Jensen:

Please allow this letter to serve as the City of Atlantic City's ("COAC") formal response to the draft audit division report titled, "A Performance Audit of Lifeguard Pension Program City of Atlantic City" received on June 11, 2025. While we understand the findings enumerated in the report, we would like to reframe some of the points.

First, the audit found that the City inconsistently applied the required four percent pension deduction to total lifeguard wages as required by N.J.S.A. 43:13-27(a), which cost the City approximately \$25,400. The definitions section of the Lifeguard Pension Law does not expressly state that payments made through settlement agreements or stipends are considered in the 'year's salary'. The definition states, "a year's salary means the salary a lifeguard receives during the time of his normal employment in any calendar year". The compensation provided to the lifeguards by the American Rescue Place Act of 2021 were stipends. The COAC classified the payments as stipends because they were one-time payments, that did not go into the base salary. As such the 4% contributions were not deducted from them.

The COAC has written a policy and procedures manual, and plans to implement them moving forward to ensure we are in compliance with the Lifeguard Pension Law. See Attachment A (policy) and B (enrollment form).

Second, the COAC will implement the attached policy regarding eligibility and will conduct annual training for the Pension Commission, Human Resources, and the Payroll department. Moving forward, the retirement application will have to be approved by Human Resources who will confirm that the years in service and age requirements are met. While Payroll

will confirm the wages and days worked. The retirement application along with backup documentation will be forwarded to the Pension Commission. The backup documentation must include the employee payroll summary for each year of service. This multidepartment approach will provide an oversight of the retirement process. See Attachment C (retirement application).

Third, the Mayor will appoint a fourth member to the Pension Commission. All four members will be memorialized by the advice and consent of the City Council at the July council meeting.

Fourth, the COAC will continue to seek actuarial services. See Attachment D (email regarding procurement attempt).

Fifth, the Deputy Chief of Beach Patrol currently tracks the wages and days worked for each lifeguard. This document will be shared with Payroll and audited annually moving forward. See Attachment E (audit excel sheet).

Lastly, we are available to discuss further if needed. Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Rashanna Butler".

Rashanna Butler, Esq.  
Deputy Solicitor

# A Performance Audit of the Lifeguard Pension Program: City of Cape May

AUDIT DIVISION REPORT



Kevin D. Walsh  
Acting State Comptroller

Issued July 23, 2025



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# Audit Authority

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We performed this audit pursuant to the State Comptroller’s authority set forth in N.J.S.A. 52:15C-1 to -24. We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS)<sup>1</sup> applicable to performance audits. Those standards require that we plan and perform 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.

## Background

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In 1928, the Legislature adopted a law that required fourth-class cities<sup>2</sup> to provide a pension upon retirement to lifeguard officers and lifeguards. The law was amended in 1929 to provide pension benefits to surviving spouses and minor children. In 1936, the law was amended again to increase the retirement age, the required years of service, and the level of employee contributions. N.J.S.A. 43:13-23 to -29, which this report will refer to as the Lifeguard Pension Law, mandates that fourth-class cities establish a pension fund, with contributions from both the city and its lifeguard employees, and appoint a commission to manage the fund and its administration. The statutes empower the pension commission to make all necessary rules and regulations as long as they are consistent with the law.

The City of Cape May (City or Cape May) instituted its Beach Patrol Pension Plan (Pension Plan) for lifeguards effective January 1, 1994. The Pension Plan defines pension program terminology, provides additional information regarding plan membership, and establishes eligibility criteria.

In 2022, Cape May paid pension benefits to 11 retirees at a cost of about \$78,900. The City’s 2022 budget included approximately \$40,000 to meet the City’s statutory contribution requirement and obligations under the Pension Plan. As of December 31, 2022, the City had approximately \$652,000 in funds reserved to pay lifeguard pensions.

### Lifeguard Pension Reserve Activity 2020 through 2022

Year	Balance January 1st	Employee Contributions	Employer Contributions	Other Revenue	Payments to Retirees	Balance December 31st
2020	\$ 628,273	\$ 28,681	\$ 40,000	\$ 2,321	\$ 56,720	\$ 642,555
2021	\$ 642,555	\$ 57,799	\$ 40,000	\$ 389	\$ 73,110	\$ 667,634
2022	\$ 667,634	\$ 21,594	\$ 40,000	\$ 1,687	\$ 78,932	\$ 651,983

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<sup>1</sup> UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE, GOVERNMENT AUDITING STANDARDS 2018 REVISION (Apr. 2021) (“GAGAS”), <https://www.gao.gov/assets/gao-21-368g.pdf>.

<sup>2</sup> Fourth-class cities include cities known as seaside or summer resorts that also border the Atlantic Ocean. N.J.S.A. 40A:6-4.

## Active and Retired Lifeguard Population

Year	Active Lifeguards	Retirees Receiving Benefits
2020	85	11
2021	96	13
2022	88	11

## Executive Summary

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Our audit identified weaknesses related to the administration of Cape May's lifeguard pension program in the areas of compliance, financial reporting, and internal controls.

Specifically, our audit found that the City:

- Did not withhold approximately \$13,400 in employee contributions as required by the Lifeguard Pension Law and the Pension Plan;
- Did not obtain actuary reports and disclose pension liabilities in accordance with Governmental Accounting Standards Board (GASB) Statement 73; and
- Failed to accurately track lifeguard service years and maintain payroll records needed to administer the Pension Plan.

We make four recommendations to improve the City's internal controls and improve compliance with its Pension Plan, applicable law, financial reporting requirements, and collective bargaining agreements.

## Audit Objectives

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The objectives of our performance audit were to examine the operations of the City's lifeguard pension program to determine whether the program complied with applicable law and its Pension Plan, disclosed required financial information, and maintained adequate internal controls.

## Audit Scope

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The period January 1, 2020 through December 31, 2022.

## Audit Methodology

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To accomplish our objectives, we reviewed relevant statutes, regulations, GASB requirements, and the City's policies and procedures addressing the administration of its lifeguard pension program. We reviewed financial records, payroll records, collective bargaining agreements

(CBAs), and other supporting documentation. Additionally, we interviewed local officials responsible for the lifeguard pension program to understand program operations.

GAGAS requires auditors to plan and perform audit procedures to assess internal control when internal control is determined to be significant to the objective. The Government Accountability Office's Standards for Internal Control in the Federal Government, or "Green Book,"<sup>3</sup> provides a framework for internal control systems for public entities. The Green Book establishes five components of an internal control system: control environment, risk assessment, control activities, information and communication, and monitoring. The five components include 17 principles that support the effective design, implementation, and operation of an internal control system. GAGAS requires written communication of deficiencies in internal control that warrant the attention of those charged with governance. Deficiencies significant to our audit objectives are included in this report. We communicate internal control deficiencies that are not significant to our audit objectives through separate correspondence to those charged with governance.

As part of our review, we selected a judgmental sample of records. Our samples were designed to provide conclusions about the validity of the sampled transactions and the adequacy of internal controls and compliance with applicable laws, regulations, policies, and procedures. Because we used a non-statistical sampling approach, the results of our testing cannot be projected over the entire population of like transactions or contracts.

## Audit Findings and Recommendations

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### Lifeguard Pension Program

#### Objectives

*Determine whether the City complied with the Lifeguard Pension Law, N.J.S.A. 43:13-23 to -29.*

*Determine whether the City complied with its Pension Plan and CBA requirements.*

*Determine whether the City complied with GASB Statement 73 requirements for lifeguard pension program disclosures within its financial report.*

*Determine whether the City adequately designed and implemented internal controls to ensure compliance with program statutes and internal guidelines for the operation of its lifeguard pension program.*

#### Findings

The City did not deduct the required four percent contribution from total employee compensation, which cost the City approximately \$13,400.

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<sup>3</sup> UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE, STANDARDS FOR INTERNAL CONTROL IN THE FEDERAL GOVERNMENT, (SEPT. 2014) ("Green Book"), <https://www.gao.gov/assets/gao-14-704g.pdf>.

Annual audit reports did not disclose the City's total lifeguard pension liability calculated by an actuary as required by GASB Statement 73.

The City did not provide sufficient payroll data to verify retiree eligibility and whether pension benefits were accurately calculated.

The City's system of tracking days worked by lifeguards did not include all lifeguards and contained numerous inaccuracies.

### Criteria

The Lifeguard Pension Law requires fourth-class cities to provide a retirement benefit equal to half-pay to lifeguard employees who are at least 45 years of age and have worked 20 years of eligible service. The pension benefits are funded by contributions from active employees, interest earnings, and budget appropriations. Every fourth-class city with a beach on the ocean that hires lifeguards must budget to provide the fund with the required annual four percent contribution plus any additional amount needed to meet the requirements of the pension program. The City accounts for funds in excess of the amount needed to pay current benefits in a separate fund designated for future pension payments.

In addition to complying with the Lifeguard Pension Law, the City must also meet the obligations imposed by the Pension Plan and the CBA with the lifeguards. The Pension Plan and CBA define the number of days an employee must work to obtain a year of pensionable service credit. The City's Pension Plan limits pension membership to employees who are 18 years or older.

The financial activity and year-end balances for the City's lifeguard pension program are reported in its annual audit report. N.J.A.C. 5:30-6.1 establishes the guidelines for municipal audit reports and requires local governments to include GASB disclosures in the notes to the City's financial statements. GASB issued Statement 73 to improve the usefulness of information about pensions included in financial reports issued by local and state governments.<sup>4</sup> GASB Statement 73 requires actuarial reports and disclosure of pension liabilities and reserves.

The Green Book provides a framework for internal control systems for public entities. The Green Book's five components and the related 17 principles of an internal control system serve as the basis for our assessment of the design, implementation, and operation of the City's internal control system.

### Methodology

To meet these objectives, we:

- Reviewed the Lifeguard Pension Law, the City's Pension Plan, and CBAs;
- Interviewed relevant City officials;

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<sup>4</sup> GOVERNMENTAL ACCOUNTING STANDARDS BOARD, STATEMENT NO. 73, "ACCOUNTING AND FINANCIAL REPORTING FOR PENSIONS AND RELATED ASSETS THAT ARE NOT WITHIN THE SCOPE OF GASB STATEMENT 68, AND AMENDMENTS TO CERTAIN PROVISIONS OF GASB STATEMENTS 67 AND 68" (June 2015), [GASB Statement No. 73](#).

- Reviewed payroll and other financial documentation; and
- Performed audit procedures designed to meet our audit objectives.

### **Audit Results**

We audited the City's lifeguard pension program to assess compliance with statutes, the Pension Plan, the CBA, and GASB Statement 73. We reviewed the pension program's operations, assessed internal controls, and tested the design and implementation of the program.

#### **Compliance with Statutes and Local Guidelines**

Our audit examined whether the City collected pension contributions from lifeguards between 2020 and 2022. The Lifeguard Pension Law requires the City to withhold four percent of an employee's total compensation. We found that the City failed to deduct the required employee pension contribution for 83 of 269 lifeguards over the three-year period. The failure to apply the four percent deduction to total compensation cost the City \$13,400.

#### **Compliance with Financial Reporting Standards**

We reviewed the City's audit reports for 2020 through 2022 and found that its financial disclosures related to its lifeguard pension failed to meet the requirements of GASB Statement 73. Most significantly, the City did not disclose its pension plan liability in its annual audit reports. In addition, the City's auditor did not report the City's failure to disclose required and likely material information about the pension program in the City's annual audit reports. The City's failure to obtain required actuary reports limits transparency and impairs oversight of program funding by the governing body.

#### **Design, Implementation, and Operation of Internal Controls**

We audited the City's internal policies, processes, and other internal lifeguard pension program activities. A well-designed system aids in compliance with applicable law, including local guidelines, and guards against errors.

Our audit revealed weaknesses in internal control related to the tracking of pension-eligible service years and maintenance of records. We found that the City designed and implemented a system to track employees' years of service by documenting the number of days worked for payroll purposes. We compared the City's tracking system to payroll records during the period 2020 through 2022 to determine whether the City accurately tracked how many days each employee worked. The City's payroll records reported time and wages for 269 lifeguard employees. Our testing identified 42 employees who worked 60 or more days in a single year who were not recorded in the City's tracking system, which could lead to not providing a pension to a person who is entitled to it.

We judgmentally selected 2 of the 13 employees who received retirement benefit payments during our testing period. We requested documentation to determine whether the two employees met eligibility criteria established by the City's Pension Plan and whether the payments were properly calculated. Cape May provided evidence to support the retirement of both employees, however, it did not provide payroll data to verify whether the employees worked the minimum

number of days for at least 20 years or that the retirement benefit calculation used accurate wage data.

Our review did not identify ineligible retirees or improperly calculated retirement benefits. However, the lack of complete data creates an environment in which errors could occur and not be identified. The City must retain sufficient payroll data to ensure that it can verify that every retiree meets the minimum pension eligibility criteria and that retirement benefits are based on an average of each employee's final three years of wages. The maintenance of retiree payroll data can help the City correct mistakes and avoid improper payments.

### Causes

The City lacked detailed policies and procedures for withholding employee contributions from total compensation.

The City did not obtain actuary reports required for annual financial report disclosures.

The City failed to maintain sufficient records allowing the verification of payroll data, including employees' years of service and final three years of salary at retirement.

### Effects/Potential Effects

The failure to withhold employee contributions from total compensation cost the pension fund approximately \$13,400.

Inadequate disclosures prevent public transparency into total pension costs and the sufficiency of City contributions.

The failure to maintain or provide sufficient historical payroll records prevented the review of the eligibility determinations and calculations of retiree benefits.

### Recommendations

1. Develop and implement written policies and procedures to ensure the four percent deduction is applied to the lifeguards' total compensation as required by the Pension Plan.
2. Obtain periodic actuary calculations of the City's lifeguard pension fund as required by GASB Statement 73. Improve the adequacy of lifeguard pension disclosures to comply with the requirements of GASB Statement 73.
3. Develop and implement a written procedure to track employees' pension-eligible years of service and wages over time. The procedure for tracking employee time and wages should include an annual reconciliation between the tracking system data and City payroll records.
4. Develop and implement a written procedure requiring the maintenance of sufficient supporting documentation to permit the verification of an employee's time worked and

allow for identification of an employee's final three years of compensation when determining a retiree's pension benefit eligibility.

## Reporting Requirements

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We provided a draft copy of this report to City officials for their review and comment. The City agreed with our audit findings and conclusions, and its response indicated the City has taken steps and will continue to implement corrective actions to address our recommendations. The City's comments were considered in preparing our final report and are attached as Appendix A.

We are required by statute to monitor the implementation of our recommendations. In accordance with N.J.A.C. 17:44-2.8(a), within 90 days following the distribution of the final audit report, the City is required to provide a plan detailing the corrective action taken or underway to implement the recommendations contained in the report and, if not implemented, the reason therefore. We will review the corrective action plan to evaluate whether the steps taken by the City effectively implement our recommendations.

We thank the management and staff of the City for the courtesies and cooperation extended to our auditors during this engagement.



**PAUL E. DIETRICH**  
City Manager/City Engineer  
**ERIN C. BURKE**  
City Clerk

**ZACK MULLOCK**  
Mayor  
**MAUREEN K. MCDADE**  
Deputy Mayor  
**LORRAINE M. BALDWIN**  
Councilmember  
**STEVE BODNAR**  
Councilmember  
**SHAINE P. MEIER**  
Councilmember

## Memorandum

**To:** [REDACTED] / State of NJ / Administrative Analyst/Auditor, Audit Division  
**From:** Paul Dietrich, City Manager  
**CC:** Justin Riggs, Deputy City Manager; Kevin Hanie, Acting CFO; Patti Taub, Deputy CFO  
**Date:** 6/23/2025  
**Subject:** Response to Cape May's Lifeguard Pension Program

The purpose of this memo is to formally serve as the City's response to the audit report regarding Cape May's Lifeguard Pension Program and to confirm our agreement with the audit findings. We are committed to implementing the corrective action recommendations as outlined in the report.

Below is a summary of our response and the steps we have taken:

- 1. Written Policies and Procedures for the 4% Deduction:**  
We have developed written policies and procedures to ensure proper administration of the required 4% pension deduction. Please see the attached written procedures.
- 2. Actuarial Services:**  
An actuary has been contacted, and a resolution to recommend and award a professional services contract is scheduled for consideration on the July 1, 2025 City Council Agenda.
- 3. Tracking Pension-Eligible Service and Wages:**  
A written procedure is now in place to accurately track employees' pension-eligible years of service and wages over time. Please see the attached documentation.
- 4. Documentation of Time Worked and Highest Compensation Years:**  
We have implemented a written procedure requiring the maintenance of sufficient supporting documentation to verify employees' time worked and to identify their three highest years of compensation. Please see the attached procedure.

Additionally, we would like to request that an exit interview be scheduled, as indicated in your report.

We appreciate your time and guidance throughout this process and look forward to closing out this matter in full compliance.

Thank you.

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**City of Cape May**  
**National Historic Landmark**

City Hall • 643 Washington Street • Cape May, New Jersey 08204-2397 • (609) 884-9525 • Fax: (609) 884-8589

[www.capemaycity.com](http://www.capemaycity.com)



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Councilmember  
**SHAINÉ P. MEIER**  
Councilmember

Date: June 23, 2025

TO: Paul Dietrich, City Manager

From: Kevin Hanie, Acting CFO

CC: Justin Riggs, Deputy City Manager  
Patricia Taub, Deputy CFO/Payroll Coordinator

RE: Beach Patrol Pension Plan – Employee 4% Deduction

The audit of the City of Cape May’s Beach Patrol Pension Plan conducted by the New Jersey Office of the State Comptroller for the period January 1, 2020 through December 31, 2022 found that the City did not accurately withhold the required four percent deduction from Beach Patrol employee salaries for contribution to the Plan.

It was recommended that the City “develop and implement written policies and procedures to ensure the four percent deduction is applied to the lifeguards’ total compensation as required by the Pension Plan.”

**As such, we have developed and implemented a written policy as follows:**

Per the City of Cape May’s Beach Patrol Pension Plan effective January 1, 1994 *“there shall be deducted from every payment of salary to each Plan Member four (4%) percent of the amount thereof for all pay periods subsequent to January 1, 2000.”*

Eligible Employees become Plan Members upon employment. An Eligible Employee is defined as *“an individual who is employed by the City of Cape May as a lieutenant or a lifeguard on its Beach Patrol.”*

When an employee is hired by the City a profile is created for the employee within PrimePoint, the City’s payroll platform, as a prerequisite for the employee to receive pay. All employees hired as lifeguards or lieutenants are assigned to the “Beach Patrol” department within PrimePoint. A deduction code has been implemented which automatically applies to all employees under the Beach Patrol department, including new hires. Each time payroll is run, this deduction code withholds 4% of each Beach Patrol employee’s salary.

At the end of the season, the Payroll Coordinator with the supervision of the CFO will run a deduction report from PrimePoint (payroll software) to determine the total amount withheld from Beach Patrol employee’s salary for contribution to the Pension Trust. The CFO will then make the appropriate transfer of said amount to the Trust Account, thus funding it in accordance with the Plan document.

