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**SPRING 2001 CONFERENCE**

**RECENT LEGAL ISSUES AND DECISIONS**

The following summary is presented to provide trustees and plan fiduciaries with a general reference to recent legal decisions regarding Michigan public employees retirement systems:

**Trager v City of Detroit**

*Court of Appeals - Decided: March 27, 2001*

A retiree's pension benefits were suspended after he returned to active employment with the city. The city argued that such suspension of the retiree's pension benefits was authorized by the city charter in effect at the time his pension accrued. The court held that the Detroit City Charter did not address what was to be done with retirees who returned to work after collecting a pension. Absent an amendment to the charter providing for such contingency, the city could not suspend the retiree's pension benefits.

**Girardi v City of Sterling Heights**

*Court of Appeals - Decided: March 13, 2000*

Where the parties' collective bargaining agreement provided that the defendant would provide plaintiff with health and life insurance benefits without reference to years of service in those provisions, plaintiff was entitled to health and life insurance even though he retired early.

**Wilkins v. City of Livonia**

*Court of Appeals - Decided: January 24, 2000*

Where plaintiff's former husband was not a member of defendant-city's retirement plan when he died and the pension plan did not provide for pension benefits after his death, the retirement plan was not required to pay plaintiff pension benefits.

**Magee v. Genesee County Retirement Comm'n**

*Court of Appeals - Decided: March 26, 2001*

Where plaintiff's contract for part-time work with a county clerk clearly provided that she was an independent contractor who was not entitled to receive any benefits, the Court of Appeals held that the retirement system properly determined that plaintiff was not eligible to purchase retirement credits and that the circuit court improperly issued a writ of superintending control.

**Hamilton v. City of Detroit**

*Court of Appeals - Decided: April 30, 2001*

Where plaintiff-police officer was paid a disability pension after he was shot while on duty, a reduction in the pension when he became eligible for retirement did not transform it from disability benefits to a regular pension, and thus did not lose its characterization as a "like benefit" for workers' compensation purposes.

**Theodore v. Wayne-Westland Community Schools**

*Court of Appeals - Decided: January 22, 2001*

Where plaintiff-teachers sued defendant-school district claiming that defendant withdrew representations made in an early retirement offer, plaintiffs' suit should have been dismissed for failure to exhaust administrative remedies contained in the collective bargaining agreement.

**Taunt v General Retirement System of the City of Detroit (In Re: Wilcox)**

*Federal Court of Appeals - Decided: November 13, 2000*

Where a debtor pledged his interest in a retirement plan as collateral for a revolving loan agreement and then filed a bankruptcy petition, the debtor's interest in the retirement plan is excepted from bankruptcy by operation of the plan's anti-alienation provision.

**Kulhavi v City of Hamtramck**

*Court of Appeals - Decided: July 17, 2000*

When calculating the pension benefits for police officers and fire fighters, it is proper to include payments to the employees for shift differential and food and gun allowance. However, the court held that in calculating pension benefits, it was not proper to include amounts paid for overtime pay, prep time for police officers, sick leave for fire fighters, and clothing allowance for both police officers and fire fighters.

**The Herald Co. v City of Bay City**

*Supreme Court - Decided: July 27, 2000*

The city violated the Freedom of Information Act when it refused to disclose public records concerning the final candidates for the position of fire chief because the requested records were not within any exception under the Act.

**Baker v. City of Westland**

*Court of Appeals - Decided: March 13, 2001*

Since plaintiff's Freedom of Information Act request for names and addresses of accident victims was related to private individuals and there was simply no public interest in disclosure, the court found that disclosure of the information would have constituted a clearly unwarranted invasion of privacy.

**Attorney General Opinion No. 7054**

*Dated: May 17, 2000*

The Incompatible Public Offices Act does not prohibit a person from simultaneously serving as a member of a city council and as a member of the board of a public transportation authority of which the city is a member.

**Attorney General Opinion No. 7061**

*Dated: August 31, 2000*

Under the Open Meetings Act, the clerk or designated secretary of a public body may furnish to a member of that body the minutes of a closed session of the body, either for inspection or copying. A public official who disseminates closed session minutes to the public in violation of this Act, however, risks criminal prosecution and civil penalties.

**Attorney General Opinion No. 7017**

*Dated: May 13, 1999*

In calculating the cost of labor for purposes of establishing the fee to be charged for processing a request under the Freedom of Information Act, a public body may include fringe benefits paid to its employees.

THE FOREGOING SUMMARIES ARE PRESENTED FOR GENERAL INFORMATION PURPOSES ONLY AND ARE NOT TO BE CONSIDERED LEGAL ADVICE. PLEASE REFER TO THE TEXT OF THE FULL OPINION

OR CONTACT VANOVERBEKE, MICHAUD & TIMMONY, P.C., AT THE ABOVE ADDRESS IF YOU HAVE ANY QUESTIONS OR COMMENTS CONCERNING THIS MATERIAL.