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## M A P E R S

### RECENT LEGAL ISSUES AND DECISIONS

#### SPRING 2003 CONFERENCE

This summary is presented to provide a general reference to recent legal decisions regarding Michigan public employee retirement systems:

#### **Brown v. State Employees Retirement Board**

*Court of Appeals- Decided: February 18, 2003; 2003 Mich. App. LEXIS 410*

Where an employee's disability does not prevent him from performing his previous job or any other employment related to past experience and training, the Court of Appeals held that a retirement board properly denied plaintiff's application of non-duty retirement benefits under the State Employees Retirement Act.

#### **Decker v. City of Wyandotte**

*Court of Appeals- Decided: December 20, 2002; 2002 Mich. App. LEXIS 2240*

Where plaintiffs, retired non-union employees, sued the City for breach of contract when they were required to pay a portion of their hospital insurance after age 65, the Court of Appeals held that there was no breach of contract because there was no evidence that the City had agreed to "fully paid" hospital insurance after age 65.

#### **Fountain v. Chippewa County Road Commission**

*Court of Appeals - Decided: December 3, 2002; 2002 Mich. App. LEXIS 1906*

Where plaintiff terminated employment after 25 years of service, but prior to attainment of age 55, plaintiff was properly denied health insurance benefits on the basis that an individual was required to meet both age and service requirements to be found retired and eligible for health insurance benefits under the collective bargaining agreement.

#### **Gingrich v. Vanderwerp**

*Court of Appeals of Michigan - Decided: December 3, 2003; 2002 Mich. App. LEXIS 1925*

Where cost of living adjustment increases were not included in a Qualified Domestic Relations Order, said benefits were not subject to division.

#### **Mantei v. Michigan Public Schools Retirement System**

*Court of Appeals- Decided April 1, 2003; 2003 Mich. App. LEXIS 840*

Where plaintiff, a retired public school principal, provided administration services to a school under a contract with a private sector employer, he did not become "employed by a reporting unit" and therefore was improperly required to reimburse the retirement board for pension benefits he received that exceeded the statutory earnings limitation.

**Detroit News v. Policemen and Firemen Retirement System of the City of Detroit**

*Court of Appeals - Decided: June 25, 2002; 2002 Mich App. LEXIS 906*

Where plaintiff, newspaper, requested information under the Freedom of Information Act from defendant, retirement system, the Court of Appeals held that the retirement system is a public body subject to FOIA requests.

**Legault v. Ferndale City Council**

*Court of Appeals- Decided: September 20, 2002; 253 Mich. App. 115*

Under the Open Meetings Act, the Court of Appeals held that an audio tape of a closed session meeting of a public body was part of the minutes, and therefore must be retained.

**City of Saginaw v. Police Officers Assn. of Michigan**

*Court of Appeals - Decided: January 17, 2003; 2003 Mich. App. LEXIS 97*

Where a collective bargaining agreement states that the retirement system ordinance was controlling in the event of a dispute regarding retirement, the retirement board, not an arbitrator, has the authority to interpret the plan provisions.

**Stone v. State of Michigan**

*Michigan Supreme Court- Decided: September 24, 2002; 467 Mich. 288 LEXIS 1629*

Where plaintiffs, former State of Michigan employees, participated in an early retirement program, the Michigan Supreme Court held their monthly accumulated sick leave payments are subject to withholding for state and local income taxes.

**State Treasurer v. Abbott**

*Michigan Supreme Court- Decided: May 14, 2003; 2003 Mich. LEXIS 920*

Where defendant, a prison inmate, was ordered to forward his pension benefits to his prison address, the Michigan Supreme Court held that such an order did not violate the Employee Retirement Income Security Act (ERISA), and once the funds are in the inmate's account, the warden may distribute them under the State Correctional Facility Reimbursement Act.

**Office of the Attorney General of the State of Michigan**

*Opinion No. 7130 - Decided: April 21, 2003; 2003 Mich. AG LEXIS 9*

Under the Reciprocal Retirement Act, the Michigan Attorney General held that a city employee is permitted to use his years of service with a prior public employer to meet his present employer's retirement plan's service requirements, even if the employee has withdrawn his funds from the prior employer's defined contribution plan.

**Office of the Attorney General of the State of Michigan**

*Opinion No. 7122- Decided : January 14, 2003; 2003 Mich. AG LEXIS 1*

Where a county has adopted a Deferred Retirement Option Plan (DROP), the employee's retirement pension benefit may be paid into the DROP, if the individual meets the requirements of the County Pension Plan Act, MCL 46.12a(26).

**Nevada v. Hibbs**

*U.S. Supreme Court - Decided: May 27, 2003*

The US Supreme Court held that a state worker may sue the State in Federal Court to enforce his rights under the Family Medical Leave Act.

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.