



March 20, 2019

The Honorable Jerry Hill
Chair, Senate Labor, Public Employment, and Retirement Committee
State Capitol
Sacramento, CA 95814

RE: Senate Bill 266 (Leyva) – Oppose [As Introduced February 12, 2019]

Hearing Date: Senate Labor, Public Employment, and Retirement Committee March 27, 2019

Dear Senator Hill:

The California Special Districts Association (CSDA), League of California Cities (LCC), and the California State Association of Counties (CSAC) are respectfully opposed to SB 266, which will 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 that did not meet the new legal standards to be considered a pensionable benefit. 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. Although public agencies may feel morally or ethically compelled to do so, public agencies simply cannot continue to make payments directly to a retiree for an unlawful benefit.

For these reasons, CSDA, LCC, and CSAC must oppose SB 266. Should you have any questions about our position, please feel free to contact Dillon Gibbons (CSDA) at 916-442-7887, Dane Hutchings (LCC) at 916-658-8200, or Geoff Neill (CSAC) at 916-327-7500.

Sincerely,



Dillon Gibbons
Legislative Representative



Dane Hutchings
Legislative Representative



Geoff Neill
Legislative Representative

CC: The Honorable Connie Leyva
Members, Senate Labor, Public Employment, and Retirement Committee
Gideon L. Baum, Consultant, Senate Labor, Public Employment, and retirement Committee
Scott Seekatz, Consultant, Senate Republican Caucus