

April 12, 2021



E-TRANSMITTAL/ U.S. REGULAR MAIL

The Honorable Dave Cortese, 15th District
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:

On behalf of the San Pablo City Council, we must respectfully oppose SB 278, which would require public agencies to directly pay retirees and/or their beneficiaries, disallowed retirement benefits using City 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 City's GF 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, and would stymie any short or long-term economic recovery efforts.

Additionally, ongoing CalPERS smoothing costs and annual operational CalPERS adjustments are already challenging enough to be absorbed into any City's GF Budget. In the wake of the COVID-19 fiscal impacts on local cities, any proposed state legislation which exacerbates or places greater financial risk on any City's GF budget makes it extremely difficult to replenish lost GF reserves. Since FY 2019/20 to date, the City of San Pablo has used a **combined total of \$12.2M** of existing City Catastrophic Reserves and one-time funding to counteract the amount of GF revenue loss from the COVID-19 pandemic since its inception.

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 San Pablo 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 San Pablo **opposes** SB 278 (Leyva).

Sincerely,



Elizabeth Pabon-Alvarado, Mayor
City of San Pablo

cc: State Senator Connie Leyva, 20th District
State Senator Nancy Skinner, 9th District
State Assemblymember Buffy Wicks, 15th District
Sam Caygill, East Bay Division, League of California Cities, scaygill@cacities.org
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San Pablo City Council
City Manager
City Attorney