



1 North San Antonio Road
Los Altos, California 94022-3087

MEMORANDUM

DATE: April 13, 2021

TO: Los Altos City Council

FROM: City Council Legislative Subcommittee: Vice Mayor Enander, Council Member Weinberg

SUBJECT: **Agenda Item #7** - Council Legislative Committee Update and Potential Council Action

The Legislative Committee proposes Council endorse sending position letters to the State Legislature regarding four bills: SB 278, SB 556, AB 339, and AB 415. All four proposed letters match the League's own recommendations. The Committee is still considering its recommendations with respect to AB 415 and SB 765; the Committee will briefly explain those two bills for information only and defer requests for action to the next meeting.

On April 7, the League of California Cities specifically requested letters on SB 9 (for which Council has already acted), SB 278, and SB 556. Please note that Sen. Josh Becker sits on the policy committee hearing SB 556, so the Committee proposes a letter directed to him as well as the one to the policy committee chair.

The proposed letters for AB 339 and AB 415 are high priority for the League per their webinar and online information. Please note that Assemblymember Marc Berman sits on the policy committee hearing AB 415, so the Committee proposes a letter directed to him as well as the one to the policy committee chair.

Vice Mayor Enander and Councilmember Weinberg concur in the wording for all four letters, with a question only about the first sentence in the fourth paragraph of the letter for SB 556 (the letter as presented is entirely the League's recommended draft).

Attachments:

1. Proposed Letter re: Senate Bill 278
2. Draft Letter re: Senate Bill 556
3. Draft Letter re Assembly Bill 339
4. Draft Letter re: Assembly Bill 415

April 13, 2021

The Honorable Thomas J. Umberg
Chair, Senate Judiciary Committee
Legislative Office Building, Room 2187
Sacramento, CA 95814

RE: Senate Bill 278 (Leyva) - Public Employees' Retirement System. Disallowed Compensation. Benefit Adjustments Notice of Opposition (As Introduced 1/29/2021)

Dear Senator Umberg:

The City of Los Altos respectfully opposes 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. This would place an undefinable liability on city funds, causing uncertainty in budgeting for services, infrastructure, and otherwise-predictable retirement obligations. The uncertainty might well lead to audit notes that could impede bonding and financing mechanisms.

Requirements under SB 278 will Create Compliance and Implementation Issues:

SB 278 would require us to issue direct General Fund 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.

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

Under SB 278, the City of Los Altos would issue 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 violations would leave a public agency left to defend itself from costly lawsuits filed by members of the public.

SB 278 would create an unfunded mandate by transferring legal and financial obligations from CalPers to cities and requiring us to attempt to administer retirement benefits to employees who will likely relocate during their retirement – a task far beyond the scope that can be expected of small-city staffs.

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

Sincerely,

Neysa Fligor
Mayor
City of Los Altos

cc: The Honorable Connie Leyva
The Honorable Josh Becker
The Honorable Marc Berman
Seth Miller (via email)
League of California Cities, cityletters@cacities.org

April 13, 2021

The Honorable Ben Hueso
Chair, Senate Energy, Utilities, and Communications Committee
State Capitol Building, Room 4035
Sacramento, CA 95814

RE: SB 556 (Dodd) Street Light Poles, Traffic Signal Poles, Utility Poles, and Support Structures: Attachments.

Notice of OPPOSITION (*As Amended 03/16/21*)

Dear Senator Hueso,

The City of Los Altos respectfully opposes SB 556 (Dodd), related to wireless broadband infrastructure deployment.

SB 556 directly conflicts with the Federal Communications Commission's (FCC) adopted regulations on wireless services deployment, which cities and counties across the nation are actively implementing. This measure requires local governments to make space available to telecommunications providers without recognizing local authority to manage the public right-of-way preserved in federal law. FCC regulations explicitly enable local governments to ensure that such installations meet appearance and design standards, maintain traffic safety, protect historical resources' integrity, and safeguard citizens' quality of life. To protect the public's investment, the control of the public rights-of-way must remain local.

