

STATE BOARD OF ACCOUNTS
302 West Washington Street
Room E418
INDIANAPOLIS, INDIANA 46204-2769

SPECIAL INVESTIGATION REPORT
OF

1937 FIREFIGHTERS' PENSION FUND
CITY OF EAST CHICAGO
LAKE COUNTY, INDIANA

January 1, 2022 to October 13, 2023



FILED
04/11/2024

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STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

STATE BOARD OF ACCOUNTS
302 WEST WASHINGTON STREET
ROOM E418
INDIANAPOLIS, INDIANA 46204-2769

Telephone: (317) 232-2513
Fax: (317) 232-4711
Web Site: www.in.gov/sboa

TO: THE OFFICIALS OF THE CITY OF EAST CHICAGO, LAKE COUNTY, INDIANA

This is a special investigation report for the City of East Chicago (City), for the period January 1, 2022 to October 13, 2023, and is in addition to any other report for the City as required under Indiana Code 5-11-1. All reports pertaining to the City may be found at www.in.gov/sboa/.

We performed procedures to determine compliance with applicable Indiana laws and uniform compliance guidelines established by the Indiana State Board of Accounts and were limited to records associated with the 1937 Firefighters' Pension Fund, including check histories, bank statements, and earnings histories. The Results and Comments contained herein describe the identified reportable instances of noncompliance found as a result of these procedures. Our tests were not designed to identify all instances of noncompliance; therefore, noncompliance may exist that is unidentified.

Any Official Response to the Results and Comments, incorporated within this report, was not verified for accuracy.

Paul D. Joyce
Paul D. Joyce, CPA
State Examiner

December 20, 2023

1937 FIREFIGHTERS' PENSION FUND
CITY OF EAST CHICAGO
RESULTS AND COMMENTS

BACKGROUND

The Pension Secretary for the Fire Department was notified by Indiana Public Retirement System (INPRS) of concerns that a pensioner's spouse receiving pension benefits may be deceased. Lawrence Larkin was a member of the 1937 Firefighters' Pension Plan. Lawrence Larkin drew a pension from the 1937 Firefighters' Pension Plan from the date he retired until his death on November 8, 1996. Following his death, his widow, Judith Larkin (beneficiary), began receiving spousal pension benefits. Spousal pension benefits were directly deposited in the beneficiary's bank account. Donald E. Evans-Larkin (Evans-Larkin) was also listed as an account holder on that bank account.

The beneficiary passed away on May 28, 2022, at which time her spousal pension benefits should have stopped. Evans-Larkin never reported the passing of the beneficiary to the City, nor was Evans-Larkin an eligible beneficiary of the pension benefits. Indiana Code 36-8-7-12.2. Monthly pension checks continued to be directly deposited into the bank account from June 2022 to September 2023

On September 5, 2023, the City's Attorney notified the Indiana State Board of Accounts that a family member of a deceased fire department pensioner had been receiving pension benefit payments after the beneficiary's death. The Indiana State Board of Accounts examined the records, and the results of our investigation are described in the following comments.

FIRE PENSION OVERPAYMENTS

Monthly pension benefits were direct deposited to a bank account held in the names of the beneficiary and Evans-Larkin. After the beneficiary's death on May 28, 2022, direct deposits continued being made to the bank account held in the name of the beneficiary and Evans-Larkin through September 1, 2023. Valeriano F. Gomez (Gomez), City Controller, direct deposited \$42,716.69 to the beneficiary and Evans-Larkin's bank account from June 1, 2022 through September 1, 2023, all after the beneficiary's death on May 28, 2022. Furthermore, Gomez remitted federal withholdings totaling \$976.62 to the respective governmental agency based upon the pension payments. Total remittances made by Gomez in overpayments of pension benefits were \$43,693.31.

The following schedule summarizes the pension benefits received after the beneficiary's death.

<u>Years</u>	<u>Gross Earnings</u>
2022	\$ 19,449.07
2023	<u>24,244.24</u>
Total	<u>\$ 43,693.31</u>

In 2022, the City annually issued Federal Forms 1099-R Distributions from Pensions, Annuities, Retirement or Profit-Sharing Plans, IRs, Insurance Contracts, etc. (Federal Form 1099-R) for the beneficiary's benefits. The 2022 Federal Form 1099-R was issued in the name of the beneficiary. The Federal Form 1099-R was not returned to the City by Evans-Larkin, nor did it prompt Evans-Larkin to notify Gomez or the Fire Pension Secretary of the beneficiary's death.

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 RESULTS AND COMMENTS
 (Continued)

Benefits to the beneficiary's account were stopped by Gomez after the September 1, 2023 direct deposit. No direct deposits or other remittances were made by Gomez to Evans-Larkin after September 1, 2023. The pension payment made on September 1, 2023, was for the month of August.

