



## CITY of LAGUNA NIGUEL

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## CITY COUNCIL

Mayor John Mark Jennings  
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Council Member Elaine Gennawey  
Council Member Fred Minagar  
Council Member Sandy Rains

July 3, 2019

The Honorable Lorena Gonzalez  
Chair, Assembly Committee on Appropriations  
State Capitol Building, Room 2114  
Sacramento, CA 95814

**RE: Opposition to S.B. 266**

Dear Assembly Member Gonzalez,

On behalf of the City of Laguna Niguel, I am writing to express our opposition to S.B. 266 (Leyva), Public Employees' Retirement System: Disallowed Compensation: Benefit Adjustments.

Laguna Niguel must oppose S.B. 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 legislation are rooted in policies, operational costs, and legal concerns that will inevitably face virtually every local government agency should this measure be signed into law.

Under the current public employee retirement system, when a benefit is determined to be disallowed, both the employer and the employee cease future payments on said benefit. Past contributions from the employee are then refunded to the employee, while past contributions from the employer are then applied towards future payments. Local government agencies, and all public agencies for that matter, have already made significant contributions and should not be required to pay twice for the benefit.

S.B. 266 removes all responsibility by CalPERS to ensure employee benefits are reviewed, calculated, and administered properly. Instead, this legislation, places sole responsibility on local government agencies, all of which differ in capability due to varying numbers of employees, even if the agency exercises their right to have CalPERS review their compensation proposal. With S.B. 266, there is no accountability for CalPERS and no assurances afforded to the local agency. This is irrational and irresponsible.

This legislation would force local government agencies to issue direct General Fund payments to retirees, which could trigger GASB 68 reporting requirements. Given the unique circumstances surrounding these overpayments, tracking and reporting liabilities would be created. In doing so, local agencies would be forced to hire costly outside actuarial and legal experts to ensure that federal reporting laws are met. This just creates more financial obligations for cities and other public agencies while providing services to the public should be the focus.

Furthermore, under S.B. 266, local agencies would be required to issue monthly, unlawful payments to former employees and/ or their beneficiaries in perpetuity. Continued payment of a disallowed benefit to a retiree would constitute a gift of public funds, which is a violation of Section 6, Article 16 of the California Constitution. A violation as such is not only inappropriate in principle, but it would leave a public agency left to defend itself from costly litigation lawsuits – more unnecessary financial obligation placed on California public agencies.

Compliance and legal concerns, increased costs, potential operational issues, lack of accountability, and likely violation of the California Constitution. For these reasons, Laguna Niguel must oppose S.B. 266 (Leyva) and encourage the Assembly Committee on Appropriations and State Assembly as a whole to do the same.

Yours in service to others,



John Mark Jennings  
Mayor

cc: The Honorable Connie Leyva  
Members, Assembly Committee on Appropriations  
The Honorable Senator Patricia Bates  
The Honorable Assembly Member Bill Brough  
Tony Cardenas, League of California Cities  
League of California Cities