955 School Street
Napa, CA 94559
www.cityofnapa.org

Staff Reports

File #: 2030-2019, **Version:** 1

To: Honorable Mayor and Members of City Council

From: Steve Potter, City Manager

Prepared By: Tiffany Carranza, City Clerk

TITLE:
Opposition to California Senate Bill 266 “Public Employees’ Retirement System: Disallowed Compensation: Benefit Adjustments”

RECOMMENDED ACTION:
Authorize the Mayor to sign a Letter of Opposition to SB-266, which would require the City to make direct payments to retirees for disallowed retirement payments under the Public Employees’ Retirement System.

DISCUSSION:
The League of California Cities is recommending cities to oppose California Senate Bill 266 - Public Employees’ Retirement System: disallowed compensation: benefit adjustments. If SB 266 is enacted into law, it would require a public agency to directly pay retirees any shortfall of a retirement benefit if CalPERS determines that a retiree or their beneficiary has received disallowed compensation. This would result in new retirement liabilities for the City, and could result in unanticipated increases in the City’s General Fund costs.

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 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.

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 were erroneously calculated. SB 266 would permit the retiree to determine if they would like to receive one lump sum of the projected amortized amount of the benefit, or force the agency to pay a monthly annuity from its general fund. Again, it would be unfortunate if a city 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.

FINANCIAL IMPACTS:
None.

CEQA:
The City Manager has determined that the Recommended Action described in this Agenda Report is not subject to CEQA, pursuant to CEQA Guidelines Section 15060(c).

DOCUMENTS ATTACHED:
ATCH 1 - SB-266 Bill Text
ATCH 2 - League of California Opposition Letter

NOTIFICATION:
None