An analysis was performed of the disbursements and withdrawals from Evans-Larkin's bank account after the beneficiary's death when pension benefits should have stopped, as follows:

End of Day Bank Balance - May 27, 2022	\$ 43,525.45
Deposits:	
Fire Pension Payments	45,035.84
ATM Deposits	670.97
Other Sources	<u>6,570.87</u>
 Total Deposits	 <u>52,277.68</u>
Withdrawals:	
ATM	(15,270.00)
Cash App* Payments	(6,409.30)
Other Vendors Payments (Restaurants, Retail Stores)	<u>(74,202.66)</u>
 Total Withdrawals	 <u>(95,881.96)</u>
 End of Day Bank Balance - October 13, 2023	 \$ <u>(78.83)</u>

The Fire Pension Payments included as deposits above exceed the gross and net earnings reported as received after the beneficiary's death due to the deposits including the full pension amount for May 2022, not the prorated amount due and payable for May. The May 2022 pension was deposited on June 1, 2022.

Indiana Code 36-8-7-12.2 states in part:

"(b) If a member of the fire department or a retired member of the 1937 fund dies and leaves:

- (1) a surviving spouse;
- (2) a child or children less than eighteen (18) years of age;

1937 FIREFIGHTERS' PENSION FUND
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RESULTS AND COMMENTS
(Continued)

- (3) a child or children at least eighteen (18) years of age who are mentally or physically incapacitated; or
- (4) a child or children less than twenty-three (23) years of age who are:
 - (A) enrolled in and regularly attending a secondary school; or
 - (B) full-time students at an accredited college or university;

the local board shall authorize the payment to the surviving spouse and to the child or children the amount from the fund as prescribed by this section. . . ."

Indiana Code 5-11-6-3 states:

"If any examination or investigation made by the state examiner personally or through a deputy examiner, field examiner, or private examiner under this chapter or under any other statute discloses:

- (1) malfeasance, misfeasance, or nonfeasance in office or of any officer or employee;
- (2) that any public money has been:
 - (A) unlawfully expended, either by having been expended for a purpose not authorized by law in an amount exceeding that authorized by law, or by having been paid to a person not lawfully entitled to receive it; or
 - (B) obtained by fraud or in any unlawful manner; or
- (3) that any money has been wrongfully withheld from the public treasury; a duly verified copy of the report shall be submitted by the state examiner to the attorney general, who shall institute and prosecute civil proceedings as provided in section 1 of this chapter, and to the inspector general."

We requested Evans-Larkin and Gomez, jointly and severally, to reimburse \$43,693.31 to the City for fire pension overpayments. (See Summary of Charges, page 10)

SPECIAL INVESTIGATION COSTS

The State of Indiana incurred costs in the amount of \$2,780.67 due to the special investigation of the City's 1937 Firefighters' Pension Plan.

Indiana Code 5-11-5-1(a) states in part:

"Whenever an examination is made under this article, a report of the examination shall be made. The report must include a list of findings and shall be signed and verified by the examiner making the examination. A finding that is critical of an examined entity must be based upon one (1) of the following:

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(Continued)

- (1) Failure of the entity to observe a uniform compliance guideline established under [IC 5-11-1-24\(a\)](#).
- (2) Failure of the entity to comply with a specific law. . . .

If an examination discloses malfeasance, misfeasance, or nonfeasance in office or of any officer or employee, a copy of the report, signed and verified, shall be placed by the state examiner with the attorney general and the inspector general. The attorney general shall diligently institute and prosecute civil proceedings against the persons or entities charged in such report, or upon the officer's or employee's official bond, or both, and against any other proper person that will secure to the state or to the proper municipality the recovery of any funds misappropriated, diverted, or unaccounted for."

Ind Code § 5-11-1-27(m) states:

"If the attorney general institutes civil proceedings related to this section or under [IC 5-11-5-1](#), the attorney general shall seek, in addition to the recovery of any funds misappropriated, diverted, or unaccounted for, restitution of:

- (1) costs incurred by the state board of accounts; and
- (2) all costs and reasonable attorney's fees incurred by the attorney general; in connection with the civil proceedings."

We requested Evans-Larkin and Gomez, jointly and severally, to reimburse \$2,780.67 to the State of Indiana for special investigation costs. (See Summary of Charges, page 10)

OFFICIAL BOND

The City Controller obtained the following official bonds:

Period	Amounts
01-01-22 to 12-31-22	\$ 300,000
01-01-23 to 12-31-23	300,000

INTERNAL CONTROLS

Internal controls were insufficient due to the lack of oversight and monitoring of the 1937 fire pension funds. The City did not have internal controls in place to verify the existence and eligibility of pensioners, such as reviewing and monitoring obituaries on a periodic basis or developing some other method to verify proof of life. Gomez and the Fire Pension Secretary were relying on families to self-report pensioners and beneficiaries who passed away and when they passed away.

