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M A P E R S

RECENT LEGAL ISSUES AND DECISIONS

SPRING 2004 CONFERENCE

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

Studier v. Michigan Public Employees' Retirement Board

Court of Appeals- Decided: Feb. 3, 2004. 2004 Mich. App. LEXIS 317

Where public school retirees claimed constitutional violations and breach of fiduciary duties arising from increased prescription drug co-pays and increased deductibles in their health care coverage, the Court of Appeals held that health benefits were not accrued financial benefits under Mich. Const. Art. 9, § 24 and that the changes in deductibles and co-payments did not constitute a substantial impairment of a contract under Mich. Const. Art. 1, § 10.

Bachman v. City of Jackson

Court of Appeals - Decided: December 16, 2003. 2003 Mich. App. LEXIS 3256

Where a former police officer sought retirement health care benefits from the City, the Court of Appeals held that deferred retirees were entitled to health benefits under the collective bargaining agreement even though they did not have 25 years of service.

Glennon v. State Employees Retirement Board

Court of Appeals- Decided: November 20, 2003. 259 Mich. App. 476

Where the beneficiary of a deceased state retiree sought health insurance for her own child, the Court of Appeals held that the retirement board properly denied coverage for the child who was not the dependent of the retiree.

Zarka v. State Employees' Retirement System

Court of Appeals- Decided: November 25, 2003. 2003 Mich. App. LEXIS 3012

The Court of Appeals held that the board properly applied the proximate cause standard in its review of an application for duty disability and upheld the board's decision on the basis that it was supported by competent, material and substantial evidence.

Harvey v. State of Michigan

Supreme Court- Decided: July 16, 2003. 469 Mich. 1; 2003 Mich. LEXIS 1491

Where retired judges claimed that the Judges Retirement Act violates the Equal Protection Clause in Mich. Const. Art. 1, § 2, the Supreme Court held that the State can give greater retirement allowances to judges on the 36th District Court than to other district court judges.

Adamski v. Township of Addison

Court of Appeals- Decided: December 11, 2003. 2003 Mich. App. LEXIS 3192

Where Township responded to plaintiff's request for a tape of Township board meeting minutes by informing her that she could visit the Township's offices and listen to the tape, but failed to provide her a copy of the tape, the Court of Appeals held that this was a violation of the Freedom of Information Act.

Hammond Bay Preserve v. Miller

Court of Appeals- Decided: January 27, 2004. 2004 Mich. App. LEXIS 295

Where Township failed to provide plaintiff with certain audiotapes from its meeting, the Court of Appeals held that the Township violated the Freedom of Information Act. However, the Court held that the Township did not violate the Act as to one of the requests concerning a meeting for which tapes no longer existed.

Willis v. Deerfield Township

Court of Appeals- Decided: July 15, 2003. 2003 Mich. App. 541

Where Township board inadvertently omitted from their meeting minutes a vote approving a closed session, their later reenactment of that vote put them in compliance with the Open Meetings Act.

Lysogorski v. Charter Township of Bridgeport

Court of Appeals- Decided: April 15, 2003. 256 Mich App. 297

Where a Township board limited the public's right to address the board to a specified time during the beginning of its meeting, the Court of Appeals held that the rule does not violate the Open Meetings Act, and that the Act allows the board to establish its agenda and rules for public comment.

Office of the Attorney General of the State of Michigan

Opinion No. 7140- Decided: October 6, 2003. 2003 Mich. AG LEXIS 24

A retirement system with assets of less than \$250,000,000 is not authorized to invest in a Michigan small business, small business investment company, or venture capital firm under Section 20d(1) ("Basket Clause") of the Public Employee Retirement System Investment 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.