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SPRING 2002 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:

Black v State Employees Retirement Board

Court of Appeals - Decided: November 16, 2001

Where the circuit court concluded that there was competent, substantial and material evidence on the record to support the retirement board's decision to deny plaintiff's disability benefits for her psychiatric disability, there was no error.

Lucido v Macomb County Employees Retirement System

Court of Appeals - Decided: July 20, 2001

Where a county retirement system denied plaintiff's application for duty disability benefits because it concluded that her disability was not permanent, this decision was supported by competent, material and substantial evidence on the record.

Ronan v Michigan Public School Employee Retirement System

Court of Appeals - Decided: May 8, 2001

While the public school retirement board allows service credit for time periods for which weekly workers' compensation payments are made, the retirement board correctly concluded that it lacked the authority to extend service credit to a retired school teacher who sought the credit for time she was away from work and which resulted in a workers' compensation redemption order, but without provision of any weekly workers' compensation payments.

Todd v Saginaw Police Officers and Fire Fighters Retirement Systems

Court of Appeals - Decided: November 9, 2001

Where a pension benefit option under a municipal ordinance provided that to obtain survivor pension benefits, the survivor had to be the employee's spouse on the date the employee elected the option and on the date of retirement, and further provided that there could be no post-retirement elections, the ordinance does not violate public policy.

Walsh v Walsh

Court of Appeals - Decided: July 31, 2001

The Eligible Domestic Relations Order Act's (EDRO) distinction between ex-spouses of participants who are divorced before or after the participant's retirement does not violate the Equal Protection Clause of the Michigan Constitution.

Thomas v City of Detroit

Court of Appeals - Decided: May 21, 2001

Where a judgement of divorce states that a member is to retain his pension benefits "free and clear of any claim by the other," the former spouse is not eligible to receive benefits, even though she remained as the named beneficiary.

Detroit News v County of Wayne

Court of Appeals - Decided: March 15, 2002

The Court of Appeals found that the names, job titles, wages, longevity pay, annual/accumulated leave pay, sick pay, and car expenses for County officials and employees was not exempt from disclosure under the Freedom of Information Act.

Attorney General Opinion No. 7083

Dated: June 18, 2001

The Freedom of Information Act permits a public body to charge a fee for the actual incremental cost of duplicating or publishing a record, including labor directly attributable to those tasks, even when the labor is performed by a public employee during business hours and does not add extra cost to the public body's normal budget.

Attorney General Opinion No. 7087

Dated: August 27, 2001

The Board of Trustees of a retirement system established and administered by a home rule city charter is a "public body" subject to the Open Meetings Act and the Freedom of Information Act.

Attorney General Opinion No. 7095

Dated: December 17, 2001

Under the Freedom of Information Act, a public body may not impose a more restrictive schedule for access to its public records for certain persons than it does for the public generally, based solely upon the purposes for which the records are sought.

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.