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Councilmember

Date: June 23, 2025

TO: Paul Dietrich, City Manager

From: Kevin Hanie, Acting CFO

CC: Justin Riggs, Deputy City Manager  
Patricia Taub, Deputy CFO/Payroll Coordinator

RE: Beach Patrol Pension Plan – Retiree Eligibility

The audit of the City of Cape May’s Beach Patrol Pension Plan conducted by the New Jersey Office of the State Comptroller for the period January 1, 2020 through December 31, 2022 found that the City did not maintain sufficient records to verify eligibility and pension benefit calculations for retirees applying to receive pension benefits.

It was recommended that the City “develop and implement a written procedure requiring the maintenance of sufficient supporting documentation to permit the verification of an employee’s time worked and allow for identification of an employee’s *\*three highest years of compensation* when determining a retiree’s pension benefit eligibility.

**As such, we have developed and implemented a written procedure as follows:**

Per the City of Cape May’s Beach Patrol Pension Plan effective January 1, 1994

*“Any member of the Beach Patrol, whether employed as an officer or a guard, who has twenty (20) years of service on the Beach Patrol, who shall have attained the age of forty-five (45) years, and for a period of ten (10) years preceding his application has been continuously in such service, may be retired at half pay either upon his own application or by the decision of the governing body of the City. The annual pension of such retiree shall be equal to fifty (50%) percent of the *\*average of the last three (3) year's salary* received by the lifeguard or officer during employment in the Beach Patrol, which shall be paid in quarterly installments, starting on his/her actual retirement date and ending with the payment for the month in which his/her death occurs.”*

Further

*Members of the Beach Patrol who are qualified and desire to retire and collect the pension benefits, as described herein, shall forward a written notice of their intention to retire to the Commission established hereafter, with copies to the Captain of the Beach Patrol, and the Mayor of the City.*

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*Such notice shall specify the date of retirement. In the event the governing body decides to retire a Plan Member who is eligible for retirement hereunder, notice of such decision shall be given to the Plan Member by the Mayor, and shall specify the date of retirement.*

Following the receipt of the written notice by the Commission it is sent to the CFO to verify eligibility and calculate the pension benefit to be received by the retiree.

To confirm that the retiree has met requirement of completing twenty years of service on the Beach Patrol, the report "Beach Patrol Pension Eligible Years" is run from PrimePoint, the City's payroll platform. This report shows all years in which a beach patrol employee worked sixty or more days, thus meeting the requirement of a "Year of Service" per the Pension document.

The CFO uses the same report to ensure that each of the 10 years prior to the retirement of the employee meet this same requirement.

The employee's date of birth is confirmed from their payroll profile to ensure that they are age forty-five or older.

Once these criteria have been verified, the CFO obtains the retiree's three most recent form W-2s to confirm their last three year's salaries. The average is taken from these salaries and reduced by 50% to determine the annual benefit available to the retiree. This annual benefit is then divided by four to determine the quarterly benefit to be paid out.

The verification of eligibility, along with the calculation of the annual and quarterly benefit, is documented in a memo by the CFO and sent to the Commission members for review and confirmation.

Upon confirmation, the retiree is added to the paygroup "QUARTERLY-Pension Payment" within PrimePoint to begin receiving their benefit.

\*Audit states that it is "***three highest years of compensation***", however our plan documents state "***average of the last three (3) year's salary***".



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**SHAINE P. MEIER**  
Councilmember

Date: June 23, 2025  
TO: Paul Dietrich, City Manager  
From: Kevin Hanie, Acting CFO  
CC: Justin Riggs, Deputy City Manager  
Patricia Taub, Deputy CFO/Payroll Coordinator  
  
RE: Beach Patrol Pension Plan – Employee Years of Service

The audit of the City of Cape May’s Beach Patrol Pension Plan conducted by the New Jersey Office of the State Comptroller for the period January 1, 2020 through December 31, 2022 found that the City did not maintain sufficient records to track pension-eligible years of service.

It was recommended that the City “develop and implement a written procedure to track employees’ pension-eligible years of service and wages over time. The procedure for tracking employee time and wages should include an annual reconciliation between the tracking system data and City payroll records.

**As such, we have developed and implemented a written procedure as follows:**

*Per the City of Cape May’s Beach Patrol Pension Plan effective January 1, 1994 “A "Year of Service" shall consist of such part of the calendar year as the Beach Patrol is normally employed. In no case shall a period of less than sixty (60) working days employment in a calendar year be considered a year of service on the Beach Patrol. Employment with any other municipality or government unit as a lifeguard will not be counted in determining an individual's Years of Service of this Plan.”*

To track Beach Patrol employee’s years of service, a report has been implemented with PrimePoint, the City’s payroll platform. This report “Beach Patrol Pension Eligible Years” shows all years in which a Beach Patrol employee worked sixty or more days, thus meeting the requirement of a “year of service” per the Pension document.

Note that the City began using PrimePoint in July of 2024. As such, payroll records from January 1, 1994 (the inception of the Plan) through June 30, 2024 were obtained for all employees under the Beach Patrol department, with service years counted and verified by the Payroll Coordinator and CFO. This information was incorporated into the report as a fixed data set. From July 2024 onward, the report pulls data from employee timesheets to determine the number of days worked.

Annually, at the end of the Beach Patrol season, the report is run and reconciled to all Beach Patrol employee timesheets to ensure that the data captured is accurate.

# A Performance Audit of the Lifeguard Pension Program: Borough of Longport

AUDIT DIVISION REPORT



Kevin D. Walsh  
Acting State Comptroller

Issued July 23, 2025



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# Audit Authority

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We performed this audit pursuant to the State Comptroller’s authority set forth in N.J.S.A. 52:15C-1 to -24. We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS)<sup>1</sup> applicable to performance audits. Those standards require that we plan and perform 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.

## Background

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In 1928, the Legislature adopted a law that required fourth-class cities<sup>2</sup> to provide a pension upon retirement to lifeguard officers and lifeguards. N.J.S.A. 43:13-23 to -29, which this report will refer to as the Lifeguard Pension Law, mandates that fourth-class cities establish a pension fund, with contributions from both the city and its lifeguard employees, and appoint a commission to manage the fund and its administration. The Borough of Longport (Borough or Longport) was incorporated as a borough in 1898 and is not subject to the Lifeguard Pension Law because it is not a fourth-class city.

The Borough by ordinance created a lifeguard pension plan effective January 1, 1987. The ordinance mirrors the requirements of the Lifeguard Pension Law. This law, as well as the Borough’s ordinance, requires the creation of a pension fund, establishes a system of funding for the program, and empowers a pension commission<sup>3</sup> to make all necessary rules and regulations as long as they are consistent with the law. In addition to the statutory language, the Borough’s ordinance defines pension program terminology, provides additional information regarding plan membership, and establishes retirement eligibility criteria.

In 2022, the Borough paid pension benefits to 11 retirees at a cost of about \$76,200. The Borough’s 2022 budget included approximately \$30,000 to meet the Borough’s contribution requirement and obligations under its pension plan. As of December 31, 2022, the Borough had approximately \$333,400 in funds reserved to pay lifeguard pensions.

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<sup>1</sup> UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE, GOVERNMENT AUDITING STANDARDS 2018 REVISION (Apr. 2021) (“GAGAS”), <https://www.gao.gov/assets/gao-21-368g.pdf>.

<sup>2</sup> Fourth-class cities include cities known as seaside or summer resorts that also border the Atlantic Ocean. N.J.S.A. 40A:6-4.

<sup>3</sup> N.J.S.A. 43-12-28 requires the creation of a pension commission. Longport Borough Ordinance 11-87 utilizes the term pension committee to describe the oversight body of the lifeguard pension program.

### Lifeguard Pension Reserve Activity 2020 through 2022

Year	Balance January 1st	Employee Contributions	Employer Contributions	Other Revenue	Payments to Retirees	Balance December 31st
2020	\$ 411,562	\$ 23,548	\$ 18,983	\$ 8,707	\$ 52,820	\$ 409,980
2021	\$ 409,980	\$ 22,392	\$ 22,784	\$ 6,730	\$ 62,954	\$ 398,932
2022	\$ 398,932	\$ 21,852	\$ 22,425	\$ (33,617)	\$ 76,197	\$ 333,396

### Active and Retired Lifeguard Population

Year	Active Lifeguards	Retirees Receiving Benefits
2020	69	9
2021	73	10
2022	67	11

## Executive Summary

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Our audit identified weaknesses related to the administration of Longport’s lifeguard pension program in the areas of compliance, financial reporting, and internal controls.

Specifically, our audit found that the Borough:

- Created a lifeguard pension plan that was not statutorily required;
- Failed to provide supporting documentation for pension committee member appointments;
- Did not obtain actuary reports and disclose pension liabilities of approximately \$2.8 million in accordance with Governmental Accounting Standards Board (GASB) Statement 73; and
- Did not accurately track service years for all lifeguards.

We make four recommendations to improve the Borough’s internal controls and improve compliance with applicable ordinances, financial reporting requirements, and collective bargaining agreements (CBAs).

We note that subsequent to the scope of our audit, the Borough obtained an actuarial calculation of its lifeguard pension liability and appointed a pension committee member via resolution to comply with its ordinance and GASB Statement 73.

## Audit Objectives

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The objectives of our performance audit were to examine the operations of the Borough's lifeguard pension program to determine whether the program complied with local ordinance, disclosed required financial information, and maintained adequate internal controls.

## Audit Scope

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The period January 1, 2020 through December 31, 2022.

## Audit Methodology

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To accomplish our objectives, we reviewed relevant statutes, regulations, GASB requirements, and the Borough's ordinances addressing the administration of its lifeguard pension program. We reviewed financial records, payroll records, CBAs, and other supporting documentation. Additionally, we interviewed local officials responsible for the lifeguard pension program to understand program operations.

GAGAS requires auditors to plan and perform audit procedures to assess internal control when internal control is determined to be significant to the objective. The Government Accountability Office's Standards for Internal Control in the Federal Government, or "Green Book,"<sup>4</sup> provides a framework for internal control systems for public entities. The Green Book establishes five components of an internal control system: control environment, risk assessment, control activities, information and communication, and monitoring. The five components include 17 principles that support the effective design, implementation, and operation of an internal control system. GAGAS requires written communication of deficiencies in internal control that warrant the attention of those charged with governance. Deficiencies significant to our audit objectives are included in this report. We communicate internal control deficiencies that are not significant to our audit objectives through separate correspondence to those charged with governance.

We reviewed all items within populations of like transactions identified during the scope of our audit to provide conclusions about the adequacy of internal controls and compliance with applicable laws, regulations, policies, and procedures.

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<sup>4</sup> UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE, STANDARDS FOR INTERNAL CONTROL IN THE FEDERAL GOVERNMENT, (SEPT. 2014) ("Green Book"), <https://www.gao.gov/assets/gao-14-704g.pdf>.

# Audit Findings and Recommendations

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## Lifeguard Pension Program

### Objectives

*Determine whether the Borough complied with the Lifeguard Pension Law, N.J.S.A. 43:13-23 to -29.*

*Determine whether the Borough complied with local ordinance and CBA requirements.*

*Determine whether the Borough complied with GASB Statement 73 requirements for lifeguard pension program disclosures within its financial report.*

*Determine whether the Borough adequately designed and implemented internal controls to ensure compliance with program statutes and internal guidelines for the operation of its lifeguard pension program.*

### Findings

The Borough created a costly lifeguard pension plan without a statutory requirement to create such a program.

The Borough could not provide evidence that pension committee members were appointed by the mayor with the advice and consent of the governing body as required by local ordinance.

Annual audit reports did not disclose the Borough's total lifeguard pension liability calculated by an actuary as required by GASB Statement 73. The estimated total lifeguard pension liability was approximately \$2.8 million as of December 31, 2022.

The Borough's system for tracking lifeguard service years contained inaccuracies.

### Criteria

Ordinance 11-87 established and designed the Borough's lifeguard pension program. The ordinance requires the Borough to provide a retirement benefit equal to half-pay to lifeguard employees who are at least 45 years of age and have worked 20 years of eligible service. The pension benefits are funded by contributions from active employees, interest earnings, and budget appropriations. The Borough must budget to provide the Borough's annual four percent contribution plus any additional amount needed to meet the requirements of the pension program. The Borough accounts for funds in excess of the amount needed to pay current benefits in a separate fund designated for future pension payments. Additionally, the ordinance describes the process for appointing members to the Borough's pension committee and requires that the four-member committee include one lifeguard officer, one lifeguard employee, and two citizens who are not lifeguards.

The Borough's lifeguard employees are subject to a CBA. The CBA defines the number of days an employee must work to earn credit for a year of pension-eligible service and other criteria not included in the Borough's ordinances.

The financial activity and year-end balances for the Borough's lifeguard pension program are reported in its annual audit report. N.J.A.C. 5:30-6.1 establishes the guidelines for municipal audit reports and requires local governments to include GASB disclosures in the notes to the Borough's financial statements. GASB issued Statement 73 to improve the usefulness of information about pensions included in financial reports issued by local and state and governments.<sup>5</sup> GASB Statement 73 requires actuarial reports and disclosure of pension liabilities and reserves.

The Green Book provides a framework for internal control systems for public entities. The Green Book's five components and the related 17 principles of an internal control system serve as the basis for our assessment of the design, implementation, and operation of the Borough's internal control system.

### Methodology

To meet these objectives, we:

- Reviewed the Lifeguard Pension Law, local ordinances, and CBAs;
- Interviewed relevant Borough officials;
- Reviewed payroll and other financial documentation; and
- Performed audit procedures designed to meet our audit objectives.

### Audit Results

We audited the Borough's lifeguard pension program to assess compliance with statutes, local ordinances, the CBA, and GASB Statement 73. We reviewed the pension program's operations, assessed internal controls, and tested the design and implementation of the program.

#### **Compliance with Statutes and Local Guidelines**

Our audit found that the Borough, through a local ordinance, created a pension fund that adopted many of the same elements required of fourth-class cities pursuant to the Lifeguard Pension Law. However, due to its incorporation as a borough, Longport is not statutorily required to create, operate, or fund a pension for its seasonal lifeguard employees. Its ordinance establishing the Borough's pension fund identifies the Borough as a, "city of the fourth class." Our audit did not find evidence supporting this claim; evidence shows that Longport has been a borough since 1898. The Borough shared evidence suggesting that at the time of adoption of the ordinance it had interpreted the meaning of "city of the fourth class" to include boroughs such as Longport.

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<sup>5</sup> GOVERNMENTAL ACCOUNTING STANDARDS BOARD, STATEMENT NO. 73, "ACCOUNTING AND FINANCIAL REPORTING FOR PENSIONS AND RELATED ASSETS THAT ARE NOT WITHIN THE SCOPE OF GASB STATEMENT 68, AND AMENDMENTS TO CERTAIN PROVISIONS OF GASB STATEMENTS 67 AND 68" (June 2015), [GASB Statement No. 73](#).

We requested documentation to determine whether pension committee members were properly approved and eligible to serve as members. Ordinance 11-87 requires Longport's mayor to appoint members with the advice and consent of the governing body. The committee must consist of one senior lifeguard, one lifeguard, and two citizens. The Borough provided minutes of the pension committee meetings listing the four committee members. However, the documentation did not include evidence that the members met the eligibility criteria contained in its ordinance and were appointed by the mayor with the advice and consent of the governing body. On July 17, 2024, the Borough's governing body reappointed a member of its pension committee by resolution. The resolution memorializes the governing body's advice and consent to the reappointment, improves compliance with its ordinance, and adds transparency to committee appointments.

### **Compliance with Financial Reporting Standards**

We reviewed the Borough's audit reports for 2020 through 2022 and found that Longport's lifeguard pension disclosures failed to comply with GASB Statement 73 requirements. Most significantly, the Borough did not disclose its pension plan liability in its annual audit reports. In addition, Longport's auditor did not report the Borough's failure to disclose required and likely material information about the pension program in the Borough's annual audit reports. The Borough's failure to obtain required actuary reports limits transparency and impairs oversight of program funding by the governing body.

We engaged an actuary to estimate the Borough's pension liability. This calculation included assumptions regarding salaries, inflation, and life expectancy subject to professional judgement and relied on the data obtained as part of this audit. We made reasonable assumptions when requested data was not provided.<sup>6</sup> We estimated the future costs associated with Longport's lifeguard pension program as of December 31, 2022 was approximately \$2.8 million, but the Borough's pension fund had a balance of approximately \$333,400 at the end of 2022. Based on this estimate, the Borough's lifeguard pension fund was underfunded by approximately \$2.4 million. During our audit, the Borough engaged its own actuary and obtained an actuarial calculation of its pension liability. The report estimated the Borough's unfunded lifeguard pension liability to be \$3.7 million as of January 1, 2024. The actuarial calculations primarily differ due to variations in the number of retired participants, adjusted assumptions regarding retirement age, and fluctuations in total lifeguard compensation.

### **Design, Implementation, and Operation of Internal Controls**

We audited the Borough's internal policies, processes, and other internal lifeguard pension program activities. A well-designed system aids in compliance with applicable law, including local ordinances, and guards against errors.

Our audit revealed weaknesses in internal control related to the tracking of pension-eligible service years and maintenance of records. The Borough designed and implemented a system to track employees' pensionable years of service. We compared the Borough's tracking system to payroll records during our audit scope to determine whether the Borough accurately awarded

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<sup>6</sup> Actuarial calculations of total pension program liabilities could change materially based upon changes in assumptions used to calculate the pension liability and the availability of historical pension program data.

years of pension credit. Our testing identified ten occurrences of improperly awarded service credit for the 113 employees tested. We found five employees received credit for a full-year of eligible service without working the minimum number of days established by ordinance. We also found five employees who worked a sufficient number of days but did not receive credit for a full-year of eligible service. Improvements to the operational effectiveness of the Borough's system of tracking years of eligible service would help prevent the improper award of retirement benefits.

### Causes

The Borough created a lifeguard pension program without being required to do so by statute due to confusion related to the applicability of the Lifeguard Pension Law.

The Borough lacked a process to document pension committee members' eligibility and proper approvals.

The Borough did not obtain actuary reports required for annual financial report disclosures.

The Borough's procedures for awarding years of service credit did not identify inaccurately awarded or denied years of service.

### Effects/Potential Effects

Longport increased costs to taxpayers and lifeguards who failed to meet retirement eligibility by creating a lifeguard pension program that was not legally required.

The failure to maintain documentation for Longport's pension committee members limits transparency into the committee's membership.

Inadequate disclosures prevent public transparency into total pension costs and the sufficiency of Borough contributions. In addition, public insight into the cost of the lifeguard pension program was prevented by Longport's failure to disclose approximately \$2.8 million total liability.

The Borough could incorrectly award or deny a retiree's retirement benefit based on inaccurate information in the Borough's tracking system.

### Recommendations

1. Consult with Borough legal professionals to determine legally permissible options to end the Borough's lifeguard pension program. Evaluate whether to end the Borough's lifeguard pension program in a manner consistent with the advice of the Borough's legal professionals.
2. Continue to memorialize the appointment of pension committee members by the mayor with the advice and consent of the governing body through resolution.
3. Continue to obtain periodic actuary calculations of the Borough's lifeguard pension fund as required by GASB Statement 73. Improve the adequacy of lifeguard pension disclosures to comply with the requirements of GASB Statement 73.

