



# CITY OF MILPITAS

455 EAST CALAVERAS BOULEVARD, MILPITAS, CALIFORNIA 95035-5479

PHONE: 408-586-3051, FAX: 408-586-3056, [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov)

April 21, 2021

The Honorable Dave Cortese  
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 Amended 3/23/2021]**

Dear Senator Cortese:

The City of Milpitas must respectfully oppose SB 278, 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 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 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. Increased costs could include additional audits to ensure correct reporting, as well as administrative costs to issue checks to provide unearned retirement payments resulting from staff errors.

**Requirements under SB 278 will Create Compliance and Implementation Issues:**

SB 278 would require us to issue direct 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. The City believes that CalPERS has as much, if not more responsibility, to ensure reporting by public agencies is accurate, and that this responsibility does not rest with the solely with the public agency.

**Gift of Public Funds is a Violation of the California Constitution:**

Under SB 278, City of Milpitas 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.

Errors in retirement calculations are unfortunate, however, a mistake does not warrant or justify providing an unearned benefit for the life of the retiree and/or their survivor.

For these reasons, the City of Milpitas opposes SB 278 (Leyva).

Sincerely,

Rich Tran  
Mayor  
City of Milpitas

cc: The Honorable Connie Leyva  
Senator Bob Wieckowski  
Assemblymember Alex Lee  
League of California Cities, [cityletters@cacities.org](mailto:cityletters@cacities.org)