Additionally, SB 556 creates ambiguity in the fees local governments can charge for access to their infrastructure. Federal law explicitly outlines conditions for valid fees, limiting fees to a "reasonable approximation of the local government's actual and direct costs," including costs to maintain a structure within the right-of-way, process an application or permit, and review a siting application. SB 556, on the other hand, chooses not to incorporate these federal standards, further restricting fees to "actual cost" and "reasonable actual cost." If the goal of SB 556 is to implement the existing FCC orders into state law, there should be no added ambiguity created by changes from what was already decided at the federal level.

[SB 556 is an attempt by the telecommunications industry to undermine local authority while making no meaningful progress towards closing the digital divide in California's unserved and underserved communities.] As previously mentioned, cities and counties across the nation are implementing the FCC's orders. If California is to close the digital divide, legislative efforts should focus on encouraging and incentivizing telecommunications companies to service areas that for too long have not had access to reliable and affordable internet.

While the City of Los Altos stands ready to work with the Legislature to further the state's broadband goals, these efforts do not inherently conflict with the appropriate local authority to manage the right-of-way and comply with existing FCC decisions. For these reasons, the City of Los Altos opposes SB 556 (Dodd).

Sincerely,

Neysa Fligor
Mayor
City of Los Altos

cc: The Honorable Bill Dodd
The Honorable Josh Becker
The Honorable Marc Berman
Seth Miller (via email)
League of California Cities, cityletters@cacities.org

DRAFT

April 13, 2021

The Honorable Josh Becker
Chair, Senate Energy, Utilities, and Communications Committee
State Capitol Building, Room 4035
Sacramento, CA 95814

RE: SB 556 (Dodd) Street Light Poles, Traffic Signal Poles, Utility Poles, and Support Structures: Attachments.

Notice of OPPOSITION (*As Amended 03/16/21*)

Dear Senator Becker

We write to you as our representative and as a member of the Energy, Utilities, and Communications Committee to express our opposition to SB 556 (Dodd), related to wireless broadband infrastructure deployment.

The City of Los Altos respectfully opposes SB 556 (Dodd), related to wireless broadband infrastructure deployment.

SB 556 directly conflicts with the Federal Communications Commission's (FCC) adopted regulations on wireless services deployment, which cities and counties across the nation are actively implementing. This measure requires local governments to make space available to telecommunications providers without recognizing local authority to manage the public right-of-way preserved in federal law. FCC regulations explicitly enable local governments to ensure that such installations meet appearance and design standards, maintain traffic safety, protect historical resources' integrity, and safeguard citizens' quality of life. To protect the public's investment, the control of the public rights-of-way must remain local.

Additionally, SB 556 creates ambiguity in the fees local governments can charge for access to their infrastructure. Federal law explicitly outlines conditions for valid fees, limiting fees to a "reasonable approximation of the local government's actual and direct costs," including costs to maintain a structure within the right-of-way, process an application or permit, and review a siting application. SB 556, on the other hand, chooses not to incorporate these federal standards, further restricting fees to "actual cost" and "reasonable actual cost." If the goal of SB 556 is to implement the existing FCC orders into state law, there should be no added ambiguity created by changes from what was already decided at the federal level.

[SB 556 is an attempt by the telecommunications industry to undermine local authority while making no meaningful progress towards closing the digital divide in California's unserved and underserved communities.] As previously mentioned, cities and counties across the nation are implementing the FCC's orders. If California is to close the digital divide, legislative efforts should focus on encouraging and incentivizing telecommunications companies to service areas that for too long have not had access to reliable and affordable internet.

While the City of Los Altos stands ready to work with the Legislature to further the state's broadband goals, these efforts do not inherently conflict with the appropriate local authority to manage the right-of-way and comply with existing FCC decisions. For these reasons, the City of Los Altos opposes SB 556 (Dodd).

Sincerely,

Neysa Fligor
Mayor
City of Los Altos

cc: The Honorable Bill Dodd
The Honorable Marc Berman
Seth Miller (via email)
League of California Cities, cityletters@cacities.org

April 13, 2021

The Honorable Alex Lee
California State Assembly
State Capitol Building, Room 2170
Sacramento, CA 95814

**RE: AB 339 State and Local Government: Open Meetings
Notice of Opposition** (As Introduced)

Dear Assemblymember Lee:

The City of Los Altos respectfully opposes AB 339, which will add significant unfunded mandates by requiring us to provide both call-in and internet based options, in addition to in-person options, for members of the public to attend and comment during any public meeting. The measure further requires broad translation services in real-time during public meetings and for extensive and often technical meeting materials, both of which would add significant costs. Such unfunded mandates coupled with the practical challenges of implementation makes us deeply concerned about our ability to effectively conduct business for our residents.