4. Implement procedures to include an annual reconciliation between the tracking system data and Borough payroll records.

## Reporting Requirements

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We provided a draft copy of this report to Borough officials for their review and comment. The Borough generally agreed with our audit findings and conclusions, and its response indicated the Borough has taken steps and will continue to implement corrective actions to address our recommendations. The Borough's comments were considered in preparing our final report and are attached as Appendix A.

We are required by statute to monitor the implementation of our recommendations. In accordance with N.J.A.C. 17:44-2.8(a), within 90 days following the distribution of the final audit report, the Borough is required to provide a plan detailing the corrective action taken or underway to implement the recommendations contained in the report and, if not implemented, the reason therefore. We will review the corrective action plan to evaluate whether the steps taken by the Borough effectively implement our recommendations.

We thank the management and staff of the Borough for the courtesies and cooperation extended to our auditors during this engagement.



*Borough of Longport*  
*Municipal Administrator*  
*2305 Atlantic Avenue*  
*Longport, New Jersey 08403*



Deputy Director, Audit Division

The Borough of Longport would like to thank the New Jersey State Comptrollers Office for taking the time to evaluate the Borough's Lifeguard Pension Fund. The recommendations from the report were all reviewed and action has been taken to make the necessary corrections. With regards to the Executive Summary each stated weakness has been addressed in the following ways:

**1. Created a lifeguard pension plan that was not statutorily required:**

Neither the current governing body, Solicitor or Chief Financial Officer were with the Borough of Longport when the pension was created in 1987. The legal advice provided regarding the need for the Borough to have a Lifeguard pension is unknown at this time. The Borough has been advised by the State Comptroller that while the Borough may not have been legally required to have instituted a Lifeguard pension, there is no legal requirement for the same be discontinued at this time. The Borough will continue to explore options on how to address this issue responsibly.

**2. Failed to provide supporting documentation for pension committee members:**

The Borough is taking corrective action on this issue by appointing pension committee members to meet the requirements in the ordinance and the Lifeguard Pension Documents

**3. Did not obtain actuary reports and disclose pension liabilities of approximately \$2.8 million in accordance with Governmental Accounting Standards Board (GASB) Statement a 73:**

The Borough of Longport began discussing obtaining an actuary firm to do an actuarial report in February 2023 but due to budgetary constraints the firm could not be contracted until December 2023 when funds were able to be transferred. We were contacted by the Comptroller's office in September 2023 to begin the audit on the Lifeguard Pension fund. The actuary report was finished and received by the Borough in July 2024 before the conclusion of this audit. The Borough has budgeted additional funds in the 2025 budget for the lifeguard pension fund and plans to continue this in future budget

years to work toward fully funding the lifeguard pension fund. The Borough also plans to periodically obtain actuary calculations as recommended in the audit.

**4. Did not accurately track lifeguard service years for all lifeguards:**

For the past 20 plus years the Borough has completed a service credit spreadsheet for service credit years for all lifeguards and this will continue for all future years. The Borough also has payroll records dating back to 1987 when the pension plan was established to provide backup for service credit years. There were some payroll discrepancies that we believe were credit service days given for an employee who did not work a full day. The Borough plans on addressing what is considered a work day for service credit in the upcoming contract negotiations. The Borough will continue to work on improving the tracking system for service credit days to ensure accuracy.

The Borough of Longport will continue to find ways to track and document information regarding the Lifeguard Pension System more efficiently to ensure accurate and complete records.

Thank you for your time.

Respectfully,

Patrick M. Dellane  
Municipal Administrator

# A Performance Audit of the Lifeguard Pension Program: City of Margate City

AUDIT DIVISION REPORT



Kevin D. Walsh  
Acting State Comptroller

Issued July 23, 2025



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# Audit Authority

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We performed this audit pursuant to the State Comptroller’s authority set forth in N.J.S.A. 52:15C-1 to -24. We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS)<sup>1</sup> applicable to performance audits. Those standards require that we plan and perform 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.

## Background

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In 1928, the Legislature adopted a law that required fourth-class cities<sup>2</sup> to provide a pension upon retirement to lifeguard officers and lifeguards. The law was amended in 1929 to provide pension benefits to surviving spouses and minor children. In 1936, the law was amended again to increase the retirement age, the required years of service, and the level of employee contributions. N.J.S.A. 43:13-23 to -29, which this report will refer to as the Lifeguard Pension Law, mandates that fourth-class cities establish a pension fund, with contributions from both the city and its lifeguard employees, and appoint a commission to manage the fund and its administration. The statutes empower the pension commission to make all necessary rules and regulations as long as they are consistent with the law.

The City of Margate City (City or Margate) by ordinance created a pension plan for lifeguards effective January 1, 1987. The ordinance defines pension program terminology, provides additional information regarding plan membership, and establishes eligibility criteria.

In 2022, Margate paid pension benefits to 10 retirees at a cost of about \$74,600. The City’s 2022 budget included approximately \$119,000 to meet the City’s statutory contribution requirement and obligations under its pension plan. As of December 31, 2022, Margate had approximately \$740,000 in funds reserved to pay lifeguard pensions.

### Lifeguard Pension Reserve Activity 2020 through 2022

Year	Balance January 1st	Employee Contributions	Employer Contributions	Other Revenue	Payments to Retirees	Balance December 31st
2020	\$ 504,726	\$ 20,713	\$ 109,160	\$ 1,962	\$ 61,436	\$ 575,126
2021	\$ 575,126	\$ 19,452	\$ 145,919	\$ 1,702	\$ 69,321	\$ 672,878
2022	\$ 672,878	\$ 19,712	\$ 118,769	\$ 3,558	\$ 74,594	\$ 740,323

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<sup>1</sup> UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE, GOVERNMENT AUDITING STANDARDS 2018 REVISION (Apr. 2021) (“GAGAS”), <https://www.gao.gov/assets/gao-21-368g.pdf>.

<sup>2</sup> Fourth-class cities include cities known as seaside or summer resorts that also border the Atlantic Ocean. N.J.S.A. 40A:6-4.

## Active and Retired Lifeguard Population

Year	Active Lifeguards	Retirees Receiving Benefits
2020	71	8
2021	65	9
2022	70	10

## Executive Summary

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Our audit identified weaknesses related to the administration of Margate’s lifeguard pension program in the areas of compliance and financial reporting.

Specifically, our audit found that the City:

- Failed to appoint pension commission members in compliance with the Lifeguard Pension Law; and
- Did not report the lifeguard pension liabilities in accordance with Governmental Accounting Standards Board (GASB) Statement 73.

City administrators took appropriate corrective actions when informed of the deficiencies above by adopting multiple resolutions to appoint pension commission members and by providing appropriate disclosures regarding its pension obligations in its 2023 audit report. Accordingly, our report does not include additional recommendations to the City.

## Audit Objectives

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The objectives of our performance audit were to examine the operations of the City’s lifeguard pension program to determine whether the program complied with applicable local ordinance and state statutory requirements, disclosed required financial information, and maintained adequate internal controls.

## Audit Scope

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The period January 1, 2020 through December 31, 2022.

## Audit Methodology

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To accomplish our objectives, we reviewed relevant statutes, regulations, GASB requirements, and the City’s policies and procedures addressing the administration of its lifeguard pension program. We reviewed financial records, payroll records, collective bargaining agreements

(CBAs), and other supporting documentation. Additionally, we interviewed local officials responsible for the lifeguard pension programs to understand program operations.

GAGAS requires auditors to plan and perform audit procedures to assess internal control when internal control is determined to be significant to the objective. The Government Accountability Office's Standards for Internal Control in the Federal Government, or "Green Book,"<sup>3</sup> provides a framework for internal control systems for public entities. The Green Book establishes five components of an internal control system: control environment, risk assessment, control activities, information and communication, and monitoring. The five components include 17 principles that support the effective design, implementation, and operation of an internal control system. GAGAS requires written communication of deficiencies in internal control that warrant the attention of those charged with governance. Deficiencies significant to our audit objectives are included in this report. We communicated internal control deficiencies that are not significant to our audit objectives through separate correspondence to those charged with governance.

We reviewed all items within populations of like transactions identified during the scope of our audit to provide conclusions about the adequacy of internal controls and compliance with applicable laws, regulations, policies, and procedures.

## Audit Findings and Recommendations

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### Lifeguard Pension Program

#### Objectives

*Determine whether the City complied with the Lifeguard Pension Law, N.J.S.A. 43:13-23 to -29.*

*Determine whether the City complied with local ordinance and CBA requirements.*

*Determine whether the City complied with GASB Statement 73 requirements for lifeguard pension program disclosures within its financial report.*

*Determine whether the City adequately designed and implemented internal controls to ensure compliance with program statutes and internal guidelines for the operation of its lifeguard pension program.*

#### Findings

The Mayor did not appoint pension commission members with the advice and consent of the governing body in accordance with N.J.S.A. 43:13-28.

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<sup>3</sup> UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE, STANDARDS FOR INTERNAL CONTROL IN THE FEDERAL GOVERNMENT, (SEPT. 2014) ("Green Book"), <https://www.gao.gov/assets/gao-14-704g.pdf>.

The City did not make adequate disclosures required by GASB Statement 73 related to the lifeguard pension program including the disclosure of pension plan liability. The estimated total plan liability is approximately \$2.4 million.

### Criteria

The Lifeguard Pension Law requires fourth-class cities to provide a retirement benefit equal to half-pay to lifeguard employees who are at least 45 years of age and have worked 20 years of eligible service. The pension benefits are funded by contributions from active employees, interest earnings, and budget appropriations. Every fourth-class city with a beach on the ocean that hires lifeguards must budget to provide the fund with the required annual four percent contribution plus any additional amount needed to meet the requirements of the pension program. The City accounts for funds in excess of the amount needed to pay current benefits in a separate fund designated for future pension payments.

The Lifeguard Pension Law requires the mayor or chief executive officer of municipalities subject to the law to appoint, with the advice and consent of the governing body of the city, a lifeguard pension commission consisting of four members, including a superior officer of the lifeguards, a lifeguard, and two citizens who are not lifeguards. They shall serve for a term of four years and until their successors are appointed and have qualified and shall not receive any compensation for their services.

The City must also comply with Ordinance 1987-16, which creates the lifeguard pension program and establishes the number of days an employee must work to obtain a year of pensionable service credit, and the CBA it negotiated with the lifeguards.

The financial activity and year-end balances for the City's lifeguard pension program are reported in its annual audit report. N.J.A.C. 5:30-6.1 establishes the guidelines for municipal audit reports and requires local governments to include GASB disclosures in the notes to the City's financial statements. GASB issued Statement 73 to improve the usefulness of information about pensions included in financial reports issued by local and state governments.<sup>4</sup> GASB Statement 73 requires actuarial reports and disclosure of pension liabilities and reserves.

The Green Book provides a framework for internal control systems for public entities. The Green Book's five components and the related 17 principles of an internal control system serve as the basis for our assessment of the design, implementation, and operation of the City's internal control system.

### Methodology

To meet these objectives, we:

- Reviewed the Lifeguard Pension Law, local ordinances, plan documentation, and CBAs;

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<sup>4</sup> GOVERNMENTAL ACCOUNTING STANDARDS BOARD, STATEMENT NO. 73, "ACCOUNTING AND FINANCIAL REPORTING FOR PENSIONS AND RELATED ASSETS THAT ARE NOT WITHIN THE SCOPE OF GASB STATEMENT 68, AND AMENDMENTS TO CERTAIN PROVISIONS OF GASB STATEMENTS 67 AND 68" (June 2015), [GASB Statement No. 73](#).

- Interviewed relevant City officials;
- Reviewed payroll and other financial documentation; and
- Performed audit procedures designed to meet our audit objectives.

### **Audit Results**

We audited the City's lifeguard pension program to assess compliance with statutes, local ordinances, the CBA, and GASB Statement 73. We reviewed the pension program's operations, assessed internal controls, and tested the design and implementation of the program.

#### **Compliance with Statutes and Local Guidelines**

Our audit found that although the City has an operating pension commission, it was not able to provide documentation showing that each commission member was appointed to a four-year term by the mayor with the advice and consent of the governing body. As noted, each pension commission must be made up of four members: one officer of the lifeguards, one lifeguard, and two citizens who are not lifeguards. When informed of the lack of documentation, the City approved resolutions #293-2023, 127-2024, 128-2024, and 129-2024 to memorialize the Mayor's appointment of four pension commission members, and their respective designation, to four-year terms with the advice and consent of the governing body.

#### **Compliance with Financial Reporting Standards**

We reviewed the City's audit reports for 2020 through 2022 and found that the City's disclosures related to its lifeguard pension failed to meet the requirements of GASB Statement 73. Most significantly, Margate did not disclose its pension plan liability in its annual audit reports. The City obtained an actuary report calculating the lifeguard pension program liability in 2022 but did not include the required information in its annual audit report. As of January 1, 2022, the actuarially calculated total liability related to the City's lifeguard pension program was approximately \$2.4 million. The estimated value of assets at the measurement date was \$679,100. The shortfall of \$1.8 million between the amount in its account and the calculated total liability represents the estimated amount the City must include in future budgets to eliminate the shortfall. The City's 2023 audit report appropriately disclosed the liability associated with the lifeguard pension program.

#### **Design, Implementation, and Operation of Internal Controls**

We audited the City's internal policies, processes, and other internal lifeguard pension program activities. A well-designed system aids in compliance with applicable law, including local ordinances, and guards against errors.

Our audit procedures did not identify significant weaknesses in internal control related to calculating and tracking employee pensionable service years, calculating and approving employee retirement payments, or maintaining adequate documentation.

### Causes

Margate did not appoint the pension commission members by resolution and did not document how each pension commission member met statutory eligibility criteria.

Margate did not disclose its lifeguard pension program liability in its annual audit reports.

### Effects/Potential Effects

The City limits public transparency into the lifeguard pension program by failing to appoint its pension commission members by resolution.

Margate did not disclose an approximately \$2.4 million total pension liability in audit reports before 2023, which prevented the public from being aware of the cost of the City's lifeguard pension program.

### Recommendations

Margate addressed the deficiencies identified in this report during the course of our audit. We do not recommend any additional actions.

## Reporting Requirements

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We provided a draft copy of this report to City officials for their review and comment. The City agreed with our audit findings and conclusions and its response indicated the City has taken corrective actions. The City's comments were considered in preparing our final report and are attached as Appendix A.

We thank the management and staff of the City for the courtesies and cooperation extended to our auditors during this engagement.



LISA F. MCLAUGHLIN, CPA, CMFO  
CHIEF FINANCIAL OFFICER

## CITY OF MARGATE CITY

MUNICIPAL BUILDING  
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Lmclaughlin@margate-nj.com

June 10, 2025

New Jersey Office of the State Comptroller  
Audit Division

Re: City of Margate City Lifeguard Pension Plan Performance Audit

To whom it may concern:

The Officials of the City of Margate City agree with the audit findings and conclusions noted in the audit report for the period January 1, 2020 through December 31, 2022 and have taken corrective actions. All corrective actions are included in the report and are detailed as follows:

### Findings:

1. The Mayor did not appoint pension commission members with the advice and consent of the governing body in accordance with N.J.S.A. 43:13-28.
2. The City did not make adequate disclosures required by GASB Statement 73 related to the lifeguard pension program including the disclosure of pension plan liability. The estimated total plan liability is approximately \$2.4 million.

### Corrective Action:

1. The City approved resolutions #293-2023, 127-2024, 128-2024, and 129-2024 to memorialize the Mayor's appointment of four pension commission members, and their respective designation, to four-year terms with the advice and consent of the governing body.
2. The City's 2023 audit report appropriately disclosed the liability associated with the lifeguard pension program.

Yours truly,

A handwritten signature in black ink, appearing to read "Lisa McLaughlin", is written over a horizontal line.

Lisa McLaughlin, CPA, CMFO  
Chief Financial Officer/Margate City Lifeguard Pension Plan Administrator

# A Performance Audit of the Lifeguard Pension Program: City of North Wildwood

AUDIT DIVISION REPORT



Kevin D. Walsh  
Acting State Comptroller

Issued July 23, 2025



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# Audit Authority

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We performed this audit pursuant to the State Comptroller’s authority set forth in N.J.S.A. 52:15C-1 to -24. We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS)<sup>1</sup> applicable to performance audits. Those standards require that we plan and perform 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.

## Background

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In 1928, the Legislature adopted a law that required fourth-class cities<sup>2</sup> to provide a pension upon retirement to lifeguard officers and lifeguards. The law was amended in 1929 to provide pension benefits to surviving spouses and minor children. In 1936, the law was amended again to increase the retirement age, the required years of service, and the level of employee contributions. N.J.S.A. 43:13-23 to -29, which this report will refer to as the Lifeguard Pension Law, mandates that fourth-class cities establish a pension fund, with contributions from both the city and its lifeguard employees, and appoint a commission to manage the fund and its administration. The statutes empower the pension commission to make all necessary rules and regulations as long as they are consistent with the law.

The City of North Wildwood (City or North Wildwood) by Ordinance 1078 created a pension plan for lifeguards effective December 18, 1990. The ordinance defines pension program terminology, provides additional information regarding plan membership, and establishes eligibility criteria.

In 2022, the City paid pension benefits to 11 retirees at a cost of approximately \$48,500. North Wildwood’s 2022 budget included approximately \$27,600 to meet the City’s statutory contribution requirement and obligations under its pension plan. As of December 31, 2022, the City had approximately \$171,400 in funds reserved to pay lifeguard pensions.

### Lifeguard Pension Reserve Activity 2020 through 2022

Year	Balance January 1st	Employee Contributions	Employer Contributions	Other Revenue	Payments to Retirees	Balance December 31st
2020	\$ 201,114	\$ 20,501	\$ 20,501	\$ 1,638	\$ 48,952	\$ 194,802
2021	\$ 194,802	\$ 19,585	\$ 19,585	\$ 632	\$ 70,871	\$ 163,734
2022	\$ 163,734	\$ 27,510	\$ 27,511	\$ 1,108	\$ 48,477	\$ 171,386

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<sup>1</sup> UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE, GOVERNMENT AUDITING STANDARDS 2018 REVISION (Apr. 2021) (“GAGAS”), <https://www.gao.gov/assets/gao-21-368g.pdf>.

<sup>2</sup> Fourth-class cities include cities known as seaside or summer resorts that also border the Atlantic Ocean. N.J.S.A. 40A:6-4.

### Active and Retired Lifeguard Population

Year	Active Lifeguards	Retirees Receiving Benefits
2020	76	11
2021	72	11
2022	97	11

## Executive Summary

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Our audit identified weaknesses related to the administration of the North Wildwood's lifeguard pension program in the areas of compliance, financial reporting, and internal controls.

Specifically, our audit found that the City:

- Improperly paid an ineligible retiree approximately \$62,000;
- Did not obtain actuary reports and disclose pension liabilities in accordance with Governmental Accounting Standards Board (GASB) Statement 73; and
- Failed to accurately track lifeguard service years, review eligibility, and maintain payroll records needed to administer its pension plan.

We make five recommendations to improve the City's internal controls and improve compliance with applicable law, local ordinances, and financial reporting requirements.

## Audit Objectives

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The objectives of our performance audit were to examine the operations of the City's lifeguard pension program to determine whether the program complied with applicable local and state statutory requirements, disclosed required financial information, and maintained adequate internal controls.