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The Indiana State Board of Accounts (SBOA) is required under Indiana Code 5-11-1-27(e) to define the acceptable minimum level of internal control standards. To provide clarifying guidance, the State Examiner compiled the standards contained in the manual, *Uniform Internal Control Standards for Indiana Political Subdivisions*. All political subdivisions subject to audit by SBOA are expected to adhere to these standards. The standards include adequate control activities. According to this manual:

"Control activities are the actions and tools established through policies and procedures that help to detect, prevent, or reduce the identified risks that interfere with the achievement of objectives. Detection activities are designed to identify unfavorable events in a timely manner whereas prevention activities are designed to deter the occurrence of an unfavorable event. Examples of these activities include reconciliations, authorizations, approval processes, performance reviews, and verification processes.

An integral part of the control activity component is segregation of duties. . . .

There is an expectation of segregation of duties. If compensating controls are necessary, documentation should exist to identify both the areas where segregation of duties are not feasible or practical and the compensating controls implemented to mitigate the risk. . . ."

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EXIT CONFERENCE

The contents of this report were discussed on March 12, 2024, with Valeriano F. Gomez, City Controller; Lenny Franciski, President of the Common Council; and Jesse Becerra, Fire Pension Secretary.



City of East Chicago
Administrative Services Division
4525 Indianapolis Blvd., East Chicago, Indiana 46312
Phone: (219) 391-8220 Fax: (219) 391-8223

Anthony Copeland
Mayor

Date: 15 March 2024

Indiana State Board of Accounts
302 West Washington St. Room E418
Indianapolis, IN 46204-2765

Re: 1937 Firefighters's Pension Fund City of East Chicago Official Response

Internal Controls pertaining to oversight and monitoring of City of East Chicago pension funds... (1937 Firefighter's and 1925 Police Pension Funds), ...due to City funds being unlawfully expended by persons not lawfully entitled to funds, and not reporting deaths of rightful beneficiary, will be expanded to prevent future similar incidents due to insufficient oversight.

City Controller Gomez has instructed the Fire (and Police) Pension secretary, HR Payroll Manager, and the City Legal department to quickly work together to formulate a document to be sent to all Police (Fire) Pension beneficiaries to verify the eligibility and existence of remaining Fire (Police) rightful pension beneficiaries; form will be similar to PERF's Proof of Life Affidavit Form. In addition, instructed them to add request for additional contact information (up dated phone, e-mail, etc.) of beneficiaries, and emergency contact information of nearest relative or trusted friend living near their location: to be used if no response from beneficiary. As with PERF form, East Chicago form will require document to be notarized and returned. The verifying form shall be sent out yearly, with follow-up contact attempts by Police (Fire) Pension secretary, with an emphasize on beneficiaries living out County or State.

Valeriano F. Gomez
City Controller, City of East Chicago
Tel: 219-391-8220

1937 FIREFIGHTERS' PENSION FUND
 CITY OF EAST CHICAGO
 SUMMARY OF CHARGES
 (Due to Malfeasance, Misfeasance, or Nonfeasance)

	<u>Charges</u>	<u>Credits</u>	<u>Balance Due</u>
Donald Evans-Larkin, Son of Beneficiary, and Valeriano F. Gomez, City Controller, jointly and severely: Fire Pension Overpayments, pages 3 through 5	\$ 43,693.31	\$ -	\$ 43,693.31
Donald Evans-Larkin, Son of Beneficiary, and Valeriano F. Gomez, City Controller, jointly and severely: Special Investigation Costs, pages 5 and 6	<u>2,780.67</u>	<u>-</u>	<u>2,780.67</u>
Totals	<u>\$ 46,473.98</u>	<u>\$ -</u>	<u>\$ 46,473.98</u>

This report was forwarded to the Office of the Indiana Attorney General and the local prosecuting attorney.

AFFIDAVIT

STATE OF INDIANA)
Porter COUNTY)

I, Kristin Campbell, Field Examiner, being duly sworn on my oath, state that the foregoing report based on the official records of the City of East Chicago, Lake County, Indiana, for the period from January 1, 2022 to October 13, 2023, is true and correct to the best of my knowledge and belief.

Kristin Campbell
Field Examiner

Subscribed and sworn to before me this 1ST day of April, 2024

Kathryn A. Harper
Notary Public

My Commission Expires: January 24, 2026
County of Residence: Porter

