



May 24, 2021

The Honorable Connie Leyva
California State Senate
State Capitol Building, Room 4061
Sacramento, CA 95814

**RE: Senate Bill 278 (Leyva) - Public Employees' Retirement System. Disallowed Compensation. Benefit Adjustments.
Notice of Opposition [As Amended 3/23/2021]**

Dear Senator Leyva,

The City of Laguna Niguel must respectfully oppose SB 278, which would require public agencies to directly pay retirees or their beneficiaries disallowed retirement benefits using general fund dollars. Our objections to this measure are rooted in policy, operational cost, and legal concerns that will inevitably face virtually every state and local government agency should this measure be signed into law.

CalPERS has no Incentive to Properly Calculate Benefit Payments:

SB 278 would place 100 percent of the total liability for disallowed retirement benefits on public agencies—abdicating all responsibility previously held by CalPERS to ensure that retirement benefits are calculated and administered correctly. As such, SB 278 is a de facto and retroactive benefit enhancement measure that would further strain our budget when the impacts of COVID-19 and retirement obligations are making it exceedingly difficult to provide critical services for the public effectively. In addition, cities across the state are already dealing with daunting unfunded pension liabilities. To place another arduous and unjust requirement on cities is a short-sided approach that only benefits CalPERS.

Requirements under SB 278 will Create Compliance and Implementation Issues:

SB 278 would require us to issue direct General Fund payments to retirees, which would trigger GASB 68 reporting requirements. Given the unique circumstances surrounding these overpayments, we would have to track and report these liabilities. Such additional responsibilities will require us to hire costly outside actuarial and legal experts to ensure that they follow federal reporting laws.

This measure also fails to consider the common practice of employees moving from jurisdiction to jurisdiction throughout their careers. Under normal circumstances, CalPERS pays out the benefit if an employee works for multiple agencies who enjoy reciprocity. However, under SB 278, it is unclear. Such confusion will lead to compliance, legal, and implementation challenges.

The lack of accountability by the administrator of public retirement benefits would lead to more confusion and compliance challenges for public agencies.

Gift of Public Funds is a Violation of the California Constitution:

Under SB 278, the City of Laguna Niguel would be issuing unlawful payments to former employees or their beneficiaries. Continued payment of a disallowed benefit to a retiree would constitute a gift of public funds, in violation of Section 6, Article 16 of the California Constitution. Such a violation would leave a public agency left to defend itself from costly litigation lawsuits filed by members of the public. This would only put additional financial burdens on cities.

For these reasons, the City of Laguna Niguel opposes SB 278 (Leyva).

Sincerely,

A handwritten signature in black ink, appearing to read "Fred Minagar". The signature is fluid and cursive, with a long horizontal stroke at the end.

Fred Minagar
Mayor

Cc: Senator Patricia Bates
Assembly Member Laurie Davies
Tony Cardenas, Orange County Regional Public Affairs Manager