



# Volunteer Firemen's Benevolent Association of North Tonawanda

## Foreign Fire Insurance Tax Moneys

### Report of Examination

Period Covered:

January 1, 2013 — April 28, 2014

2014M-208



Thomas P. DiNapoli

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# State of New York Office of the State Comptroller

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## **Division of Local Government and School Accountability**

October 2014

Dear Firemen's Benevolent Association Officials:

The Office of the State Comptroller's goals include enabling and encouraging entities that receive and disburse foreign fire insurance tax moneys to properly account for and protect these moneys.

Following is a report of our audit of the Volunteer Firemen's Benevolent Association of North Tonawanda, entitled Foreign Fire Insurance Tax Moneys. This audit was conducted pursuant to the State Comptroller's authority as set forth in Article V, section 1 of the State Constitution and Article 3 of the New York State General Municipal Law.

This audit's results and recommendations are resources for Association officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact our local regional office for your county, as listed at the end of this report.

Respectfully submitted,

*Office of the State Comptroller  
Division of Local Government  
and School Accountability*

# Introduction

## Background

The Volunteer Firemen's Benevolent Association of North Tonawanda (Association) is located in the City of North Tonawanda and was established in 1903 by a special act of the State Legislature, which was subsequently amended in 1906. The purpose of the Association is to furnish relief to disabled Association members and their families and to provide for the defrayal of funeral costs for deceased members of the Association.

The Association is governed by a nine-member Board of Directors (Board). According to the Association bylaws, the Board "shall have charge of the finances and hold in trust the real, personal and mixed property of the Association." The Board elects the President, Secretary and Treasurer from the members of the Board. There are more than 600 members of the Association. Membership is open to active and former volunteer firemen who are or were members of the six volunteer fire companies in the City of North Tonawanda. A source of revenue for the Association is foreign fire insurance tax moneys,<sup>1</sup> which are required to be used in furtherance of its corporate purpose.

For the fiscal year ended November 30, 2013, the Association reported assets totaling \$1,273,292.<sup>2</sup> For fiscal year 2013, the Association received \$65,878 in foreign fire insurance tax moneys and spent \$53,322 of these funds on membership benefits and administrative costs.

## Objective

The objective of our audit was to evaluate the Association's use and reporting of foreign fire insurance tax moneys. Our audit addressed the following related questions:

- Did the Board spend foreign fire insurance tax moneys in accordance with special act legislation, as amended, and were those disbursements properly supported?
- Did the Treasurer prepare an annual report on revenue and expenditures of foreign fire insurance tax moneys and file it with the Office of the State Comptroller?

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<sup>1</sup> New York State Insurance Law generally imposes a 2 percent tax on premiums of fire insurance policies written by foreign and alien insurers on property situated within various governmental entities in the State of New York.

<sup>2</sup> Assets include \$1,125,553 in cash and investments, along with a building housing Association offices that is valued at, net of depreciation, \$147,739.

**Scope and  
Methodology**

We examined the Association’s financial records for the period January 1, 2013 through April 28, 2014. We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit is included in Appendix B of this report.

**Comments of  
Association Officials and  
Corrective Action**

The results of our audit and recommendations have been discussed with Association officials and their comments, which appear in Appendix A, have been considered in preparing this report. Association officials generally agreed with our recommendations and agreed to take corrective action.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded to our office within 90 days. We encourage the Association to make this plan available for public review in its Secretary’s office.

## Foreign Fire Insurance Tax Moneys

The Association is required to use foreign fire insurance tax moneys in accordance with the purposes described in the special act that created the Association. In addition, the New York State General Municipal Law (GML) requires the Treasurer to annually prepare a report on revenue and expenditures of foreign fire insurance tax moneys and file it with the Office of the State Comptroller (OSC). We found that the Board did not ensure that foreign fire insurance tax moneys were spent in accordance with the special act that created the Association. Although the 106 payments made during 2013 totaling \$49,545 were supported with itemized claims, it is unclear if they were all proper because the Association bylaws were not adequately detailed regarding allowable expenditures. Also, the benefits provided by the Board were well in excess of the \$100 limit indicated in the special act. Of the 106 checks, 17 (16 percent) were \$100 or less. Further, we found that the Treasurer prepared the 2013 annual report of foreign fire insurance tax moneys and filed it with OSC, as required.

### **Expenditures of Foreign Fire Insurance Tax Moneys**

The special act allows the Association to provide financial relief to disabled members and their families, and to defray the funeral expenses of deceased members up to \$100 in any one year. The special act also requires the Board to define, in the Association bylaws, the manner of furnishing relief to disabled members and their families, and in what cases and for what kinds of disability such relief may be furnished.

