



December 9, 2019

Dear RPEA Members,

In May 2018, RPEA filed a lawsuit to address the diminishment that have occurred under the retiree Medical plan since January 2014.

In July 2019, a year and a half after the lawsuit was filed, the Division of Retirement & Benefits (DRB) filed a motion with the Court requesting a change of venue--the location of the court where the case is administered and where the trial would occur-- from Anchorage to Juneau. The basis for this request is a sentence that appears in the Retiree Benefit Booklet that states:

"This plan is issued and delivered in the State of Alaska and is governed by the laws of the State of Alaska. Any and all suits or legal proceedings of any kind that are brought against the State must be filed in the First Judicial District Juneau, Alaska."

There have been a number of major lawsuits concerning retiree benefits that have been filed against the DRB since the late 70's. Most of them have been filed and tried in Anchorage, including the *Duncan* case in 1999 and the more recent dental benefits case. However, the DRB did not invoke this venue clause in any of those lawsuits; in fact, RPEA is unaware of any lawsuit involving retiree health benefits where this clause in the Retiree Benefit Booklet has been invoked by the DRB.

It is unclear why the DRB decided to invoke the venue clause in this most recent lawsuit. RPEA believes it may have been done for some undisclosed strategic reasons. Perhaps the DRB hoped that a change of venue to Juneau would result in some advantage in its favor by making it much harder for RPEA to present its arguments and evidence there.

Not only was this the first lawsuit in which the DRB invoked this venue clause, RPEA could find no applicable legal authority that supported the DRB effort to enforce this provision. In fact almost all of the applicable legal authority indicated that this venue clause was not enforceable.

**On December 4, 2019, the Court issued an Order denying the DRB Venue Motion, ruling 100% in RPEA's favor.** The Court ruled that the State has no legal authority to enforce the venue clause that the DRB had previously placed in the Retiree Benefit Booklet, entirely for its sole convenience.

The court decision can be found at:

[https://rpea-ak.org/pdf/2018-diminishment-lawsuit/2019-12-04\\_Change-of-Venue-Request-Denied.pdf](https://rpea-ak.org/pdf/2018-diminishment-lawsuit/2019-12-04_Change-of-Venue-Request-Denied.pdf)

This decision is significant to all retirees living in Alaska. It prevents the DRB from denying a retiree living in Alaska the right to appeal to the Superior Court a claim that they feel was improperly denied by requiring them to file the case only in Juneau.

*Sharon Hoffbeck*

President

Retired Public Employees of Alaska

[sharonhoffbeck@gmail.com](mailto:sharonhoffbeck@gmail.com)