



CITY OF NEWPORT BEACH

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Mayor

Brad Avery

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Will O'Neill

April 9, 2021

The Honorable Anthony J. Portantino
Chair, Senate Appropriations Committee
State Capitol, Room 2206
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 Portantino:

The City of Newport Beach respectfully opposes SB 278, which will require public agencies to directly pay retirees and/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.

If SB 278 is Passed, CalPERS Will Have No Incentive to Properly Calculate Benefit Payments:

SB 278 will 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 at a time where the impacts of COVID-19 and retirement obligations are making it exceedingly difficult to effectively provide critical services for the public.

Requirements under SB 278 will Create Compliance and Implementation Issues:

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

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 will lead to more confusion and compliance challenges for public agencies.

If SB 278 is Passed, the City Will be Forced to Issue Unlawful Payments to Former Employees and/or Their Beneficiaries. Gift of Public Funds Violates the California Constitution:

Under SB 278, the City of Newport Beach will be issuing unlawful, payments to former employees and/or their beneficiaries. Continued payment of a disallowed benefit to a retiree constitutes a gift of public funds, in violation of Section 6, Article 16 of the California Constitution. Such violation leaves a public agency in the position of having to defend itself from costly litigation lawsuits filed by members of the public.

For these reasons, the City of Newport Beach opposes SB 278 (Leyva).

Sincerely,



Brad Avery
Mayor

CC: The Honorable Connie Leyva
Senator Dave Min, 37th Senate District
Assemblywoman Cottie Petrie-Norris, 74th Assembly District
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