



CITY OF BEVERLY HILLS

455 NORTH REXFORD DRIVE • BEVERLY HILLS, CALIFORNIA 90210

John A. Mirisch, Mayor

June 19, 2019

The Honorable Connie Leyva
California State Senate, 20th District
State Capitol, Room 4061
Sacramento, CA 95814

Re: SB 266 (Leyva) Public Employees' Retirement System: disallowed compensation: benefit adjustments
City of Beverly Hills – OPPOSE

Dear Senator Leyva,

On behalf of the City of Beverly Hills, I write to you in respectful **OPPOSITION** to your **SB 266**, which would establish new procedures for employees covered by the California Public Employee Retirement System (CalPERS) in cases where their pensionable benefits are erroneously calculated and reported to CalPERS by their employer.

The Public Employees' Pension Reform Act (PEPRA,) which took effect January 1, 2013, limited what types of compensation can be counted in the calculation of pension benefits for the new members. 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 CalPERS, were at some point determined to violate the law and were terminated. Terminated benefits that violate PEPRA are considered "disallowed benefits."

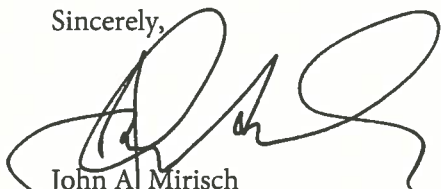
Under current law, once a benefit is determined to be disallowed, both the employer and the employee cease making future payments on that benefit, past contributions from the employee are returned to the employee, while past contributions from the employer are applied towards future payment. In the case 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.

SB 266 outlines a policy whereby public agencies would be required to continue to make payments to retirees that have had their pensions reduced by CalPERS when CalPERS realizes the pensionable benefits was erroneously calculated. 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 Beverly Hills must respectfully **OPPOSE** your **SB 266**.

Sincerely,

A handwritten signature in black ink, appearing to read 'John A. Mirisch', written over a vertical line that separates the signature from the printed name.

John A. Mirisch
Mayor, City of Beverly Hills

cc: Members and Consultants, Public Employment and Retirement Committee
The Honorable Ben Allen, 26th Senate District
The Honorable Richard Bloom, 50th Assembly District
Andrew K. Antwih, Shaw / Yoder / Antwih, Inc.