## Audit Scope

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The period January 1, 2020 through December 31, 2022.

## Audit Methodology

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To accomplish our objectives, we reviewed relevant statutes, regulations, GASB requirements, and the City's local ordinance addressing the administration of its lifeguard pension program. We

reviewed financial records, payroll records, and other supporting documentation. Additionally, we interviewed local officials responsible for the lifeguard pension program to understand program operations.

GAGAS requires auditors to plan and perform audit procedures to assess internal control when internal control is determined to be significant to the objective. The Government Accountability Office's Standards for Internal Control in the Federal Government, or "Green Book,"<sup>3</sup> provides a framework for internal control systems for public entities. The Green Book establishes five components of an internal control system: control environment, risk assessment, control activities, information and communication, and monitoring. The five components include 17 principles that support the effective design, implementation, and operation of an internal control system. GAGAS requires written communication of deficiencies in internal control that warrant the attention of those charged with governance. Deficiencies significant to our audit objectives are included in this report. We communicate internal control deficiencies that are not significant to our audit objectives through separate correspondence to those charged with governance.

As part of our review, we selected a judgmental sample of records. Our samples were designed to provide conclusions about the validity of the sampled transactions and the adequacy of internal controls and compliance with applicable laws, regulations, policies, and procedures. Because we used a non-statistical sampling approach, the results of our testing cannot be projected over the entire population of like transactions or contracts.

## Audit Findings and Recommendations

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### Lifeguard Pension Program

#### Objectives

*Determine whether the City complied with the Lifeguard Pension Law, N.J.S.A. 43:13-23 to -29.*

*Determine whether the City complied with local ordinance requirements.*

*Determine whether the City complied with GASB Statement 73 requirements for lifeguard pension program disclosures within its financial report.*

*Determine whether the City adequately designed and implemented internal controls to ensure compliance with program statutes and internal guidelines for the operation of its lifeguard pension program.*

#### Findings

The City approved retirement benefits for an ineligible retiree, resulting in improper payments of approximately \$62,000.

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<sup>3</sup> UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE, STANDARDS FOR INTERNAL CONTROL IN THE FEDERAL GOVERNMENT, (SEPT. 2014) ("Green Book"), <https://www.gao.gov/assets/gao-14-704g.pdf>.

Annual audit reports did not disclose the City's total lifeguard pension liability calculated by an actuary as required by GASB Statement 73.

The City's service credit tracking system did not accurately record the total number of lifeguard service years. The pension commission did not review the verification of retiree eligibility or the calculation of retiree benefits.

### Criteria

The Lifeguard Pension Law requires fourth-class cities to provide a retirement benefit equal to half-pay to lifeguard employees who are at least 45 years of age and have worked 20 years of eligible service. The pension benefits are funded by contributions from active employees, interest earnings, and budget appropriations. Every fourth-class city with a beach on the ocean that hires lifeguards must budget to provide the fund with the required annual four percent contribution plus any additional amount needed to meet the requirements of the pension program. The City accounts for funds in excess of the amount needed to pay current benefits in a separate fund designated for future pension payments.

In addition to complying with the Lifeguard Pension Law, the City must also meet the obligations imposed by ordinance. Ordinance 1078 defines that lifeguard employees must have worked for 20 years and for a period of ten consecutive years to be fully vested in the City's pension plan. Additionally, members shall not be eligible to receive pension benefits until they have reached 45 years of age. Lifeguard employees must work a minimum of 45 days within a calendar year to earn one year of service credit towards the 20 years of service required for retirement benefit eligibility.

The financial activity and year-end balances for the City's lifeguard pension program are reported in its annual audit report. N.J.A.C. 5:30-6.1 establishes the guidelines for municipal audit reports and requires local governments to include GASB disclosures in the notes to the City's financial statements. GASB issued Statement 73 to improve the usefulness of information about pensions included in financial reports of local and state governments.<sup>4</sup> GASB Statement 73 requires actuarial reports and disclosure of pension liabilities and reserves.

The Green Book provides a framework for internal control systems for public entities. The Green Book's five components and the related 17 principles of an internal control system serve as the basis for our assessment of the design, implementation, and operation of the City's internal control system.

### Methodology

To meet these objectives, we:

- Reviewed the Lifeguard Pension Law and the City's plan documentation;

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<sup>4</sup> GOVERNMENTAL ACCOUNTING STANDARDS BOARD, STATEMENT NO. 73, "ACCOUNTING AND FINANCIAL REPORTING FOR PENSIONS AND RELATED ASSETS THAT ARE NOT WITHIN THE SCOPE OF GASB STATEMENT 68, AND AMENDMENTS TO CERTAIN PROVISIONS OF GASB STATEMENTS 67 AND 68" (June 2015), [GASB Statement No. 73](#).

- Interviewed relevant City officials;
- Reviewed payroll and other financial documentation; and
- Performed audit procedures designed to meet our audit objectives.

## **Audit Results**

We audited the City's lifeguard pension program to assess compliance with statutes, local ordinances, and GASB Statement 73. We reviewed the pension program's operations, assessed internal controls, and tested the design and implementation of the program.

### **Compliance with Statutes and Local Guidelines**

Our audit identified one individual receiving higher pension payments than permitted under the City's ordinance. Our review found the City failed to take half of the lifeguard's average earnings when calculating benefits as required by the Lifeguard Pension Law. The City took steps to correct a portion of the improper payments once alerted to our finding. The City's attorney notified the retiree of the error in June 2024. The retiree was given the option to either return the overpaid funds or immediately discontinue future pension payments until the full amount was recovered. Upon further review, it was determined that the employee was initially ineligible for pension payments. The employee had fewer than 20 years of pension-eligible service by not working a minimum of 45 days during multiple years. The pension payments began in 2016, with the retiree receiving approximately \$62,000 in ineligible payments. In response to our findings, the City reported that it discontinued payments to the ineligible retiree, conducted a review of all retirees' eligibility, and confirmed that there were no additional ineligible recipients.

### **Compliance with Financial Reporting Standards**

We reviewed the City's audit reports for 2020 through 2022 and found that its financial disclosures related to its lifeguard pension failed to meet the requirements of GASB Statement 73. Most significantly, the City did not disclose its pension plan liability in its annual audit reports. In addition, the City's auditor did not report the City's failure to disclose required and likely material information about the pension program in the City's annual audit reports. The City's failure to obtain required actuary reports limits transparency and impairs oversight of program funding by the governing body.

### **Design, Implementation, and Operation of Internal Controls**

We audited the City's internal policies, processes, and other internal lifeguard pension program activities. A well-designed system aids in compliance with applicable law, including local ordinances, and guards against errors.

Our audit identified weaknesses in internal control related to the calculating and tracking of pension-eligible service years and found improper authorization of an employee's retirement payments. The City maintained sufficient payroll data enabling the verification of pension-eligible service and wages to permit the recalculation of retirement benefits. However, the City did not have a centralized process to track service and wage data. After receiving an application for retirement, the City's human resources unit assembles the employee's wage data while the chief financial officer calculates the retirement benefits. The City did not require an independent review

to verify retiree eligibility or benefit calculations. The weaknesses in internal controls created a situation in which mistakes occurred and remain uncorrected.

### Causes

The City incorrectly approved benefits for one retiree who did not meet retirement eligibility criteria.

The City did not obtain actuary reports required for annual financial report disclosures.

The City's tracking system did not accurately maintain records of lifeguard service credit. In addition, the City lacked a separate review process for verifying retirees' benefits eligibility and calculations of those benefits.

### Effects/Potential Effects

The City provided retirement benefits of approximately \$62,000 to an ineligible retiree.

Inadequate disclosures prevent public transparency into total pension costs and the sufficiency of City contributions.

The failure to accurately document service credit years earned by lifeguards resulted in inaccurate pension payment approvals. This failure may also prevent transparency into years of pension-eligible service when an employee is considering continued employment or retirement. In addition, the lack of a review of accumulated payroll data and retirement benefit calculations may allow for mistakes or errors to persist without being identified and corrected.

### Recommendations

1. Develop and implement written procedures that require the pension commission to verify employees' eligibility and approve benefit calculations.
2. Obtain periodic actuary calculations of the City's lifeguard pension fund as required by GASB Statement 73. Improve the adequacy of lifeguard pension disclosures to comply with the requirements of GASB Statement 73.
3. Improve the City's tracking system to ensure accurate calculations and tracking of total pension-eligible service credit and total wages earned for lifeguards.
4. Implement procedures to annually reconcile service credits earned to payroll records and examine any identified differences.
5. Seek legal guidance to recover all improperly paid retirement benefits and discontinue payments to the retiree who did not meet the eligibility requirements.

# Reporting Requirements

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We provided a draft copy of this report to City officials for their review and comment. The City generally agreed with our audit findings and conclusions. However, its response indicated that GASB Statement 68<sup>5</sup> may be a more appropriate financial reporting standard for pension disclosures. The City's use of GASB Statement 68 is appropriate if, in the opinion of the City's actuaries and auditors, the City's trust fund meets the requirements in Paragraph 4 of GASB Statement 68. The City has taken steps and will continue to implement corrective actions to address our recommendations. The City's comments were considered in preparing our final report and are attached as Appendix A.

We are required by statute to monitor the implementation of our recommendations. In accordance with N.J.A.C. 17:44-2.8(a), within 90 days following the distribution of the final audit report, the City is required to provide a plan detailing the corrective action taken or underway to implement the recommendations contained in the report and, if not implemented, the reason therefore. We will review the corrective action plan to evaluate whether the steps taken by the City effectively implement our recommendations.

We thank the management and staff of the City for the courtesies and cooperation extended to our auditors during this engagement.

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<sup>5</sup> GOVERNMENTAL ACCOUNTING STANDARDS BOARD, STATEMENT NO. 68, "ACCOUNTING AND FINANCIAL REPORTING FOR PENSIONS: AN AMENDMENT OF GASB STATEMENT NO. 27" (June 2012), [GASB Statement No. 68](#).

Patrick T. Rosenello  
Mayor



Todd Burkey  
Chief Financial Officer

07/07/2025

██████████  
Administrative Analyst/Auditor, Audit Division  
New Jersey Office of the State Comptroller  
██████████

██████████,

I am in receipt of the draft version of the Performance Audit of Lifeguard Pension Program: City of North Wildwood. The report contains 3 findings and 5 recommendations which this letter will address individually.

**Finding #1:** The city approved retirement benefits for an ineligible retiree, resulting in improper payments of approximately \$62,000.

**Response:** The city has ceased payments to the individual that is in question for entitlement to pension benefits. In the records of time for this individual, 3 of the 20 years reflect that this individual did not have a full 45 days of service in a year. Records prior to 2008 are handwritten and at the time of retirement the Lifeguard Chief and Payroll Supervisor determined the years of service were adequate. Until 2024 lifeguards were paid for a day of service when on duty regardless of the hours of each day which can complicate a day of service calculation. In light of the findings by the State Comptroller's office, this case is being brought to the Lifeguard Pension Board and the attorney for the board to decide upon any further action.

**Finding #2:** Annual Audit reports did not disclose the City's total lifeguard pension liability calculated by an actuary as required by GASB Statement 73.

**Response:** In soliciting quotes from Actuaries, one Actuary indicated that the City is not subject to GASB 73 but instead GASB 68. The city has a separate dedicated trust account for Lifeguard Pension that separates it from other towns that have a Lifeguard Pension Plan. The city is soliciting quotes and will have the Lifeguard Pension Board approve the contract of an Actuary to calculate the liability within the next month.

**Finding #3:** The City's service credit tracking system did not accurately record the total number of lifeguard service years. The pension commission did not review the verification of retiree eligibility or the calculation of retiree benefits.

**Response:** North Wildwood now pays lifeguards on a per hour basis starting in 2024. Prior to that it was per day and since a lifeguard got paid for a day regardless of the number of hours in that day it was difficult to determine actual days worked as they were frequently rounded when entered in the payroll system. Also, lifeguards used timesheets and manual time clocks prior to 2024. Currently, an electronic means of tracking time is in place. ADP is utilized for timekeeping and it is imported into our payroll system (Edmunds GovTech). The Pension Board will now approve all calculations and payments paid out of the Lifeguard Pension Trust going forward.

**Recommendation #1:** Develop and implement written procedures that require the pension commission to verify employees' eligibility and approve benefit calculations.

**Response:** The city is currently developing written procedures and will have them implemented prior to anyone else being approved by the board.

**Recommendation #2:** Obtain periodic actuary calculations of the City's lifeguard pension fund as required by GASB Statement 73. Improve the adequacy of lifeguard pension disclosures to comply with the requirements of GASB Statement 73.

**Response:** The city has obtained three quotes for an Actuary Report of Pension Liabilities and will be presenting them to the Pension Board to approve one.

**Recommendation #3:** Improve the City's tracking system to ensure accurate calculations and tracking of total pension-eligible service credit and total wages earned for lifeguards.

**Response:** With the City now using ADP for electronic time keeping of the lifeguards and that time being imported to the payroll system (Edmunds Govtech) in actual hours I am confident in the accuracy of time worked per year going forward. No longer are there manual records or rounded time entered as days to the payroll system. The developing and implementing of written procedures will also aid in assuring the accuracy of records.

**Recommendation #4:** Implement Procedures to annually reconcile service credits earned to payroll records and examine any identified differences.

**Response:** Importing of time to payroll has made this happen every pay period.

**Recommendation #5:** Seek legal guidance to recover all improperly paid retirement benefits and discontinue payments to the retiree who did not meet the eligibility requirements.

**Response:** The City has already discontinued payments to the individual and is turning over the findings to the Pension Board and its attorney. They will be responsible to determine what action if any should be taken to recover funds paid.

Sincerely,



Todd N Burkey, CFO, CTC  
City of North Wildwood

# A Performance Audit of the Lifeguard Pension Program: City of Ocean City

AUDIT DIVISION REPORT



Kevin D. Walsh  
Acting State Comptroller

Issued July 23, 2025



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# Audit Authority

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We performed this audit pursuant to the State Comptroller’s authority set forth in N.J.S.A. 52:15C-1 to -24. We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS)<sup>1</sup> applicable to performance audits. Those standards require that we plan and perform 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.

## Background

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In 1928, the Legislature adopted a law that required fourth-class cities<sup>2</sup> to provide a pension upon retirement to lifeguard officers and lifeguards. The law was amended in 1929 to provide pension benefits to surviving spouses and minor children. In 1936, the law was amended again to increase the retirement age, the required years of service, and the level of employee contributions. N.J.S.A. 43:13-23 to -29, which this report will refer to as the Lifeguard Pension Law, mandates that fourth-class cities establish a pension fund, with contributions from both the city and its lifeguard employees, and appoint a commission to manage the fund and its administration. The statutes empower the pension commission to make all necessary rules and regulations as long as they are consistent with the law.

The City of Ocean City (City or Ocean City) created a pension plan for lifeguards effective January 1, 1988. The plan document defines pension program terminology, provides additional information regarding plan membership, and establishes eligibility criteria.

In 2022, the City paid pension benefits to 46 retirees at a cost of about \$300,300. Ocean City’s 2022 budget included approximately \$240,000 to meet the City’s statutory contribution requirement and obligations under its pension plan. As of December 31, 2022, the City had approximately \$28,700 in funds reserved to pay lifeguard pensions.

### Lifeguard Pension Reserve Activity 2020 through 2022

Year	Balance January 1st	Employee Contributions	Employer Contributions	Payments to Retirees	Balance December 31st
2020	\$ 33,237	\$ 61,011	\$ 230,000	\$ 277,428	\$ 46,820
2021	\$ 46,820	\$ 58,787	\$ 230,000	\$ 300,281	\$ 35,326
2022	\$ 35,326	\$ 53,660	\$ 240,000	\$ 300,281	\$ 28,705

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<sup>1</sup> UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE, GOVERNMENT AUDITING STANDARDS 2018 REVISION (Apr. 2021) (“GAGAS”), <https://www.gao.gov/assets/gao-21-368g.pdf>.

<sup>2</sup> Fourth-class cities include cities known as seaside or summer resorts that also border the Atlantic Ocean. N.J.S.A. 40A:6-4.

## Active and Retired Lifeguard Population

Year	Active Lifeguards	Retirees Receiving Benefits
2020	190	44
2021	171	46
2022	163	46

## Executive Summary

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Our audit identified weaknesses related to the administration of Ocean City's lifeguard pension program in the area of compliance with financial reporting. Specifically, our audit found that the City did not obtain actuary reports and disclose its total lifeguard pension liability in accordance with Governmental Accounting Standards Board (GASB) Statement 73.

We make one recommendation to improve the City's compliance with financial reporting requirements.

## Audit Objectives

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The objectives of our performance audit were to examine the operations of the City's lifeguard pension program to determine whether the program complied with applicable local and state statutory requirements, disclosed required financial information, and maintained adequate internal controls.

## Audit Scope

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The period January 1, 2020 through December 31, 2022.

## Audit Methodology

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To accomplish our objectives, we reviewed relevant statutes, regulations, GASB requirements, and the City's policies and procedures addressing the administration of its lifeguard pension program. We reviewed financial records, payroll records, and other supporting documentation. Additionally, we interviewed local officials responsible for the lifeguard pension program to understand program operations.

GAGAS requires auditors to plan and perform audit procedures to assess internal control when internal control is determined to be significant to the objective. The Government Accountability

Office's Standards for Internal Control in the Federal Government, or "Green Book,"<sup>3</sup> provides a framework for internal control systems for public entities. The Green Book establishes five components of an internal control system: control environment, risk assessment, control activities, information and communication, and monitoring. The five components include 17 principles that support the effective design, implementation, and operation of an internal control system. GAGAS requires written communication of deficiencies in internal control that warrant the attention of those charged with governance. Deficiencies significant to our audit objectives are included in this report. We communicate internal control deficiencies that are not significant to our audit objectives through separate correspondence to those charged with governance.

As part of our review, we selected a judgmental sample of records. Our samples were designed to provide conclusions about the validity of the sampled transactions and the adequacy of internal controls and compliance with applicable laws, regulations, policies, and procedures. Because we used a non-statistical sampling approach, the results of our testing cannot be projected over the entire population of like transactions or contracts.

## Audit Findings and Recommendations

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### Lifeguard Pension Program

#### Objectives

*Determine whether the City complied with the Lifeguard Pension Law, N.J.S.A 43:13-23 to -29.*

*Determine whether the City complied with local requirements.*

*Determine whether the City complied with GASB Statement 73 requirements for lifeguard pension program disclosures within its financial report.*

*Determine whether the City adequately designed and implemented internal controls to ensure compliance with program statutes and internal guidelines for the operation of its lifeguard pension program.*

#### Finding

Annual audit reports did not disclose the City's total lifeguard pension liability calculated by an actuary as required by GASB Statement 73.