The Association's bylaws include limited information about the benefits available to the membership. For example, the bylaws state that funeral benefits are provided "upon the death of any member of the Association, [and] shall be paid to the personal representative or next of kin of such deceased member of the Association, [at an] amount to be determined by the Board...." Furthermore, "hospital benefits will start with the second day of confinement in the hospital... the amount of the benefit will be determined by the Board...there will be a maximum amount set for a given 12-month period...." There was nothing in the bylaws to indicate that the Board established any benefit award amounts or limits, or described what kinds of disability were eligible for relief, as required by the special act.

The Association issued 106 benefit checks totaling \$49,545<sup>3</sup> to members or their families during 2013. Of this amount, \$24,450 was paid to members to defray hospitalization expenses, \$19,150 was paid

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<sup>3</sup> The Association also spent \$3,777 of foreign fire insurance tax moneys on building and administrative expenses.

to defray funeral expenses for deceased members, and \$5,945 was paid to members to defray vision benefit expenses. For the funeral benefits, the Association paid 15 beneficiaries \$1,200 each and one beneficiary \$1,150. While the claim supporting each payment was fully itemized and clearly indicated the purpose of the payment, the benefits provided by the Board were well in excess of the \$100 limit indicated in the special act. Of the 106 checks, 17 (16 percent) were \$100 or less. Furthermore, it is unclear if the members qualified for the vision benefits because the criteria for qualifying for these benefits are not clearly defined in the bylaws.

The Treasurer and President indicated that the Association did not comply with the special act's provisions because they and the rest of the Board were not familiar with all of the details of the special act, and the Board was following the example of prior Boards.

## **Annual Report**

GML requires that the fire company, fire department and benevolent association treasurers who receive and use foreign fire insurance premium tax proceeds file an annual report of the receipts, expenditures and balances relating to such moneys with OSC.

We found that the Treasurer prepared the 2013 annual report of foreign fire insurance tax moneys and filed it with the OSC, as required.

## **Recommendations**

The Board should:

1. Review the special act and ensure that the membership benefits are provided in accordance with the special act. If the Board finds that the special act does not meet the needs of the membership, it should request that the State Legislature amend the special act.
2. Revise the Association bylaws to define the manner of furnishing relief to disabled members and their families, and in what cases and for what kinds of disability such relief may be furnished to disabled members and their families.

## **APPENDIX A**

### **RESPONSE FROM ASSOCIATION OFFICIALS**

The Association officials' response to this audit can be found on the following page.

VOLUNTEER FIREMEN'S BENEVOLENT ASSOCIATION

P.O. BOX 468  
NORTH TONAWANDA, NEW YORK 14120  
FOUNDED 1903



To The NY State Comptroller's Office  
From: Peter Chenier President  
Date: 10/07/14  
Subject: Review of the North Tonawanda Volunteer Firefighter Benevolent.

I would like to thank you for the recent review of the North Tonawanda Volunteer Fireman's Benevolent. We felt the review to be educational, professional and welcome your findings. Below you will find our response to the items found by the Auditor needing our attention.

Item 1: We will review our past minutes to find any additional amendments to the charter that may have been acted upon by the state as we have had communications by past directors stating that our charter was amended by the State to increase our limit paid out to members by our organization. We are told this change took place between 1950 and 1980. If no changes are found by November 15, 2014, We will consult with our attorney to advise as to how we proceed to start the process to get the State Legislature to amend the special act to represent what we actually do and present this to our annual meeting for a vote of the general membership so we would be able to with the process to the state.

(This should include the raising of the limits, additional types of benefits and our spending money as to the conduct of our business (general terms that would include the things that we do such as meetings, sponsor of assoc. functions, etc., Of course this being done with non-2% money)

Item2: We will put together a bylaw change to revise our bylaws to communicate that at the January's regular meeting of the board of Directors, After review of financial records of the previous fiscal year as presented to the board by the Treasurer, A payment schedule will be set up for the next year listing any new benefits or deleted benefits that was covered in the past, max. Pay outs, or any other guidelines necessary for the proper conduct for the allocation of 2% money within the scope of NY State 2% laws... As always, if any extraordinary cases come forward, they can be dealt with over and above this guideline as allowed by NY State 2% laws. This schedule will be mailed out to the General Membership by the end of February each year.

## **APPENDIX B**

### **AUDIT METHODOLOGY AND STANDARDS**

We performed the following audit procedures to complete our audit objective:

- We reviewed the special act of the State Legislature creating the Association, the subsequent amendment and the Association bylaws.
- We reviewed the Board minutes.
- We reviewed claims supporting the payments of benefits to members and other operating costs, check registers, canceled check images and bank statements.
- We interviewed members of the Board.
- We reviewed financial reports required to be filed with the Federal government.

We conducted this performance audit in accordance with GAGAS. 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

## APPENDIX C

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