The City of Los Altos takes very seriously our obligations under the Brown Act to operate transparently and to provide opportunities for members of the public to participate. Our City, like other jurisdictions throughout California, has adapted our meeting protocols to increase civic engagement. This includes on-line publication and promotion of agendas and staff reports in advance of meetings, electronic submission and distribution of public comments, customized email notifications to the public for each commission and for special topics, and more. We hold public meetings, including those of our commissions, in various venues throughout our City to increase public participation. For the past year, in conformance with State restrictions related to Covid, we have operated exclusively via on-line meetings. However, the measures proposed in AB 339 create the following issues.

- * The combined in-person, call-in and internet-based options for attendance will be extremely challenging. The interlinkage of these technologies present technical, staffing, logistic, and resource limitations, in addition to the difficulties of managing these multiple inputs while trying to maintain some continuity to the meeting. As a practical effect, the requirement would preclude holding meetings other than in Council chambers, seriously reducing both Council and commission presence throughout the community.
- * Being wholly dependent on external service providers to conduct meetings compliant with the Brown Act places us in a vulnerable position, putting at risk our ability to meet our fiscal, legal, and practical obligations to constituents. These vulnerabilities would extend to the operation of our planning and financial commissions that have statutory responsibilities, as well as for other advisory commissions.
- * Requiring live translation services constitutes another unfunded mandate and operational burden. It appears that AB 339 places these requirements in the Brown Act rather than the Dymally-Alatorre Bilingual Services Act (which currently governs local

government translation services requirements) to avoid constitutional reimbursement requirements that do not apply to the Brown Act. Under SB 399, we would be required to employ a translator for any language spoken by five percent or more of our residents regardless of financial impact or the public's desire or need for such services. Additional requirements to translate written material poses another significant logistical challenge and unfunded expense, especially where agenda material can be hundreds of pages and technically complex.

* We understand that draft amendments would exempt the state government and its agencies from these onerous requirements. If the merits of this bill are so great that they require the most expansive mandates since the Brown Act's application to public meetings, it is inconceivable that the State would not similarly have to comply, given that the impact of its decisions are far more wide-reaching than the impact of the decisions made in our city.

While we share your commitment to access and transparency, AB 339 will have the consequences of unduly burdening our city financially and practically at a time when we are struggling to provide basic services. Further, it would create situations where we would be stymied in our ability to efficiently execute the people's business.

For these reasons, we must respectfully oppose AB 339.

Sincerely,

Neysa Fligor
Mayor
City of Los Altos

Cc: The Honorable Josh Becker
The Honorable Marc Berman
Seth Miller (via email)
League of California cities cityletters@cacities.org

April 13, 2021

The Honorable Tom Daly
Chair, Assembly Committee on Insurance
State Capitol, Room 3120
Sacramento, California 95814

**RE: AB 415 (Rivas) Workers' Compensation Cancer Presumption Expansion
Notice of OPPOSITION (As Premature)**

Dear Assemblymember Daly:

The City of Los Altos respectfully opposes, as premature, AB 415, which would expand existing cancer presumptions for front line firefighters to also cover employees for local public agencies that, while not directly engaged in firefighting activities, are exposed to health hazards from firefighting operations. We are opposed to this bill because as of yet there appears to be no objective basis to support the proposed expansion, and the bill is crafted with vague language that, we believe, would place local agencies at a serious disadvantage with respect to workers' compensation claims covered by the bill.

No Objective Basis for Expansion

As you know, nearly identical language in AB 1400 (Kamlager-Dove, 2019), was rejected because there was a complete lack of objective information supporting the need for the change in policy or that a problem even exists. That legislation was amended into a requirement for the Commission on Health and Safety and Workers' Compensation (CHSWC) to study the "risk of exposure to carcinogenic materials and incidence of occupational cancer in mechanics who repair and clean firefighting vehicles."

This research, although due to the legislature on January 1, 2021, has not yet been completed or delivered and is not available to stakeholders for evaluation. For that reason, the City of Los Altos believes that AB 415 is premature and remains unsupported by objective evidence.