#### Criteria

The Lifeguard Pension Law requires fourth-class cities to provide a retirement benefit equal to half-pay to lifeguard employees who are at least 45 years of age and have worked 20 years of eligible service. The pension benefits are funded by contributions from active employees, interest

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<sup>3</sup> UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE, STANDARDS FOR INTERNAL CONTROL IN THE FEDERAL GOVERNMENT, (SEPT. 2014) ("Green Book"), <https://www.gao.gov/assets/gao-14-704g.pdf>.

earnings, and budget appropriations. Every fourth-class city with a beach on the ocean that hires lifeguards must budget to provide the fund with the required annual four percent contribution plus any additional amount needed to meet the requirements of the pension program. The City accounts for funds in excess of the amount needed to pay current benefits in a separate fund designated for future pension payments.

The City's lifeguard pension plan provides additional guidelines for the program. Under the plan, lifeguard employees must work a minimum of 45 days, or 360 hours, within a calendar year to earn one year of service credit toward the 20 years required for retirement. Further, employees must reach 45 years of age and have worked for a period of 10 consecutive years to receive pension benefits.

The financial activity and year-end balances for the City's lifeguard pension program are reported in its annual audit report. N.J.A.C. 5:30-6.1 establishes the guidelines for municipal audit reports and requires local governments to include GASB disclosures in the notes to the City's financial statements. GASB issued Statement 73 to improve the usefulness of information about pensions included in financial reports issued by local and state governments.<sup>4</sup> GASB Statement 73 requires actuarial reports and disclosure of pension liabilities and reserves.

The Green Book provides a framework for internal control systems for public entities. The Green Book's five components and the related 17 principles of an internal control system serve as the basis for our assessment of the design, implementation, and operation of the City's internal control system.

### **Methodology**

To meet these objectives, we:

- Reviewed the Lifeguard Pension Law and the City's plan documentation;
- Interviewed relevant City officials;
- Reviewed payroll and other financial documentation; and
- Performed audit procedures designed to meet our audit objectives.

### **Audit Results**

We audited the City's lifeguard pension program to assess compliance with statutes, local guidelines, and GASB Statement 73. We reviewed the pension program's operations, assessed internal controls, and tested the design and implementation of the program.

#### **Compliance with Statutes and Local Guidelines**

We did not identify significant noncompliance with statutes or local guidelines. We communicated minor issues related to employee contributions to management.

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<sup>4</sup> GOVERNMENTAL ACCOUNTING STANDARDS BOARD, STATEMENT NO. 73, "ACCOUNTING AND FINANCIAL REPORTING FOR PENSIONS AND RELATED ASSETS THAT ARE NOT WITHIN THE SCOPE OF GASB STATEMENT 68, AND AMENDMENTS TO CERTAIN PROVISIONS OF GASB STATEMENTS 67 AND 68" (June 2015), [GASB Statement No. 73](#).

## Compliance with Financial Reporting Standards

We reviewed the City's audit reports for 2020 through 2022 and found that its financial disclosures related to its lifeguard pension failed to meet the requirements of GASB Statement 73. Most significantly, the City did not disclose its pension plan liability in its annual audit reports. In addition, the City's auditor did not report the failure to disclose required and likely material information about the pension program in the City's annual audit reports. The City's failure to obtain required actuary reports limits transparency and impairs oversight of program funding by the governing body.

## Design, Implementation, and Operation of Internal Controls

We audited the City's internal policies, processes, and other internal lifeguard pension program activities. A well-designed system aids in compliance with applicable law, including local guidelines, and guards against errors.

Our audit procedures did not identify significant weaknesses in internal controls related to calculating and tracking employee pensionable service years, calculating and approving employee retirement payments, or maintaining adequate documentation.

### Cause

The City did not obtain actuary reports required for annual financial report disclosures.

### Effect/Potential Effect

Inadequate disclosures prevent public transparency into total pension costs and the sufficiency of City contributions.

### Recommendation

Obtain periodic actuary calculations of the City's lifeguard pension fund as required by GASB Statement 73. Improve the adequacy of lifeguard pension disclosures to comply with the requirements of GASB Statement 73.

## Reporting Requirements

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We provided a draft copy of this report to City officials for their review and comment. The City generally agreed with our audit finding and conclusion, and its response indicated the City has taken corrective action. The City's comments were considered in preparing our final report and are attached as Appendix A.

We thank the management and staff of the City for the courtesies and cooperation extended to our auditors during this engagement.



# CITY OF OCEAN CITY

AMERICA'S GREATEST FAMILY RESORT

## DEPARTMENT OF FINANCIAL MANAGEMENT

To: New Jersey Office of the State Comptroller

From: Frank Donato III, CFO

Date: 6/19/2025

Re: Response to Draft Audit Report (previously emailed)

Hello everyone, as promised please accept this email as our response to the draft audit report that was forwarded to the City on 6/6/25.

First and foremost I want to address a portion of the report on page 4 under the section titled "Compliance with Financial Reporting Standard". This section states that the City's auditor did not report the failure to disclose required and likely material information about the pension program in the City's annual audit reports. As part of this engagement with the OSC the City supplied the requested annual audits for the audit period. The reports themselves are each unqualified audits, meaning they contained no findings. However other recommendations or comments are often listed in the management letters that accompany the audit. I've attached copies for the prior three years. You'll notice that in the 2021 letter the GASB 73 requirement was first mentioned. Since then it's been mentioned as a repeat comment. Please take this information into account and consider rewording this section of the audit.

I also want to take the opportunity to explain what actions the City has taken since the 2021 audit management letter which would have been issued in 2022. The City began searching for an actuary right away that could fulfill the GASB 73 obligation. Firms that perform this type of analysis are few and far between apparently. We searched for several months to find a willing actuary, starting with the firm that does our GASB report for health benefits, however they had no interest in this type of engagement. We finally found a company out of Virginia who was willing to take on the report and sent us a quote. However subsequent to supplying us with a quote the company failed to continue to be responsive to the City over the course of several more months. We finally found a willing and capable actuary in 2024 and issued a purchase order to formalize the engagement. Please note in the 2023 management letter (issued in 2024) this activity is mentioned as a subsequent event update. Although the City is actively engaged with Summit Benefit Consultants, we are still exchanging the necessary reports and statistics to allow them to complete the GASB report. Therefore, unfortunately as of the issuance of the OSC audit, the City doesn't have the report in hand. If consideration could be given to also mention a subsequent event update, similar to our 2023 management letter, we would appreciate it.

Thanks.

# A Performance Audit of the Lifeguard Pension Program: City of Sea Isle City

AUDIT DIVISION REPORT



Kevin D. Walsh  
Acting State Comptroller

Issued July 23, 2025



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# Audit Authority

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We performed this audit pursuant to the State Comptroller’s authority set forth in N.J.S.A. 52:15C-1 to -24. We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS)<sup>1</sup> applicable to performance audits. Those standards require that we plan and perform 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.

## Background

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In 1928, the Legislature adopted a law that required fourth-class cities<sup>2</sup> to provide a pension upon retirement to lifeguard officers and lifeguards. The law was amended in 1929 to provide pension benefits to surviving spouses and minor children. In 1936, the law was amended again to increase the retirement age, the required years of service, and the level of employee contributions. N.J.S.A. 43:13-23 to -29, which this report will refer to as the Lifeguard Pension Law, mandates that fourth-class cities establish a pension fund, with contributions from both the city and its lifeguard employees, and appoint a commission to manage the fund and its administration. The statutes empower the pension commission to make all necessary rules and regulations as long as they are consistent with the law.

The City of Sea Isle City (City or Sea Isle) instituted its pension plan for lifeguards effective January 22, 1991. The pension plan defines pension program terminology, provides additional information regarding plan membership, and establishes eligibility criteria.

In 2022, Sea Isle paid pension benefits to two retirees at a cost of approximately \$9,400. The City’s 2022 budget included \$10,000 to meet the City’s statutory contribution requirement and obligations under its pension plan. As of December 31, 2022, the City had approximately \$1,058,100 in funds reserved to pay lifeguard pensions.

### Lifeguard Pension Reserve Activity 2020 through 2022

Year	Balance January 1st	Employee Contributions	Employer Contributions	Other Revenue	Payments to Retirees	Balance December 31st
2020	\$ 955,375	\$ 26,309	\$ 10,060	\$ 3,341	\$ 9,359	\$ 985,726
2021	\$ 985,726	\$ 28,670	\$ 10,000	\$ (4,146)	\$ 9,359	\$1,010,891
2022	\$1,010,891	\$ 41,569	\$ 10,000	\$ 5,000	\$ 9,359	\$1,058,102

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<sup>1</sup> UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE, GOVERNMENT AUDITING STANDARDS 2018 REVISION (Apr. 2021) (“GAGAS”), <https://www.gao.gov/assets/gao-21-368g.pdf>.

<sup>2</sup> Fourth-class cities include cities known as seaside or summer resorts that also border the Atlantic Ocean. N.J.S.A. 40A:6-4.

## Active and Retired Lifeguard Population

Year	Active Lifeguards	Retirees Receiving Benefits
2020	94	2
2021	103	2
2022	100	2

## Executive Summary

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Our audit identified weaknesses related to the administration of Sea Isle’s lifeguard pension program in the areas of compliance and financial reporting.

Specifically, our audit found that the City:

- Failed to fund the employer’s required pension contributions according to the Lifeguard Pension Law; and
- Did not obtain actuary reports and disclose pension liabilities in accordance with Governmental Accounting Standards Board (GASB) Statement 73.

We make two recommendations to improve the City’s internal controls and improve compliance with its pension plan, applicable law, and financial reporting requirements.

## Audit Objectives

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The objectives of our performance audit were to examine the operations of the City’s lifeguard pension program to determine whether the program complied with applicable local and state statutory requirements, disclosed required financial information, and maintained adequate internal controls.

## Audit Scope

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The period January 1, 2020 through December 31, 2022.

## Audit Methodology

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To accomplish our objectives, we reviewed relevant statutes, regulations, GASB requirements, and the City’s policies and procedures addressing the administration of its lifeguard pension program. We reviewed financial records, payroll records, and other supporting documentation. Additionally, we interviewed local officials responsible for the lifeguard pension program to understand program operations.

GAGAS requires auditors to plan and perform audit procedures to assess internal control when internal control is determined to be significant to the objective. The Government Accountability Office's Standards for Internal Control in the Federal Government, or "Green Book,"<sup>3</sup> provides a framework for internal control systems for public entities. The Green Book establishes five components of an internal control system: control environment, risk assessment, control activities, information and communication, and monitoring. The five components include 17 principles that support the effective design, implementation, and operation of an internal control system. GAGAS requires written communication of deficiencies in internal control that warrant the attention of those charged with governance. Deficiencies significant to our audit objectives are included in this report. We communicate internal control deficiencies that are not significant to our audit objectives through separate correspondence to those charged with governance.

We reviewed all items within populations of like transactions identified during the scope of our audit to provide conclusions about the adequacy of internal controls and compliance with applicable laws, regulations, policies, and procedures.

## Audit Findings and Recommendations

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### Lifeguard Pension Program

#### Objectives

*Determine whether the City complied with the Lifeguard Pension Law, N.J.S.A. 43:13-23 to -29.*

*Determine whether the City complied with local requirements.*

*Determine whether the City complied with GASB Statement 73 requirements for lifeguard pension program disclosures within its financial report.*

*Determine whether the City adequately designed and implemented internal controls to ensure compliance with program statutes and internal guidelines for the operation of its lifeguard pension program.*

#### Findings

The City did not budget the required four percent employer pension contribution. As a result, the City did not contribute approximately \$58,500 to its lifeguard pension fund for the period 2020 to 2022 as required by N.J.S.A. 43:13-27(b).

Annual audit reports did not disclose the City's total lifeguard pension liability calculated by an actuary as required by GASB Statement 73.

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<sup>3</sup> UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE, STANDARDS FOR INTERNAL CONTROL IN THE FEDERAL GOVERNMENT, (SEPT. 2014) ("Green Book"), <https://www.gao.gov/assets/gao-14-704g.pdf>.

## Criteria

The Lifeguard Pension Law requires fourth-class cities to provide a retirement benefit equal to half-pay to lifeguard employees who are at least 45 years of age and have worked 20 years of eligible service. The pension benefits are funded by contributions from active employees, interest earnings, and budget appropriations. Every fourth-class city with a beach on the ocean that hires lifeguards must budget to provide the fund with the required annual four percent contribution plus any additional amount needed to meet the requirements of the pension program. The City accounts for funds in excess of the amount needed to pay current benefits in a separate fund designated for future pension payments.

In addition to complying with the Lifeguard Pension Law, the City must also meet the obligations imposed by its pension plan. The plan provides that lifeguard employees must work a minimum of 50 days within a calendar year to earn one year of service credit toward the 20 years required for retirement. Further, employees must reach 45 years of age and have worked for a period of ten consecutive years to receive pension benefits.

The financial activity and year-end balances for the City's lifeguard pension program are reported in its annual audit report. N.J.A.C. 5:30-6.1 establishes the guidelines for municipal audit reports and requires local governments to include GASB disclosures in the notes to the City's financial statements. GASB issued Statement 73 to improve the usefulness of information about pensions included in financial reports issued by local and state governments.<sup>4</sup> GASB Statement 73 requires actuarial reports and disclosure of pension liabilities and reserves.

The Green Book provides a framework for internal control systems for public entities. The Green Book's five components and the related 17 principles of an internal control system serve as the basis for our assessment of the design, implementation, and operation of the City's internal control system.

## Methodology

To meet these objectives, we:

- Reviewed the Lifeguard Pension Law and the City's plan documentation;
- Interviewed relevant City officials;
- Reviewed payroll and other financial documentation; and
- Performed audit procedures designed to meet our audit objectives.

## Audit Results

We audited the City's lifeguard pension program to assess compliance with statutes, local guidelines, and GASB Statement 73. We reviewed the pension program's operations, assessed internal controls, and tested the design and implementation of the program.

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<sup>4</sup> GOVERNMENTAL ACCOUNTING STANDARDS BOARD, STATEMENT NO. 73, "ACCOUNTING AND FINANCIAL REPORTING FOR PENSIONS AND RELATED ASSETS THAT ARE NOT WITHIN THE SCOPE OF GASB STATEMENT 68, AND AMENDMENTS TO CERTAIN PROVISIONS OF GASB STATEMENTS 67 AND 68" (June 2015), [GASB Statement No. 73](#).

## **Compliance with Statutes and Local Guidelines**

The Lifeguard Pension Law requires each fourth-class city to provide a contribution to the fund in an amount equal to four percent of total employee wages. We reviewed the City's budgets and lifeguard pension fund transactions from 2020 to 2022. We found that the City withheld approximately \$88,500 in pension deductions from lifeguard compensation but failed to contribute at least an equal amount to the pension fund as mandated by the Lifeguard Pension Law. The City contributed \$10,000 each year instead of matching employee contributions. City budgets had sufficient funds to cover annual pension payments.

The Lifeguard Pension Law allows employers to suspend their matching contributions only after pension funds exceed the level of adequacy established through resolution by the governing body. We have not received documentation demonstrating that the decision to limit contributions was based upon an actuarial study of the pension program or memorialized by resolution as required by N.J.S.A. 43:13-27.

## **Compliance with Financial Reporting Standards**

We reviewed the City's audit reports for 2020 through 2022 and found that its lifeguard pension disclosures failed to comply with GASB Statement 73 requirements. Most significantly, the City did not disclose its pension plan liability in its annual audit reports. In addition, the City's auditor did not report the City's failure to disclose required and likely material information about the pension program in the City's annual audit reports. The City's failure to obtain required actuary reports limits transparency and impairs oversight of program funding by the governing body.

The City obtained an actuarial estimate of its total pension liability in June 2024. As of December 31, 2023, the actuarially calculated liability related to the City's lifeguard pension program was approximately \$1.7 million, but the City's pension fund had a balance of approximately \$1.1 million at the end of 2023. Based on this estimate, the City's lifeguard pension fund was underfunded by approximately \$600,000.

## **Design, Implementation, and Operation of Internal Controls**

We audited the City's internal policies, processes, and other internal lifeguard pension program activities. A well-designed system aids in compliance with applicable law, including local guidelines, and guards against errors.

Our audit procedures did not identify significant weaknesses in internal control related to calculating and tracking employee pensionable service years, calculating and approving employee retirement payments, or maintaining adequate documentation.

## **Causes**

The City did not budget for or contribute its required lifeguard pension contributions.

The City did not obtain actuary reports required for annual financial report disclosures.

### Effects/Potential Effects

The City's lack of compliance negatively affected the solvency of its lifeguard pension program by failing to make employer pension fund contributions.

Inadequate disclosures prevent public transparency into total pension costs and the sufficiency of City contributions.

### Recommendations

1. Comply with N.J.S.A. 43:13-27. Budget and contribute to the lifeguard pension fund an amount equal to the pension deductions withheld from lifeguard employees or pause City contributions by resolution as permitted by statute.
2. Continue to obtain periodic actuary calculations of the City's lifeguard pension fund as required by GASB Statement 73. Improve the adequacy of lifeguard pension disclosures to comply with the requirements of GASB Statement 73.

## **Reporting Requirements**

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We provided a draft copy of this report to City officials for their review and comment. The City agreed with our audit findings and conclusions, and its response indicated the City has taken steps and will continue to implement corrective actions to address our recommendations. The City's comments were considered in preparing our final report and are attached as Appendix A.

We are required by statute to monitor the implementation of our recommendations. In accordance with N.J.A.C. 17:44-2.8(a), within 90 days following the distribution of the final audit report, the City is required to provide a plan detailing the corrective action taken or underway to implement the recommendations contained in the report and, if not implemented, the reason therefore. We will review the corrective action plan to evaluate whether the steps taken by the City effectively implement our recommendations.

We thank the management and staff of the City for the courtesies and cooperation extended to our auditors during this engagement.



# City of Sea Isle City

MUNICIPAL SERVICES - 2ND FLOOR

233 JOHN F. KENNEDY BLVD.

SEA ISLE CITY, NJ 08243

609-263-4461

June 13, 2025

Mr. Christopher Jensen, CPA  
Audit Director  
Office of the State Comptroller  
P.O. Box 024  
Trenton, NJ 08625-0024

Dear Mr. Jensen,

The city has reviewed the performance audit of the Lifeguard Pension Program for the City of Sea Isle City. The city agrees with your audit recommendations and has already taken steps to implement corrective actions. Please see below my response to the two recommendations.

1 - The City has over one million dollars in the Lifeguard Trust Fund and at the time of the audit only two retirees collecting a pension. I have read through N.J. Statute 43:13-27 and will make sure in the future we either contribute the 4% or determine that the amount in the lifeguard pension fund exceeds an amount determined to be adequate for the fund and have a resolution approved by the governing body.

2- The City will continue to obtain actuary calculations every two years of the City's lifeguard pension fund as required by GASB Statement 73. The City contracted with Summit Benefit Consultants, LLC in 2024 and had an actuary valuation performed of the lifeguard pension plan as of 12/31/2023. I will continue to have this valuation performed. Our next valuation will be completed at the end of 2025. The Municipal Audits management letters for the period that was being audited by OSC on the lifeguard pension fund had wording in them that suggest the City contract to have a GASB 73 analysis performed. The 2023 GASB report came out after the 2024 audit was completed. In the future the municipal auditors will list in the footnotes the disclosures needed on the lifeguard pension fund.

If you require any additional information, feel free to reach out.

Sincerely,

A handwritten signature in blue ink that reads 'Jennifer McIver'.

