

PUBLIC EMPLOYEE RETIREMENT SYSTEM INVESTMENT ACT (EXCERPT)
Act 314 of 1965

38.1133e Prohibited conduct by investment fiduciary, service provider, or covered associate of service provider; exceptions; definitions; official of governmental entity.

Sec. 13e. (1) An investment fiduciary shall not make a payment from the assets of a system to a service provider if the service provider or a covered associate of the service provider has made a contribution to an official of a governmental entity during the immediately preceding 24-calendar-month period, which period does not include any calendar month before March 28, 2013. An investment fiduciary, a service provider, or a covered associate of a service provider shall not do anything indirectly that, if done directly, would violate this subsection. This subsection does not apply under any of the following circumstances:

(a) The contribution was made by a service provider or covered associate of the service provider to an official of a governmental entity for whom the service provider or covered associate of the service provider was entitled to vote at the time of the contribution and the contributions by the service provider or covered associate of the service provider to that official in the aggregate do not exceed \$350.00 per election.

(b) The contribution was made by a service provider or covered associate of the service provider to an official of a governmental entity for whom the service provider or covered associate of the service provider was not entitled to vote at the time of the contribution and the contributions by the service provider or covered associate of the service provider to that official in the aggregate do not exceed \$150.00 per election.

(c) The contribution was made to an official of a governmental entity by an individual more than 6 months before he or she became a covered associate of the service provider.

(d) The contribution was made to an official of a governmental entity by a covered associate of the service provider and all of the following requirements are met:

(i) The service provider discovers the contribution that violates this subsection on or before the expiration of 4 months after the contribution was made.

(ii) The contribution that violates this subsection was for \$350.00 or less.

(iii) The covered associate of the service provider obtains the return of the contribution that violates this subsection on or before the expiration of 60 calendar days after the date of the discovery of the contribution under subparagraph (i).

(2) As used in this section:

(a) "Contribution" means a payment made under any of the following circumstances:

(i) For the purpose of influencing an election for federal, state, or local office.

(ii) For a debt incurred in connection with an election for federal, state, or local office.

(iii) For transition or inaugural expenses of a successful candidate for federal, state, or local office.

(iv) To a legal defense fund established by or on behalf of an official of a governmental entity.

(b) "Covered associate of the service provider" means any of the following:

(i) A general partner, managing member, agent, or officer of the service provider or any other individual with a similar status or function for the service provider.

(ii) An employee of the service provider who solicits a governmental entity on behalf of the service provider and any individual employed by the service provider who directly or indirectly supervises that employee.

(iii) A political action committee controlled by the service provider or by any individual described in subparagraph (i) or (ii). As used in this subparagraph, "political action committee" means a political committee or an independent committee as those terms are defined in the Michigan campaign finance act, 1976 PA 388, MCL 169.201 to 169.282.

(c) "Governmental entity" means this state or a political subdivision of this state. Governmental entity includes a system and an agency, authority, or instrumentality of this state or of a political subdivision of this state.

(d) "Official of a governmental entity" means an individual who, at the time of the contribution, was an incumbent, candidate, or successful candidate for an elective office in a governmental entity if the office meets any of the following requirements:

(i) Is directly or indirectly responsible for or can influence the outcome of the hiring of a service provider by a system sponsored by the governmental entity.

(ii) Has the authority to appoint an individual who is directly or indirectly responsible for or can influence the outcome of the hiring of a service provider by a system sponsored by the governmental entity.

(e) "Payment" means a gift, subscription, loan, advance, or deposit of money or anything of value.

(f) "Regulated investment adviser" means an investment adviser or covered associate of an investment adviser that is regulated under the investment advisers act of 1940, 15 USC 80b-1 to 80b-21.

(g) "Service provider" means a person retained to provide services to a system and includes investment advisers, consultants, custodians, accountants, auditors, attorneys, actuaries, administrators, and physicians. Service provider includes an investment service provider as defined in section 13(7). Service provider does not include a regulated investment adviser.

(3) For purposes of subsection (2)(d), an official of a governmental entity does not include an individual involved solely in the selection of a member of an investment committee described in section 13g.

History: Add. 2012, Act 347, Eff. Mar. 28, 2013;—Am. 2014, Act 185, Imd. Eff. June 20, 2014.