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July 17, 2019

The Honorable Anthony Portantino
Chair, Senate Appropriations Committee
State Capitol Building, Room 3086
Sacramento, CA 95814

**RE: SB 266 (LEYVA) PUBLIC EMPLOYEES' RETIREMENT SYSTEM: DISALLOWED
COMPENSATION: BENEFIT ADJUSTMENTS.**
NOTICE OF OPPOSITION

Dear Senator Portantino,

The City of Corona must respectfully oppose SB 266, which would require public agencies to directly pay retirees for disallowed retirement benefits.

In 2012 the California State Legislature passed significant public pension reform legislation known as the Public Employees' Pension Reform Act (PEPRA,) which took effect January 1, 2013. While the reforms were significant, they led to some confusion as to what may lawfully be offered as employee pension benefits. As a result, some public agencies and their represented employee organizations came to agreements on benefit packages and submitted to CalPERS for approval. Only after these agreements were approved and administered did CalPERS determine that these forms of compensation were unlawful. Those future retirement benefits, which were being paid for by employers and employees into pension systems such as the California Public Employees Retirement System (CalPERS), were at some point determined to violate the law and were terminated. Terminated benefits that violate PEPRA are considered "disallowed benefits."

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. Unfortunately, in the case of a retiree that received the disallowed benefit, the pension system must recoup the overpaid benefit from the retiree. The pension system must recoup that overpayment from the retiree because it is unlawful to pay out a benefit that is not legally allowable or earned.

Public agencies cannot continue to make payments to retirees as proposed by SB 266 for the same legal basis that requires pension systems to recoup their disallowed retirement benefit payments to retirees. 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. Again, it is unfortunate that after an agency and their bargaining unit came to an agreement on

benefits and those benefits had been paid for any amount of time for the benefit to be taken from the retiree. Public agencies simply cannot continue to make payments directly to a retiree for an unlawful benefit.

For these reasons, the City of Corona respectfully **opposes SB 266** (Leyva).

Sincerely,

Jason Scott
Mayor
City of Corona

cc: Senator Richard Roth, Senate District 31
Assembly Member Sabrina Cervantes, District 60
Erin Sasse, Regional Public Affairs Manager, Riverside County esasse@cacities.org
Meg Desmond, League of California Cities, cityletters@cacities.org