Jennifer McIver  
Chief Financial Officer

# A Performance Audit of the Lifeguard Pension Program: City of Ventnor City

AUDIT DIVISION REPORT



Kevin D. Walsh  
Acting State Comptroller

Issued July 23, 2025



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# Audit Authority

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We performed this audit pursuant to the State Comptroller’s authority set forth in N.J.S.A. 52:15C-1 to -24. We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS)<sup>1</sup> applicable to performance audits. Those standards require that we plan and perform 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.

## Background

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In 1928, the Legislature adopted a law that required fourth-class cities<sup>2</sup> to provide a pension upon retirement for lifeguard officers and lifeguards. The law was amended in 1929 to provide pension benefits to surviving spouses and minor children. In 1936, the law was amended again to increase the retirement age, the required years of service, and the level of employee contributions. N.J.S.A. 43:13-23 to -29, which this report will refer to as the Lifeguard Pension Law, mandates that fourth-class cities establish a pension fund, with contributions from both the city and its lifeguard employees, and appoint a commission to manage the fund and its administration. The statutes empower the pension commission to make all necessary rules and regulations as long as they are consistent with the law.

The City of Ventnor City (City or Ventnor) by ordinance created a pension plan for lifeguards effective January 1, 1987. The ordinance defines pension program terminology, provides additional information regarding plan membership, and establishes retirement eligibility criteria.

In 2022, Ventnor paid pension benefits to nine retirees at a cost of about \$58,400. In 2022, the City did not contribute or budget any funds to meet the employer’s statutory contribution requirement and obligations under its pension plan. As of December 31, 2022, the City had approximately \$149,100 in funds reserved to pay lifeguard pensions.

### Lifeguard Pension Reserve Activity 2020 through 2022

Year	Balance January 1st	Employee Contributions	Employer Contributions	Other Revenue	Payments to Retirees	Balance December 31st
2020	\$ 243,908	\$ 22,248	-	\$ 255	\$ 53,024	\$ 213,386
2021	\$ 213,386	\$ 22,091	-	\$ 4,896	\$ 55,704	\$ 184,670
2022	\$ 184,670	\$ 22,104	-	\$ 664	\$ 58,364	\$ 149,074

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<sup>1</sup> UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE, GOVERNMENT AUDITING STANDARDS 2018 REVISION (Apr. 2021) (“GAGAS”), <https://www.gao.gov/assets/gao-21-368g.pdf>.

<sup>2</sup> Fourth-class cities include cities known as seaside or summer resorts that also border the Atlantic Ocean. N.J.S.A. 40A:6-4.

### Active and Retired Lifeguard Population

Year	Active Lifeguards	Retirees Receiving Benefits
2020	69	8
2021	86	8
2022	75	9

## Executive Summary

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Our audit identified weaknesses related to the administration of Ventnor’s lifeguard pension program in the areas of compliance, financial reporting, and internal controls.

Specifically, our audit found that the City:

- Did not maintain an operating lifeguard pension commission;
- Failed to fund the employer’s required pension contributions in compliance with the Lifeguard Pension Law;
- Partially complied with statutes and local ordinance requirements related to employee contributions and retirement benefit calculations;
- Did not obtain actuary reports and disclose pension liabilities of approximately \$3.5 million in accordance with Governmental Accounting Standards Board (GASB) Statement 73; and
- Failed to accurately track lifeguard service years.

We make seven recommendations to improve the City’s internal controls and improve compliance with applicable law, local ordinance, and financial reporting requirements.

## Audit Objectives

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The objectives of our performance audit were to examine the operations of the City’s lifeguard pension program to determine whether the program complied with applicable local ordinance and state statutory requirements, disclosed required financial information, and maintained adequate internal controls.

## Audit Scope

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The period January 1, 2020 through December 31, 2022.

# Audit Methodology

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To accomplish our objectives, we reviewed relevant statutes, regulations, GASB requirements, and the City's local ordinance addressing the administration of its lifeguard pension program. We reviewed financial records, payroll records, and other supporting documentation. Additionally, we interviewed local officials responsible for the lifeguard pension program to understand program operations.

GAGAS requires auditors to plan and perform audit procedures to assess internal control when internal control is determined to be significant to the objective. The Government Accountability Office's Standards for Internal Control in the Federal Government, or "Green Book,"<sup>3</sup> provides a framework for internal control systems for public entities. The Green Book establishes five components of an internal control system: control environment, risk assessment, control activities, information and communication, and monitoring. The five components include 17 principles that support the effective design, implementation, and operation of an internal control system. GAGAS requires written communication of deficiencies in internal control that warrant the attention of those charged with governance. Deficiencies significant to our audit objectives are included in this report. We communicate internal control deficiencies that are not significant to our audit objectives through separate correspondence to those charged with governance.

We reviewed all items within populations of like transactions identified during the scope of our audit to provide conclusions about the adequacy of internal controls and compliance with applicable laws, regulations, policies, and procedures.

## Audit Findings and Recommendations

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### Lifeguard Pension Program

#### Objectives

*Determine whether the City complied with the Lifeguard Pension Law, N.J.S.A. 43:13-23 to -29.*

*Determine whether the City complied with local ordinance requirements.*

*Determine whether the City complied with GASB Statement 73 requirements for lifeguard pension program disclosures within its financial report.*

*Determine whether the City adequately designed and implemented internal controls to ensure compliance with program statutes and internal guidelines for the operation of its lifeguard pension program.*

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<sup>3</sup> UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE, STANDARDS FOR INTERNAL CONTROL IN THE FEDERAL GOVERNMENT, (SEPT. 2014) ("Green Book"), <https://www.gao.gov/assets/gao-14-704g.pdf>.

## Findings

The City did not maintain an operating lifeguard pension commission, which impeded the separate management and oversight of the lifeguard pension fund required by N.J.S.A. 43:13-28 to -29.

The City did not budget the required four percent employer pension contribution. As a result, the City failed to contribute approximately \$66,500 to its lifeguard pension fund for the period 2020 to 2022 as required by N.J.S.A. 43:13-27(b).

The City inconsistently applied the required four percent pension deduction required by N.J.S.A. 43:-27(a) to total lifeguard wages.

The City did not use the three highest years of salaries when calculating a lifeguard pension retirement payment in accordance with Ordinance 8714 Section 1(a).

Annual audit reports did not disclose the City's total lifeguard pension liability calculated by an actuary as required by GASB Statement 73. The estimated total lifeguard pension liability was approximately \$3.5 million as of December 31, 2022.

The City's tracking system did not accurately record the total lifeguard service years.

## Criteria

The Lifeguard Pension Law requires fourth-class cities to provide a retirement benefit equal to half-pay<sup>4</sup> to lifeguard employees who are at least 45 years of age and have worked 20 years of eligible service. The pension benefits are funded by contributions from active employees, interest earnings, and budget appropriations. Every fourth-class city with a beach on the ocean that hires lifeguards must budget to provide the fund with the required annual four percent contribution plus any additional amount needed to meet the requirements of the pension program. The City accounts for funds in excess of the amount needed to pay current benefits in a separate fund designated for future pension payments.

The Lifeguard Pension Law requires the mayor or chief executive officer of municipalities subject to the law to appoint, with the advice and consent of the governing body of the city, a lifeguard pension commission consisting of four members, including a superior officer of the lifeguards, a lifeguard, and two citizens who are not lifeguards. They shall serve for a term of four years and until their successors are appointed and have qualified and shall not receive any compensation for their services. N.J.S.A. 43:13-29 authorizes the pension commission to manage the fund and approve expenditures.

The City must also comply with Ordinance 8714, which stipulates that lifeguard employees must work a minimum of 50 days within a calendar year to earn one year of retirement service credit.

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<sup>4</sup> Ventnor Ordinance 8714 describes the amount and form of pension as 50 percent of an employee's average compensation. Average compensation is the average of the three years in which the employee's total cash wages were the greatest.

Section 1(a) provides the basis for calculating retirement benefits. The ordinance also requires annual retiree benefits equal to 50 percent of an employee's average compensation.

The financial activity and year-end balances for the City's lifeguard pension program are reported in its annual audit report. N.J.A.C. 5:30-6.1 establishes the guidelines for municipal audit reports and requires local governments to include GASB disclosures in the notes to the City's financial statements. GASB issued Statement 73 to improve the usefulness of information about pensions included in financial reports issued by local and state governments.<sup>5</sup> GASB Statement 73 requires actuarial reports and disclosure of pension liabilities and reserves.

The Green Book provides a framework for internal control systems for public entities. The Green Book's five components and the related 17 principles of an internal control system serve as the basis for our assessment of the design, implementation, and operation of the City's internal control system.

### Methodology

To meet these objectives, we:

- Reviewed the Lifeguard Pension Law and local ordinance;
- Interviewed relevant City officials;
- Reviewed payroll and other financial documentation; and
- Performed audit procedures designed to meet our audit objectives.

### Audit Results

We audited the City's lifeguard pension program to assess compliance with statutes, local ordinance, and GASB Statement 73. We reviewed the pension program's operations, assessed internal controls, and tested the design and implementation of the program.

#### **Compliance with Statutes and Local Guidelines**

The City failed to maintain an operating pension commission, as required by N.J.S.A. 43:13-28. Ventnor explained it would take appropriate corrective actions to address pension commission deficiencies. The lack of a lifeguard pension commission prevents the secondary review of lifeguard retirement payments.

We reviewed the benefit calculation of the only employee who retired during our testing period and determined that the payment was not based on the employee's three greatest years of salaries.<sup>6</sup> During our audit, the City adjusted the retiree's payment. The annual payment was increased by \$174 and the City paid \$261 in retroactive pension payments. Despite the adjustment, the City still did not calculate the payment using the employee's three greatest years

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<sup>5</sup> GOVERNMENTAL ACCOUNTING STANDARDS BOARD, STATEMENT NO. 73, "ACCOUNTING AND FINANCIAL REPORTING FOR PENSIONS AND RELATED ASSETS THAT ARE NOT WITHIN THE SCOPE OF GASB STATEMENT 68, AND AMENDMENTS TO CERTAIN PROVISIONS OF GASB STATEMENTS 67 AND 68" (June 2015), [GASB Statement No. 73](#).

<sup>6</sup> City of Ventnor Ordinance 8714 Section 1(a).

of salaries. Our review identified 2021 total gross wages, as identified on the payroll register, to be \$20,934, but the City used \$19,619 in its calculation. The City explained that the difference of \$1,315, a stipend payment, was not included in the calculation because the four percent pension deduction was not withheld against the income. Consequently, the City used 2017 gross wages of \$20,664 instead of 2021 total gross wages. The City's ordinance defines compensation for pension purposes as, "the total cash remuneration (as reported on his Form W-2) earned by an employee during a calendar year for his services on the employer's lifeguard force." Therefore, the calculation of retirement benefits must use the total wages related to lifeguard service regardless of whether the City withheld pension deductions related to that income to comply with the Lifeguard Pension Law and the City's ordinance.

We reviewed lifeguard pension deductions between 2020 and 2022 and determined that the City did not apply the deductions consistently in accordance with the Lifeguard Pension Law and its local ordinance. Our testing found that the City did not withhold the required four percent pension contribution for 104 of 157 lifeguard stipends, totaling around \$47,200. The failure to properly withhold lifeguard pension deductions cost the City approximately \$1,900.

The Lifeguard Pension Law requires each fourth-class city to provide a contribution to the fund in an amount equal to four percent of total employee wages. We reviewed the City's budgets and lifeguard pension fund transactions from 2020 to 2022. We found that the City withheld approximately \$66,500 in pension deductions from lifeguard compensation but failed to contribute at least an equal amount to the fund as mandated by the Lifeguard Pension Law. The City explained it did not contribute because the pension fund was sufficiently funded. However, the decision to limit contributions was not based upon an actuarial study of the pension program or memorialized by resolution as required by N.J.S.A. 43:13-27.

### **Compliance with Financial Reporting Standards**

We reviewed the City's audit reports for 2020 through 2022 and found that its lifeguard pension disclosures failed to comply with GASB Statement 73 requirements. Most significantly, the City did not disclose its pension plan liability in its annual audit reports. In addition, the City's auditor did not report the City's failure to disclose required and likely material information about the pension program in the City's annual audit reports. The City's failure to obtain required actuary reports limits transparency and impairs oversight of program funding by the governing body.

We engaged an actuary to estimate the City's pension liability. This calculation included assumptions regarding salaries, inflation, and life expectancy subject to professional judgement and relied on the data obtained as part of this audit. We made reasonable assumptions when requested data was not provided.<sup>7</sup> We estimated the future costs associated with Ventnor's lifeguard pension program as of December 31, 2022 was approximately \$3.5 million. The City's pension fund had a balance of approximately \$149,000 at the end of 2022. Based on this estimate, the City's lifeguard pension fund was underfunded by approximately \$3.3 million.

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<sup>7</sup> Actuarial calculations of total pension program liabilities could change materially based upon changes in assumptions used to calculate the pension liability and the availability of historical pension program data.

## **Design, Implementation, and Operation of Internal Controls**

We audited the City's internal policies, processes, and other internal lifeguard pension program activities. A well-designed system aids in compliance with applicable law, including local ordinances, and guards against errors.

The City approved an ordinance providing guidelines for the operation of its lifeguard pension program but failed to implement provisions within the ordinance designed to ensure compliance with the Lifeguard Pension Law. As noted above, the City failed to appoint a lifeguard pension commission; failed to provide the required employer's contribution to the pension fund; did not accurately calculate pension benefit payments; and did not withhold the four percent pension deductions from total gross wages. Formal internal policies and procedures communicate management's expectations to employees and contribute to an internal control system that is well designed, properly implemented, and operating effectively.

We reviewed the City's tracking system used to monitor the pension-eligible service credit earned. Our review found the City awarded service credit to lifeguards who worked less than the 50 days per year established in Ordinance 8714. For the period of 2020 through 2022, we identified 66 of 111 lifeguards that received a year of service credit without working at least 50 days. More significantly, 14 of the 66 employees were awarded a total of 19 years of service credit without earning any wages during the same time period. An accurate system of tracking employee years of pension-eligible service and total wages would improve the reliability of the City's retirement benefit calculations and provide management the ability to plan for the impact of future lifeguard pension program retirees.

### **Causes**

The City failed to maintain an operating lifeguard pension commission and did not budget for or contribute its required lifeguard pension contributions.

The City did not implement provisions within Ordinance 8714 designed to ensure operating effectiveness of the lifeguard pension program and compliance with the Lifeguard Pension Laws.

Ventnor did not obtain actuary reports required for annual financial report disclosures.

The City's service credit tracking system failed to produce a reliable record of pension-eligible service years for lifeguards.

### **Effects/Potential Effects**

The lack of an operating lifeguard pension commission limits public transparency and prevents a secondary review of lifeguard retirement payments, including payments to one employee who retired during our testing period.

Failing to make employer pension fund contributions and not withholding deductions on employees' total income negatively affected the solvency of the City's lifeguard pension program.

Inadequate disclosures prevent public transparency into total pension costs and the sufficiency of City contributions. In addition, Ventnor's failure to disclose approximately \$3.5 million total liability resulted in less transparency to the public.

An inaccurate system tracking pension-eligible service may result in improper lifeguard retirement approvals.

### Recommendations

1. Appoint a lifeguard pension commission in accordance with N.J.S.A. 43:13-28. Memorialize member appointment by resolution that documents each member's status as senior lifeguard, lifeguard, or citizen.
2. Comply with N.J.S.A. 43:13-27. Budget and contribute to the lifeguard pension fund an amount equal to the pension deductions withheld from lifeguard employees or pause City contributions by resolution as permitted by statute.
3. Develop and implement written procedures to ensure the four percent pension deduction is applied to lifeguards' total gross wages, including stipend payments related to employment as a lifeguard.
4. Obtain periodic actuary calculations of the City's lifeguard pension fund as required by GASB Statement 73. Improve the adequacy of lifeguard pension disclosures to comply with the requirements of GASB Statement 73.
5. Obtain lifeguard pension commission approval for all lifeguard retirements and retirement benefit payments. As part of the approval process, provide sufficient documentation to permit the lifeguard pension commission to verify the retiree's eligibility and determine the accuracy of retirement payment calculations.
6. Improve the City's system of tracking pension eligible service to ensure the accuracy of pension data including days worked and total W-2 wages earned.
7. Implement procedures to annually reconcile days worked for pension purposes and wages in the tracking system to payroll records annually. Examine any discrepancies.

## Reporting Requirements

We provided a draft copy of this report to City officials for their review and comment. The City generally agreed with our audit findings and conclusions, and its response indicated the City has taken steps and will continue to implement corrective actions to address our recommendations. The City's comments were considered in preparing our final report and are attached as Appendix A.

We are required by statute to monitor the implementation of our recommendations. In accordance with N.J.A.C. 17:44-2.8(a), within 90 days following the distribution of the final audit report, the City is required to provide a plan detailing the corrective action taken or underway to

implement the recommendations contained in the report and, if not implemented, the reason therefore. We will review the corrective action plan to evaluate whether the steps taken by the City effectively implement our recommendations.

We thank the management and staff of the City for the courtesies and cooperation extended to our auditors during this engagement.



# City of Ventnor City

City Hall  
6201 Atlantic Avenue  
Ventnor City, New Jersey 08406



Department of Revenue and Finance

Amy Stover, CFO

609-823-7964

June 24, 2025

Kevin D. Walsh  
Acting State Comptroller  
New Jersey Office of the State Comptroller

RE: Lifeguard Pension Audit/Corrective Active Plan

In response to audit findings performed during the period of January 1, 2020, through December 31, 2022, the City offers the following comments and correction action plan.

The city did have an established lifeguard commission, but it was not active during the time covered. The Board of Commissioners will be appointing a new board soon.

During this period the city did not contribute the required employer contribution, as the fund had sufficient funding in place to support the retirement benefits to the current retirees. Since 2023, the city has budgeted \$40,000, which exceeds the 4% mandatory employer contribution to the pension system. These funds are moved into the lifeguard pension trust fund in an interest-bearing account. The City will maintain its current practice of contributing at least 4% each year but reserves the right to suspend contributions when not needed.

Pension deductions were established for all employees at 4% for all hours worked. Although the Plan does define total wages to be as reported on the employees W2, the city followed the lead of the State of NJ PERS and PFRS funds and did not include stipends in the pensionable base. When calculating the highest years of salary those same stipends were not included as no employee contribution was made. The Board of Commissioners will be asked to amend the current ordinance to codify this practice.

In 2024, the city contracted CBIZ to complete the actuary and the final draft is provided.

Thank you for your cooperation during this process.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Amy Stover', written over a horizontal line.

Amy Stover  
Chief Financial Officer  
City of Ventnor

# A Performance Audit of the Lifeguard Pension Program: City of Wildwood

AUDIT DIVISION REPORT



Kevin D. Walsh  
Acting State Comptroller

Issued July 23, 2025



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# Audit Authority

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We performed this audit pursuant to the State Comptroller’s authority set forth in N.J.S.A. 52:15C-1 to -24. We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS)<sup>1</sup> applicable to performance audits. Those standards require that we plan and perform 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.

