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March 5, 2021

The Honorable Dave Cortese  
Chair, Senate Labor, Public Employment and Retirement Committee  
Legislative Office Building, Room 545  
Sacramento, CA 95814

**RE: Senate Bill 278 (Leyva) - Public Employees' Retirement System. Disallowed Compensation. Benefit Adjustments. Notice of Opposition [As Introduced 1/29/2021]**

Dear Senator Cortese:

The City of Arcata must respectfully oppose SB 278, which would 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.

**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 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. For example, for the new fiscal year, the increased pension cost the City is currently experiencing has already required the City to further defer operational purchases and capital improvement projects, as well as delay hiring of or not re-establish necessary positions. With the 7% CalPERS discount rate reduction going into full effect, our City expects even further reductions and deferrals to fund future pension costs. By requiring the City to also take on total liability of disallowed benefit repayment costs for retirees, the City will be required to make additional and more severe choices. Whether that is further reduction in services, deferral of capital projects, or operating critically short-staffed, we end up doing a disservice to both the public and our employees.

**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 Arcata would be issuing unlawful, payments to former employees and/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 violation would leave a public agency left to defend itself from costly litigation lawsuits filed by members of the public.

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

Respectfully,



Sofia Pereira, Mayor  
City of Arcata

cc:

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