

Legislation Text

File #: #19-396, Version: 1

PREPARED BY: MATT RODRIGUEZ

DATE OF MEETING: 09/03/19

SUBJECT:

CITY COUNCIL AUTHORIZATION TO RATIFY NOTICE OF OPPOSITION LETTERS REGARDING SB266 (LEYVA) - CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM: DISALLOWED COMPENSATION; BENEFIT ADJUSTMENTS

CITY MANAGER RECOMMENDATION

Authorize by Minute Order

COMPLIANCE STATEMENTS

FY 2019-21 Council Priority Workplan Compliance Statement

Economic Development and Diversification and Policy No. #403 - Create a sustainable economic ecosystem are adopted policy items under the FY 2019-21 Council Priority Workplan, effective March 1, 2019.

CEQA Compliance Statement

This is not a project as defined by CEQA.

BACKGROUND

On August 15, 2019, the League of California Cities (League) contacted City Managers throughout the state to inform them of the status of the proposed SB 266 (Leyva) legislation, and hosted a League-sponsored webinar on this draft legislation and its potential impacts to local contract cities if adopted into law.

SB 266 (Leyva) (SB 266) would require local cities to pay individual retirees (*and their beneficiaries*) for decades out of their respective general fund operating budgets to cover any amounts of a retiree's CalPERS-determined benefit that CalPERS later determines is "disallowed compensation." As amended, SB 266 places 100 percent of the total liability for such overpayments on public agencies-abdicating all responsibility previously held by CalPERS to ensure that retirement benefits are calculated and administered correctly.

As such, SB 266 is a retroactive benefit enhancement measure that will further strain local agency budgets at a time where retirement obligations are effectively eliminating agencies' ability to provide critical services for the public. The League's objections to this measure are rooted in policy, operational, cost, and legal concerns which every state and local government agency would face should this measure be signed into law. The measure would also permit the retiree to determine if they would like to receive one lump sum of the projected amortized amount of the benefit or require the agency to pay a monthly annuity from its general fund.

These perceived giveaways of public funds will further undermine the public's perception of local

governments, due to the inherent abuses associated with pension spiking. Unfortunately, this bill has been moving rapidly through the state legislature with little resistance from state legislators to date. The California Professional Firefighters Association, the main sponsor of this bill, and early endorsers of Governor Newsom, seem overly confident that they may be able to get the Governor to sign this bill once adopted by the state legislature.

Note: The bill's author, State Senator Leyva introduced a similar bill in the 2017-2018 legislative session, SB 1124, which was adopted by the State Legislature but vetoed by former Governor Brown over concerns regarding that bill's "... *broad provisions that could easily be abused to circumvent limitations in PERS statutes intended to protect local government, and ultimately taxpayers, from pension spiking.*"

Committee Review

On June 25, 2019, SB 266 was heard in the Assembly Public Employment and Retirement Committee. The League testified in opposition and expressed concerns to the Committee. Unfortunately, the League's concerns were not well received and the bill was passed out of the Committee on a 7-0 vote. On August 21, 2019, the Assembly Appropriations Committee heard the bill which was placed in a suspense file. On August 30, 2019, this bill along with other bills in the suspense file may be taken up anytime by the state legislature and heard on the Assembly/Senate floor.

Opposition Letters Sent on SB 266

The League has requested local cities send opposition letters at the time of the Assembly Appropriations Committee hearing scheduled on August 21, 2019. At the time of the League's request, the cities of Brentwood, Concord, Hercules, Livermore and Pinole officially transmitted opposition letters to SB 266. As a result, San Pablo City Manager Rodriguez directed opposition letters to SB 266 be drafted for execution by the Mayor for transmittal on August 21, 2019 to Chair Lorena Gonzalez, Assembly Appropriations Committee, and Chair Anthony Portantino, Senate Appropriations Committee via the City's contract lobbyist, Townsend Public Affairs (See Attachments).

City Council Ratification Approval

This evening, following the Mayor's execution and transmittal of said opposition letters on the SB 266 legislation, the City Council is requested to ratify said letters by majority vote via minute action.

FISCAL IMPACT

None associated with this agenda item.

ATTACHMENTS:

1. Proposed SB 266 (Leyva) Legislation (Last amended 08/14/19)
2. Letter - Notice of Opposition to SB 266 (Leyva) transmitted on 08/21/19 to Chair Lorena Gonzalez, Assembly Appropriations Committee
3. Letter - Notice of Opposition to SB 266 (Leyva) transmitted on 08/21/19 to Chair Anthony Portantino, Senate Appropriations Committee