## Background

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In 1928, the Legislature adopted a law that required fourth-class cities<sup>2</sup> to provide a pension upon retirement to lifeguard officers and lifeguards. The law was amended in 1929 to provide pension benefits to surviving spouses and minor children. In 1936, the law was amended again to increase the retirement age, the required years of service, and the level of employee contributions. N.J.S.A. 43:13-23 to -29, which this report will refer to as the Lifeguard Pension Law, mandates that fourth-class cities establish a pension fund, with contributions from both the city and its lifeguard employees, and appoint a commission to manage the fund and its administration. The statutes empower the pension commission to make all necessary rules and regulations as long as they are consistent with the law.

The City of Wildwood (City or Wildwood) by ordinance created a pension plan for lifeguards effective January 1, 1991. The ordinance defines pension program terminology, provides additional information regarding plan membership, and establishes retirement eligibility criteria.

In 2022, Wildwood paid pension benefits to five retirees at a cost of about \$39,700. The City’s 2022 budget included approximately \$42,700 to meet the City’s statutory contribution requirement and obligations under its pension plan. As of December 31, 2022, the City had approximately \$658,000 in funds reserved to pay lifeguard pensions.

### Lifeguard Pension Reserve Activity 2020 through 2022

Year	Balance January 1st	Employee Contributions	Employer Contributions	Other Revenue	Payments to Retirees	Balance December 31st
2020	\$ 463,126	\$ 19,683	-	\$ 3,865	\$ 32,714	\$ 453,961
2021	\$ 453,961	\$ 19,914	-	\$ 1,755	\$ 36,215	\$ 439,415
2022	\$ 439,415	\$ 22,750	\$ 231,197	\$ 4,333	\$ 39,717	\$ 657,979

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<sup>1</sup> UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE, GOVERNMENT AUDITING STANDARDS 2018 REVISION (Apr. 2021) (“GAGAS”), <https://www.gao.gov/assets/gao-21-368g.pdf>.

<sup>2</sup> Fourth-class cities include cities known as seaside or summer resorts that also border the Atlantic Ocean. N.J.S.A. 40A:6-4.

### Active and Retired Lifeguard Population

Year	Active Lifeguards	Retirees Receiving Benefits
2020	88	4
2021	85	5
2022	95	5

## Executive Summary

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Our audit identified weaknesses related to the administration of Wildwood’s lifeguard pension program in the areas of financial reporting and internal controls.

Specifically, our audit found that the City:

- Did not obtain actuary reports and disclose pension liabilities in accordance with Governmental Accounting Standards Board (GASB) Statement 73; and
- Failed to accurately track lifeguard service years.

We make three recommendations to improve the City’s internal controls and improve compliance with financial reporting requirements.

## Audit Objectives

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The objectives of our performance audit were to examine the operations of the City’s lifeguard pension program to determine whether the program complied with applicable local ordinance and state statutory requirements, disclosed required financial information, and maintained adequate internal controls.

## Audit Scope

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The period January 1, 2020 through December 31, 2022.

## Audit Methodology

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To accomplish our objectives, we reviewed relevant statutes, regulations, GASB requirements, and the City’s ordinances addressing the administration of its lifeguard pension program. We reviewed financial records, payroll records, and other supporting documentation. Additionally, we interviewed local officials responsible for the lifeguard pension program to understand program operations.

GAGAS requires auditors to plan and perform audit procedures to assess internal control when internal control is determined to be significant to the objective. The Government Accountability Office's Standards for Internal Control in the Federal Government, or "Green Book,"<sup>3</sup> provides a framework for internal control systems for public entities. The Green Book establishes five components of an internal control system: control environment, risk assessment, control activities, information and communication, and monitoring. The five components include 17 principles that support the effective design, implementation, and operation of an internal control system. GAGAS requires written communication of deficiencies in internal control that warrant the attention of those charged with governance. Deficiencies significant to our audit objectives are included in this report. We communicate internal control deficiencies that are not significant to our audit objectives through separate correspondence to those charged with governance.

We reviewed all items within populations of like transactions identified during the scope of our audit to provide conclusions about the adequacy of internal controls and compliance with applicable laws, regulations, policies, and procedures.

## Audit Findings and Recommendations

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### Lifeguard Pension Program

#### Objectives

*Determine whether the City complied with the Lifeguard Pension Law, N.J.S.A. 43:13-23 to -29.*

*Determine whether the City complied with local ordinance requirements.*

*Determine whether the City complied with GASB Statement 73 requirements for lifeguard pension program disclosures within its financial report.*

*Determine whether the City adequately designed and implemented internal controls to ensure compliance with program statutes and internal guidelines for the operation of its lifeguard pension program.*

#### Findings

Annual audit reports did not disclose the City's total lifeguard pension liability calculated by an actuary as required by GASB Statement 73.

The City's tracking system did not accurately record the lifeguard service years.

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<sup>3</sup> UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE, STANDARDS FOR INTERNAL CONTROL IN THE FEDERAL GOVERNMENT, (SEPT. 2014) ("Green Book"), <https://www.gao.gov/assets/gao-14-704g.pdf>.

## Criteria

The Lifeguard Pension Law requires fourth-class cities to provide a retirement benefit equal to half-pay<sup>4</sup> to lifeguard employees who are at least 45 years of age and have worked 20 years of eligible service. The pension benefits are funded by contributions from active employees, interest earnings, and budget appropriations. Every fourth-class city with a beach on the ocean that hires lifeguards must budget to provide the fund with the required annual four percent contribution plus any additional amount needed to meet the requirements of the pension program. The City accounts for funds in excess of the amount needed to pay current benefits in a separate fund designated for future pension payments.

The City must also comply with Ordinance 269-91, which creates the lifeguard pension program. Subsequently, the council approved Ordinances 729-08, 939-12, and 1059-16 to supplement guidance for the pension program. Lifeguard Pension Ordinances 269-91, 729-08, and 939-12 provide that lifeguard employees must work a minimum of 40 days within a calendar year to earn one year of service credit towards the 20 years required for pension eligibility.

The financial activity and year-end balances for the City's lifeguard pension program are reported in its annual audit report. N.J.A.C. 5:30-6.1 establishes the guidelines for municipal audit reports and requires local governments to include GASB disclosures in the notes to the City's financial statements. GASB issued Statement 73 to improve the usefulness of information about pensions included in financial reports issued by local and state governments.<sup>5</sup> GASB Statement 73 requires actuarial reports and disclosure of pension liabilities and reserves.

The Green Book provides a framework for internal control systems for public entities. The Green Book's five components and the related 17 principles of an internal control system serve as the basis for our assessment of the design, implementation, and operation of the City's internal control system.

## Methodology

To meet these objectives, we:

- Reviewed the Lifeguard Pension Law and local ordinances;
- Interviewed relevant City officials;
- Reviewed payroll and other financial documentation; and
- Performed audit procedures designed to meet our audit objectives.

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<sup>4</sup> Wildwood Ordinance 269-91 describes the amount and form of pension benefits as 50 percent of an employee's average compensation. Average compensation is the average of the three years in which the employee's total cash wages were the greatest.

<sup>5</sup> GOVERNMENTAL ACCOUNTING STANDARDS BOARD, STATEMENT NO. 73, "ACCOUNTING AND FINANCIAL REPORTING FOR PENSIONS AND RELATED ASSETS THAT ARE NOT WITHIN THE SCOPE OF GASB STATEMENT 68, AND AMENDMENTS TO CERTAIN PROVISIONS OF GASB STATEMENTS 67 AND 68" (June 2015), [GASB Statement No. 73](#).

## Audit Results

We audited the City's lifeguard pension program to assess compliance with statutes, local ordinances, and GASB Statement 73. We reviewed the pension program's operations, assessed internal controls, and tested the design and implementation of the program.

### **Compliance with Statutes and Local Guidelines**

We did not identify significant noncompliance with statutes or local ordinances.

### **Compliance with Financial Reporting Standards**

We reviewed the City's audit reports for 2020 through 2022 and found Wildwood's lifeguard pension disclosures failed to comply with GASB Statement 73 requirements. Most significantly, the City did not disclose its pension plan liability in its annual audit reports. In addition, the City's auditor did not report the City's failure to disclose required and likely material information about the pension program in the City's annual audit reports. The City's failure to obtain required actuary reports limits transparency and impairs oversight of program funding by the governing body.

The City advised us that it decided to cease City contributions to the pension fund in 2010. However, Wildwood contributed \$231,200 to its lifeguard pension fund in 2022 for the period 2010 through 2022.

### **Design, Implementation, and Operation of Internal Controls**

We audited the City's internal policies, processes, and other internal lifeguard pension program activities. A well-designed system aids in compliance with applicable law, including local ordinances, and guards against errors.

We reviewed the City's tracking system used to monitor the pension-eligible service credit earned. The City provided a report that included the service years for 86 lifeguards with dates of hire ranging from 1984 to 2023. We determined that the City's tracking system did not accurately measure the years of pension-eligible service credit earned by lifeguards throughout their employment. For 18 of 86 lifeguards, the City reported years of employment that were inconsistent with both the employees' reported dates of hire and first years of service. The City relied on inaccurate data and performed inconsistent calculations. The report did not include all lifeguards who had earned wages from 2020 through 2022. Specifically, the City's system did not include 91 of 268 lifeguards. Our review of payroll records from 2020 to 2022 identified 35 employees that earned 47 years of pension-eligible service credit that were not accounted for in the City's lifeguard tracking system. More significantly, our review also identified 31 lifeguards awarded from one to three years of service credit in the system but who worked less than 40 days during those years. Consequently, we determined the City's internal controls were not effectively designed, implemented, or operating correctly to accurately track the years of service credits and salaries earned by lifeguard employees. A well-designed system to track lifeguard employee years of service and salaries can prevent errors when determining retirement eligibility.

## Causes

The City did not obtain actuary reports required for annual financial report disclosures.

The City's tracking system did not maintain accurate and complete records of lifeguards' service credit.

## Effects/Potential Effects

Inadequate disclosures prevent public transparency into total pension costs and the sufficiency of City contributions.

The failure to accurately document the service credit years earned by lifeguards is likely to result in inaccurate pension payment approvals. The lack of reliable documentation also prevents employees from being able to make informed decisions regarding continued employment and retirement.

## Recommendations

1. Obtain periodic actuary calculations of the City's lifeguard pension fund as required by GASB Statement 73. Improve the adequacy of lifeguard pension disclosures to comply with the requirements of GASB Statement 73.
2. Improve the City's tracking system to ensure accurate calculations and tracking of total pension-eligible service credit earned and total wages earned for lifeguards.
3. Implement procedures to reconcile service credits earned to payroll records and examine any identified difference on an annual basis.

# Reporting Requirements

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We provided a draft copy of this report to City officials for their review and comment. The City generally agreed with our audit findings and conclusions, and its response indicated the City has taken steps and will continue to implement corrective actions to address our recommendations. The City's comments were considered in preparing our final report and are attached as Appendix A.

We are required by statute to monitor the implementation of our recommendations. In accordance with N.J.A.C. 17:44-2.8(a), within 90 days following the distribution of the final audit report, the City is required to provide a plan detailing the corrective action taken or underway to implement the recommendations contained in the report and, if not implemented, the reason therefore. We will review the corrective action plan to evaluate whether the steps taken by the City effectively implement our recommendations.

We thank the management and staff of the City for the courtesies and cooperation extended to our auditors during this engagement.

CITY OF WILDWOOD

Corrective Action Plan for the City of Wildwood Lifeguard Pension Program Audit

For Period January 1, 2020 through December 31, 2022

NJ Office of the State Comptroller

Rec Number	Recommendation	Corrective Action	Method of Implementation	Person Responsible for Implementation	Anticipated Date of Implementation
1	Obtain periodic actuary calculations of the City's lifeguard pension fund as required by GASB Statement 73. Improve the adequacy of lifeguard pension disclosures to comply with the requirements of GASB Statement 73.	Contract with an Actuary to periodically perform Valuation Reports.	Contract with Actuary Consultant, RAE Consulting to perform a Vauatin Report for the Wildwood Lifeguard Pension Plan.	Human Resource Director & Chief Financial Officer	Report expected by September, 2025
2	Improve the City's tracking system to ensure accurate calculations and tracking of total pension-eligible service credit earned and total wages earned for lifeguards.	Accounting of days sent from Lifeguard Administration to Human Resource Department	Per Pay Period correspondence	Lifeguard Administration	Immediate
3	Implement procedures to reconcile service credits earned to payroll records and examine any identified difference on an annual basis.	Annual Accounting of days and wages verified by Human Resource & Finance Departments	Compare Lifeguard Administration's Account to the Payroll System and forward for next Actuary Report	Chief Financial Officer & Human Resource Director	October, 2025

Agency Official Name:

Susan Plaza

Signature:



Title:

Chief Financial Officer



# State of New Jersey

**PHILIP D. MURPHY**  
*Governor*

**TAHESHA L. WAY**  
*Lt. Governor*

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**KEVIN D. WALSH**  
*Acting State Comptroller*

**CHRISTOPHER JENSEN**  
*Director*

July 23, 2025

## **BY ELECTRONIC MAIL**

Hon. John Moor, Mayor  
City of Asbury Park  
One Municipal Plaza  
Asbury Park, NJ 07712

### **Re: Application of the Lifeguard Pension Law**

Dear Mayor Moor:

Pursuant to N.J.S.A. 52:15C-5(a), the Office of the State Comptroller (OSC) is charged with conducting "routine, periodic, and random audits" of government agencies. Pursuant to that authority and consistent with N.J.S.A. 52:15C-8c(3), OSC has established objective criteria and developed a risk assessment for undertaking performance audits of government entities and programs.

OSC issued an engagement letter, dated September 22, 2023, to the City of Asbury Park (City or Asbury Park) to schedule a performance audit of the administration of its lifeguard pension plan. The city manager informed OSC that, although the City employs lifeguards, it does not have a lifeguard pension plan. At that time, OSC recommended the City review the Lifeguard Pension Law<sup>1</sup> with its legal professionals to determine if the statutes apply to Asbury Park.

In January 2025, OSC requested a written update on the status of the City's review of the Lifeguard Pension Law's applicability. Asbury Park provided the update in February 2025, indicating that the City does not believe that the requirement to establish a lifeguard pension fund is valid or enforceable against the City. The City did not offer any legal justification for its viewpoint.\*

Pursuant to the Lifeguard Pension Law, a city of the fourth-class is required to create and administer a pension plan for its lifeguard employees. A city of the fourth-class is a city bordering the Atlantic Ocean which is a seaside or summer resort.<sup>2</sup> The Legislature incorporated Asbury

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<sup>1</sup> N.J.S.A. 43:13-23 to -29.


<sup>2</sup> N.J.S.A. 40A:6-4.

Park as a city on March 25, 1897.<sup>3</sup> The New Jersey Supreme Court found Asbury Park to be a fourth-class city in 1925.<sup>4</sup> The Legislature passed the first Lifeguard Pension Law in 1928,<sup>5</sup> followed by amendments in 1929<sup>6</sup> and 1936.<sup>7</sup> Based on the above facts and circumstances, and in the absence of any contrary argument, it appears that the City is required to comply with the Lifeguard Pension Law.

Only a court can conclusively determine the legal rights and duties involved, but OSC notes that the failure to create and administer a lifeguard pension plan is contrary to the requirements of N.J.S.A. 43:13-23 to -29. The City's noncompliance with the statutory requirements may create significant liabilities for the City. OSC urges the City to address this issue further with legal counsel.

Sincerely,

KEVIN D. WALSH  
ACTING STATE COMPTROLLER

By:   
Christopher Jensen, CPA  
Director, Audit Division

c: Jacquelyn Suarez, Commissioner, Department of Community Affairs  
Michael F. Rogers, Director, Department of Community Affairs, Division of Local Government Services  
Michele Meade, Deputy Director, Department of Community Affairs, Division of Local Government Services  
Tina Zapicchi, Assistant Director, Financial Regulations, Department of Community Affairs, Division of Local Government Services  
Jorge Carmona, Bureau Chief, Department of Community Affairs, Division of Local Government Services  
Amy Quinn, Deputy Mayor, City of Asbury Park  
Adam E. Cruz, City Manager, City of Asbury Park  
JoAnn Boos, Chief Financial Officer, City of Asbury Park

*\* Prior to the release of this letter, Asbury Park was given a draft and provided the opportunity to respond. The City's response is attached as Appendix A. In its response, the City questions the enforceability of the law and contends that funding a lifeguard pension plan "appears to run counter to the stated purpose of the Office of the State Comptroller." In addition to evaluating compliance with the Lifeguard Pension Law at the municipal level, we reviewed the impact of the law collectively in our New Jersey's Lifeguard Pension Programs report and make recommendations to the Legislature to address the arbitrariness and unequal application of the law.*

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<sup>3</sup> P.L. 1897 c. 40.

<sup>4</sup> Reade v. City of Asbury Park, 101 N.J.L. 319 (Sup. Ct. 1925), affirmed 102 N.J.L. 221 (E. & A. 1925).

<sup>5</sup> P.L. 1928, c. 272.

<sup>6</sup> P.L. 1929, c. 59.

<sup>7</sup> P.L. 1936, c. 108.

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June 26, 2025

Christopher Jensen, CPA  
Director, Audit Division  
Office of the State Comptroller  
Trenton, NJ 08625-0024

Re: Lifeguard Pension Law  
City of Asbury Park

Dear Mr. Jensen:

This law firm represents the City of Asbury Park as their municipal counsel. Please accept this letter in response to your draft report to Mayor John Moor dated June 12, 2025 regarding a lifeguard pension plan in Asbury Park.

You base the claim that Asbury Park requires a lifeguard pension plan on the premise that Asbury Park is a "city of the fourth class," which was a designation applied in 1897, over 125 years ago. However, the distinction between a City "type" of government, and the "form" of municipal government that the municipality operates under today has become meaningless in the broader context of municipal operations. With the exception of the Small Municipality plan (requiring a population of under 12,000) and the Borough form of government (available only to borough type municipalities), any municipality can choose any other form of municipal government to establish and administrate their governing powers and responsibilities. While the initial impetus behind incorporating a municipality as a city appears to have been greater autonomy over their own affairs, the 1917 Home Rule Act and subsequent legislative amendments have largely erased the distinctions between Boroughs, Townships, Villages, Towns and Cities in all but name. While a greater degree of executive power may be a hallmark of the original City type of government, the current statutory structure allows for a Township like Edison to operate under the same form of government as the City of Asbury Park, regardless of incorporation status.

Further compounding this issue are the historical anomalies in place whereby school funding laws, liquor laws affecting Townships but not Boroughs, and government funding predicated on municipal status which have resulted in the creation of hundreds of municipal entities within the state which operate identically to the Atlantic shoreline cities affected by these statutes. In this manner, the State has variously been home to the Borough of Neptune City, the Township of Glen Ridge Borough, the City of Orange Township, and South Orange Village Township among many others. Red Bank alone has

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Counsellors at Law

June 26, 2025

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been, at various times, Red Bank Town, Shrewsbury City, and ultimately the Borough of Red Bank.

