Los Angeles County Division
League of California Cities®

September 10, 2019

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

RE: **SB 266 (Leyva) Public Employees' Retirement System: Disallowed Compensation: Benefit Adjustments. [As Amended September 3, 2019**
Notice of Opposition

Dear Senator Leyva,

The Los Angeles County Division of the League of California Cities® (Division), representing 86 cities in the County, must respectfully oppose SB 266, 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 local government agency should this measure be signed into law.

Double Payment:
Under current law, once a benefit is determined to be disallowed, both the employer and the employee cease making future payments on that benefit, past contributions from the employee are returned to the employee, while past contributions from the employer are applied towards future payment. We the employer have already made our contributions, we should not be double paying for the benefit.

As Amended CalPERS has no Incentive to Properly Calculate Benefit Payments:
Recent amendments to the measure remove all responsibility by CalPERS to ensure benefits are reviewed, calculated and administered correctly. Instead, SB 266 places sole responsibility on the employer—even if the employer exercises their right to have CalPERS review their compensation proposal. While we understand that CalPERS has asserted that they face IRS plan qualification concerns for paying out an unlawful benefit, the fact that there is zero accountability or assurances afforded to the state or local agency when CalPERS reviews a compensation agreement is irrational.

Requirements under SB 266 will Create Compliance and Implementation Issues:
Under SB 266, we would be issuing 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. SB 266 is a de facto and retroactive benefit enhancement bill that would further strain our budget at a time where retirement obligations are making it financially difficult to provide critical services for the public

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 266 it is unclear. Such confusion will lead to compliance, legal and implementation challenges.

Gift of Public Funds is a Violation of the California Constitution:
Under SB 266, cities 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 Division opposes SB 266 (Leyva).

Sincerely,

Juan Garza
President
Los Angeles County Division
League of California Cities®

cc: Che Salinas, Chief Deputy Legislative Secretary for Operations, Office of Governor Newsom Leg.unit@gov.ca.gov
Michael Bolden, Chief Consultant, Assembly Public Employment & Retirement