While many of these municipalities have since reamended their corporate documents and status in a return to historical form, the fact remains that of the more than 40 municipalities bordering the Atlantic Ocean, fewer than a dozen fall into the category affected by this legislation. In Monmouth County alone, the municipalities of Manasquan, Sea Girt, Spring Lake, Lake Como, Belmar, Bradley Beach, Neptune (Ocean Grove), Allenhurst, Deal and Monmouth Beach all directly border the Atlantic Ocean yet are under no obligation to fund lifeguard pension programs for their seasonal employees. Under the current logic, if the City of Asbury Park were to change its official name to the Town of Asbury Park - even while maintaining the same form of government - any such pension obligations would immediately cease.

Finally, there exists the problematic aspect of this statute in that it may well constitute special legislation as prohibited by the State Constitution. A law is regarded as special legislation “when by force of an inherent limitation, it arbitrarily separates some persons, places or things from others upon which, but for such limitation, it would operate.” Town of Morristown v. Woman’s Club, 124 N.J. 605, 622 (1991). In Vreeland v. Byrne, 72 N.J. 292 (1977), the Court established a three-part test to determine whether a statute constituted special legislation. Under that test, the purpose and object of the enactment must first be discerned, then applied to the factual situation presented, and finally it must be decided whether, as applied, the resulting classification can be said to rest upon any rational or reasonable basis relevant to the purpose and object of the act. See Vreeland at 300-301.

Here, for all practical purposes, the statute singles out a highly selective subsection of municipalities without a conceivable rational basis for their inclusion while others are specifically excluded, seems to violate these principles. If the goal is to encourage the return of suitable lifeguards for the protection of Jersey Shore beachgoers, then it fails to do so along the vast majority of the Jersey Shore. By excluding Boroughs, Townships, Villages and Towns from the requirement, miles and of miles of shoreline are excluded from the supposed purpose, most frequently in municipalities that are contiguous with each other. While it is true that a statute is not unconstitutional as special legislation merely because its effect is limited to a particular municipality (or municipalities), the classification by which a statute limits its effects must be grounded in a rational basis. Town of Seacaucus v. Hudson county Board of Taxation, 133 N.J. 482, 500 (1993). While the Court has indicated that one of the factors to look to would be whether “other municipalities could, and from time to time have, come within its scope,” the fact of the matter is that no Atlantic Shore municipality in New Jersey would currently adopt City classification if it included these

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Counsellors at Law

June 26, 2025

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additional mandates. In fact, of the nine cities boarding the Atlantic Ocean with lifeguard pension programs, only one continues to use the city form of government at all regardless of the type of incorporation they have.

Accordingly, the continued enforcement of this statute, despite the lack of a rational basis for the distinctions that it draws between similarly situated municipalities and despite the limited applicability it has to the employees affected, is both archaic and wasteful. The diversion of municipal tax dollars for the funding of these programs – much of which would remain unutilized due to the reality of seasonal employment – is an unnecessary cost which appears to run counter to the stated purpose of the Office of the State Comptroller.

We appreciate the opportunity to offer our input.

Very truly yours,

*/s/ Kevin N. Starkey*

Kevin N. Starkey

KNS:kl

cc: Mayor John Moor  
Deputy Mayor Amy Quinn  
Adam Cruz, City Manager  
JoAnn Boos, CFO



# State of New Jersey

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*Director*

July 23, 2025

## **BY ELECTRONIC MAIL**

Hon. John Pallone, Mayor  
City of Long Branch  
344 Broadway  
Long Branch, NJ 07740

### **Re: Application of the Lifeguard Pension Law**

Dear Mayor Pallone:

Pursuant to N.J.S.A. 52:15C-5(a), the Office of the State Comptroller (OSC) is charged with conducting "routine, periodic, and random audits" of government agencies. Pursuant to that authority and consistent with N.J.S.A. 52:15C-8c(3), OSC has established objective criteria and developed a risk assessment for undertaking performance audits of government entities and programs.

OSC issued a September 22, 2023 engagement letter to the City of Long Branch (City or Long Branch) to initiate a performance audit of the administration of its lifeguard pension plan. In response, the City's chief financial officer informed OSC that the City does not have a lifeguard pension plan. At that time, OSC recommended that the City review the Lifeguard Pension Law<sup>1</sup> with its legal professionals to determine its applicability to Long Branch.

In January 2025, OSC requested a written update on the status of the City's review of the Lifeguard Pension Law's applicability. The City's attorney provided the update in February 2025, indicating that the Lifeguard Pension Law did not and has never applied to Long Branch. The City's attorney asserts that Long Branch, "is not a 'city' as organized by statute, but rather is an optional municipal charter law municipality." The City maintains that the Lifeguard Pension Law is only applicable to those municipalities using the city form of government as authorized in N.J.S.A. 40A:61-1 to -8.

N.J.S.A. 43:13-23 to -29 requires a city of the fourth-class to create and administer a pension plan for its lifeguard employees. A city of the fourth-class, defined by N.J.S.A. 40A:6-4, is a city bordering the Atlantic Ocean and is a seaside or summer resort. The City's response contends

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<sup>1</sup> N.J.S.A. 43:13-23 to -29.

that the selection of a governance structure under the Faulkner Act<sup>2</sup> and classification as a city under N.J.S.A. 40A:6-4 are mutually exclusive statuses. This exclusivity is not supported by the Faulkner Act, case law, or the operations in similarly situated seaside or summer resort cities. OSC considers Long Branch to be a fourth-class city based on the facts and circumstances detailed herein.\*

## **History**

The Long Branch Commission was formed from Ocean Township in 1867. In 1882, the Legislature developed a classification system creating four classes of cities for legislative purposes.<sup>3</sup> In an 1885 opinion,<sup>4</sup> the New Jersey Supreme Court found that at the time, “[t]he classification of cities of the fourth class ‘shall consist of cities of this state bounding upon the Atlantic Ocean and being seaside or summer resorts.’ Long Branch is not a city within this description. There are such cities, but Long Branch is not a city.” The New Jersey Legislature incorporated the Long Branch Commission as a city to be known as Long Branch on April 8, 1903.<sup>5</sup>

The City of Long Branch adopted a commission form of government in 1916 as permitted by the Walsh Act.<sup>6</sup> In a 1918 matter involving the term of mayor, the New Jersey Supreme Court wrote, “[t]he city of Long Branch is now and since May 16th, 1916, has been governed by the Walsh Act and its amendments.”<sup>7</sup> The court found that the Walsh Act limits “the compensation of the mayor and commissioners **in cities of the fourth class, to which Long Branch belongs.**”<sup>8</sup> (Emphasis added.) The court’s declaration that Long Branch is a city of the fourth-class makes it clear that a municipality’s classification as a city is not contingent upon using the city form of government. Long Branch was not a city prior to its incorporation, but after its incorporation the court found it to be a city of the fourth-class. The Legislature passed the first Lifeguard Pension Law in 1928,<sup>9</sup> followed by amendments in 1929<sup>10</sup> and 1936,<sup>11</sup> requiring lifeguard pensions for lifeguards in cities of the fourth-class. The Lifeguard Pension Laws applied to Long Branch when enacted.

The Legislature approved the Faulkner Act<sup>12</sup> in 1950. The Faulkner Act, and its amendments, permits a municipality to select alternative governance structures from those permitted through earlier legislation. Long Branch adopted a Council-Manager Form D form of government effective

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<sup>2</sup> The Optional Municipal Charter Law, also referred to as the Faulkner Act, is codified as N.J.S.A. 40:69A-1 to -210.

<sup>3</sup> P.L. 1882, c. 46.

<sup>4</sup> State v. Britton, 47 N.J.L. 251, (1885).

<sup>5</sup> P.L.1903, c. 190.

<sup>6</sup> P. L.1911, c. 221.

<sup>7</sup> Woolley V. Flock, 92 N.J.L. 65 at 65 (1918).

<sup>8</sup> Woolley V. Flock, 92 N.J.L. 65 at 68 (1918).

<sup>9</sup> P. L. 1928, c. 272.

<sup>10</sup> P. L. 1929, c. 59.

<sup>11</sup> P. L. 1936, c. 108.

<sup>12</sup> N.J.S.A. 40:69A-1 to -210.

in 1961.<sup>13</sup> The City adopted its current form of government, Mayor-Council Form A, effective July 1966.<sup>14</sup>

### **Application of Statutes in Municipalities Using Faulkner Act Forms of Government**

The Faulkner Act, specifically N.J.S.A. 40:69A-26, establishes the legal framework of how municipalities govern themselves after the adoption of a form of government under the act. The municipality is governed by the plan adopted, by the provisions of the Faulkner Act common to optional plans, and by all applicable provisions of general law, subject to the transitional provisions within the Faulkner Act. N.J.S.A. 40:69A-28 defines a general law as follows:

For the purposes of this act, a "general law" shall be deemed to be any law or provision of law, not inconsistent with this act, heretofore or hereafter enacted which is by its terms applicable or available to all municipalities, and the following additional laws whether or not such additional laws are so applicable or available to all municipalities: legislation relating to taxation, local courts, education, health, public authorities serving more than one municipality, and municipalities in unsound financial condition.

In Bucino v Malone,<sup>15</sup> the New Jersey Supreme Court reviewed the constitutionality of N.J.S.A. 40:69A-26 and 28. The Court wrote:

Section 28 merely provides that two kinds of general laws shall still be applicable to municipalities that adopt a charter under the Faulkner Act, notwithstanding such action. First are those general laws applicable to all municipalities no matter what their class may be. Second are those laws which, although they **cover the class in which the particular municipality falls**, do not refer to all municipalities generally. (Emphasis added.)

The Court found in Bucino that laws governing classes of cities fall into "general law" as defined in N.J.S.A. 40:69A-28.<sup>16</sup> The Court further found that "general law," as defined by N.J.S.A. 40:69A-28, would continue to govern municipalities that have opted for the Optional Municipal Charter Law, pursuant to N.J.S.A. 40:69A-26.<sup>17</sup>

The language within the Faulkner Act relies on the statutory classification system for cities for its implementation. This indicates that the Legislature intended for the statutes to be used in conjunction with one another. The Faulkner Act explicitly requires or permits actions in various classes of cities. Specifically, the Faulkner Act requires a board of alcoholic beverage control in

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<sup>13</sup> CENTER FOR GOVERNMENT SERVICES RUTGERS UNIVERSITY, MUNICIPAL CHARTER REVISIONS IN NEW JERSEY: AN INVENTORY OF CHANGE 1950 – 2015, (Nov. 2015), ("Municipal Charter Revisions in New Jersey"), 27 [https://celg.rutgers.edu/sites/celg.rutgers.edu/files/documents/muni\\_charter\\_reock\\_82720.pdf](https://celg.rutgers.edu/sites/celg.rutgers.edu/files/documents/muni_charter_reock_82720.pdf).

<sup>14</sup> Ibid.

<sup>15</sup> Bucino v Malone, 12 N.J. 330, (1953).

<sup>16</sup> Id. at 348.

<sup>17</sup> Ibid.

first class cities,<sup>18</sup> permits the appointment of a deputy director in cities of the second class operating under the “Mayor-Council Plan D” form of government,<sup>19</sup> and allows the mayor to appoint the police chief in cities of the first class under the “Mayor-Council Plan C” form of government when permitted by ordinance.<sup>20</sup> The Faulkner Act’s reliance on the classification system of cities established in N.J.S.A. 40A:6-4 suggests that it was not the Legislature’s intent to create a new type of municipality through the Faulkner Act. A city that selects a form of government under Faulkner Act remains a city of the first, second, third, or fourth-class as defined in N.J.S.A. 40A:6-4.


### **Seaside or Summer Resort Cities**

There are nine cities boarding the Atlantic Ocean with lifeguard pension programs. A 2011 Inventory of Municipal Government Forms<sup>21</sup> reports that only one fourth-class city continues to use the city form of government. According to the Inventory, three cities use a commission form of government<sup>22</sup> and five cities use a form of government available through the Faulkner Act.<sup>23</sup> Of those five cities, three use the Mayor-Council form of government like Long Branch.<sup>24</sup> In a number of these cities, the courts have required the creation of pension programs for lifeguards regardless of the form of government selected by the city.<sup>25</sup> It thus appears that Long Branch is required to comply with the requirements of the Lifeguard Pension Law.

Only a court can conclusively determine the legal rights and duties involved, but OSC notes that the failure to create and administer a lifeguard pension plan is contrary to the requirements of N.J.S.A. 43:13-23 to -29. The City’s noncompliance with the statutory requirements may create significant liabilities for the City. OSC urges the City to address this issue further with legal counsel.

Sincerely,

KEVIN D. WALSH  
ACTING STATE COMPTROLLER

By:   
Christopher Jensen, CPA  
Director, Audit Division

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<sup>18</sup> N.J.S.A. 40:69A-43(e).

<sup>19</sup> N.J.S.A. 40:69A-43.1.

<sup>20</sup> N.J.S.A. 40:69A-60.7.

<sup>21</sup> CENTER FOR GOVERNMENT SERVICES RUTGERS UNIVERSITY, INVENTORY OF MUNICIPAL FORMS OF GOVERNMENT IN NEW JERSEY, (Sept. 2011), (“Inventory of Municipal Forms of Government in New Jersey”), 21.

<sup>22</sup> Inventory of Municipal Forms of Government in New Jersey at 22.

<sup>23</sup> Inventory of Municipal Forms of Government in New Jersey at 23-25.

<sup>24</sup> Inventory of Municipal Forms of Government in New Jersey at 24-25.

<sup>25</sup> See Paludi v. Ventnor City, 194 N.J. Super. 565, (Law Div.1984). See also City of Cape May v. Colosi, 325 N.J. Super. 288, (App. Div. 1999).

c: Jacquelyn Suarez, Commissioner, Department of Community Affairs  
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*\* Prior to the release of this letter, Long Branch was given a draft and provided the opportunity to respond. The City's response is attached as Appendix A. In its response, the City questions the enforceability of the law and contends that funding a lifeguard pension plan "appears to run counter to the stated purpose of the Office of the State Comptroller." In addition to evaluating compliance with the Lifeguard Pension Law at the municipal level, we reviewed the impact of the law collectively in our New Jersey's Lifeguard Pension Programs report and make recommendations to the Legislature to address the arbitrariness and unequal application of the law.*



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June 26, 2025

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RE: Application of the Lifeguard Pension Law – Discussion Draft

Dear Mr. Walsh:

As you are aware, this firm represents the City of Long Branch as their municipal counsel. We are in receipt of the draft report submitted by your office concerning the status of Long Branch's lifeguard pension plan and offer the following response as requested.

The distinction between a City "type" of government, and the "form" of municipal government that the municipality operates under has become meaningless in the broader context of municipal operations. With the exception of the Small Municipality plan (requiring a population of under 12,000) and the Borough form of government (available only to borough type municipalities), any municipality can choose from any other form of municipal government to establish and administrate their governing powers and responsibilities. While the initial impetus behind incorporating a municipality as a city appears to have greater autonomy over their own affairs, the 1917 Home Rule Act and subsequent legislative amendments have largely erased the distinctions between Boroughs, Townships, Villages, Towns and Cities in all but name. While a greater degree of executive power may be a hallmark of the original City type of government, the

current statutory structure allows for a Township like Edison to operate under the same form of government as the City of Long Branch, regardless of incorporation status.

Further compounding this issue are the historical anomalies in place whereby school funding laws, liquor laws affecting Townships but not Boroughs, and government funding predicated on municipal status which have resulted in the creation of hundreds of municipal entities within the state which operate identically to the Atlantic shoreline cities affected by these statutes. In this manner, the State has variously been home to the Borough of Neptune City, the Township of Glen Ridge Borough, the City of Orange Township, and South Orange Village Township among many others. Red Bank alone has been, at various times, Red Bank Town, Shrewsbury City, and ultimately the Borough of Red Bank. While many of these municipalities have since reamended their corporate documents and status in a return to historical form, the fact remains that of the more than 40 municipalities bordering the Atlantic Ocean, fewer than a dozen fall into the category affected by this legislation. In Monmouth County alone, the municipalities of Manasquan, Sea Girt, Spring Lake, Lake Como, Belmar, Bradley Beach, Neptune (Ocean Grove), Allenhurst, Deal and Monmouth Beach all directly border the Atlantic Ocean yet are under no obligation to fund lifeguard pension programs for their seasonal employees. Under the current logic, if the City of Long Branch were to officially change its name to the Town of Long Branch – even while maintaining the same form of government - any such pension obligations would immediately cease.

Moreover, these distinctions seem to have no regard for population, nor can they be rationally related to the longevity of service of these guards. The City of Cape May and its roughly 2,700 residents employ approximately 80 lifeguards/staff each year, while Atlantic City and its 38,000 residents' staff approximately 160 lifeguards during the peak bathing season. Of the approximately 140 lifeguards staffed by the City of Long Branch each year, most will be employed in fewer than 5 seasons (between the ages of 17-22) with oversight provided by full-time employees of the City who would not qualify for the pension program themselves. These employees would, in effect, never vest in the program and would simply represent a revolving door of contributions and refunds paid out upon their departure from employment.

Finally, there exists the problematic aspect of this statute in that it may well constitute special legislation as prohibited by the State Constitution. A law is regarded as special legislation “when by force of an inherent limitation, it arbitrarily separates some persons, places or things from others upon which, but for such limitation, it would operate.” Town of Morristown v. Woman’s Club, 124 N.J. 605, 622 (1991). In Vreeland v. Byrne, 72 N.J. 292 (1977), the Court established a three-part test to determine whether a statute constituted special legislation. Under that test, the purpose and object of the enactment must first be discerned, then applied to the actual situation presented, and finally it must be decided whether, as applied, the resulting classification can be said to rest upon any rational or reasonable basis relevant to the purpose and object of the act. See Vreeland at 300-301. For all practical purposes, the statute itself, in singling out a highly selective subsection of municipalities without a conceivable rational basis for their inclusion while others are specifically excluded, seems to violate these principles.

If the goal is to encourage the return of suitable lifeguards for the protection of Jersey Shore beachgoers, then it fails to do so along the vast majority of the Jersey Shore. By excluding Boroughs, Townships, Villages and Towns from the requirement, miles and of miles of shoreline are excluded from the supposed purpose, most frequently in municipalities that are contiguous with each other. While it is true that a statute is not unconstitutional as special legislation merely because its effect is limited to a particular municipality (or municipalities), the classification by which a statute limits its effects must be grounded on a rational basis. Town of Seacaucus v. Hudson County Board of Taxation, 133 N.J. 482, 500 (1993). While the Court has indicated that one of the factors to look to would be whether “other municipalities could, and from time to time have, come within its scope” (Ibid.), the fact of the matter is that no Atlantic Shore municipality in New Jersey would currently adopt City classification if it included these additional mandates. In fact, of the nine cities boarding the Atlantic Ocean with lifeguard pension programs, only one continues to use the city form of government at all regardless of the type of incorporation they have.

Accordingly, the continued enforcement of this statute despite the lack of a rational basis for the distinctions that it draws between similarly situated municipalities, and despite the limited applicability it has to the employees affected is both archaic and wasteful. The diversion of municipal tax dollars for the funding of these programs – much of which would remain unutilized due to the reality of seasonal employment – is an unnecessary cost which appears to be counter to the stated purpose of the Office of the State Comptroller.

Very truly yours,

**RAINONE COUGHLIN MINCHELLO, LLC**

By: \_\_\_\_\_

Michael R. Burns, Esq.

MRB/arg

cc: Christopher Jensen, CPA, Director, Audit Division

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