Scope of AB 415 Beyond Pending Research

If enacted into law, AB 415 would create the presumption that an agency's employee is entitled to workers' compensation coverage for certain injuries. This is inconsistent with the structure of California's workers' compensation law and would place an enormous burden on local agencies like the City of Los Altos.

The language in AB 415 would apply the presumption to "employees of a city, county, district, or other municipal corporation or political subdivision" if their job duties cause them to be "regularly exposed to active fires or health hazards directly resulting from firefighting operations, such as exposure to toxic chemicals deposited on firefighting equipment."

The scope of this bill includes any municipal employee - not just those who work for fire departments and are in close proximity to actual firefighting operations. This could apply to any

employee who works outdoors when smoke from wildfires descends over large parts of the state because of how the bill is drafted. There is no definition or explanation of what it means to be “regularly exposed,” nor any correlation to an exposure being greater than the general public during a wildfire.

By placing the burden of proof on an agency, AB 415 puts local agencies at an enormous disadvantage. Section 3202 of the California Labor Code requires California’s workers’ compensation laws to be “liberally construed by the courts with the purpose of extending their benefits for the protection of person injured in the course of their employment.” Therefore, the practical effect of AB 415 would be to unfairly prejudice local agencies. We do not understand why cities like Los Altos should be treated differently from other employers with respect to evaluating a worker’s compensation claim.

Focus on Safety

When the League of California Cities and others opposed AB 1400, they offered - in writing - to sit down with stakeholders and focus on workplace safety and preventative measures in an effort to better protect workers. Our understanding is that the League continues to be willing to partner with the author and stakeholders on conversations about workplace safety. The City of Los Altos strongly requests that the author and other stakeholders avail themselves of that opportunity once the research mandated by AB 1400 is available.

Simply put, AB 415 is premature. We do not know whether there is a problem in need of correction. Assuming that there is a problem, *arguendo*, we cannot evaluate the true effect of AB 415 without that research. This lack of information makes it impossible to predict or understand how AB 415 will affect local agencies and their employees.

Presumptions Should be Limited

California’s workers’ compensation system was established to treat workplace injuries. When the legislature establishes a presumption, as is proposed by AB 415, it essentially deprives employers of the ability to effectively refute that a claim is connected to work. The law says that presumptions are rebuttable, but as a practical matter they rarely are. To overcome the presumption established by AB 415 an employer would have to prove with medical evidence that the employee’s cancer was not caused by her/his work. If the law was unchanged an injured worker would face a far more manageable standard for establishing their illness as work related.

The net result of this legislation will be that public agencies with limited budgets and a high demand for vital public services will be forced to divert funding to provide extraordinarily expensive workers’ compensation benefits (medical, lost wages, permanent disability, death benefits) and disability retirement benefits to people who did not develop cancer as a result of their employment and have generous benefits available in their employer- funded health insurance. At this time, there is a lack of objective evidence to support the changes proposed in this bill.

For the foregoing reasons, the City of Los Altos opposes AB 415 as premature.

Sincerely,

Neysa Fligor
Mayor
City of Los Altos

cc: The Honorable Robert Rivas
The Honorable Josh Becker
The Honorable Marc Berman
Seth Miller (via email)
League of California Cities, cityletters@cacities.org

DRAFT

April 13, 2021

The Honorable Marc Berman
California State Assembly
State Capitol, Room 3123
Sacramento, California 95814

**RE: AB 415 (Rivas) Workers' Compensation Cancer Presumption Expansion
Notice of OPPOSITION (As Premature)**

Dear Assemblymember Berman:

We write to you as our representative and as a member of the Insurance Committee to express our opposition to AB 415 (Rivas), which would expand existing cancer presumptions for front line firefighters to also cover employees for local public agencies that, while not directly engage in firefighting activities, are exposed to health hazards from firefighting operations. The City of Los Altos opposes this bill because as of yet there appears to be no objective basis to support the proposed expansion, and the bill is crafted with vague language that, we believe, would place local agencies at a serious disadvantage with respect to workers' compensation claims covered by the bill.

No Objective Basis for Expansion

As you know, nearly identical language in AB 1400 (Kamlager-Dove, 2019), was rejected because there was a complete lack of objective information supporting the need for the change in policy or that a problem even exists. That legislation was amended into a requirement for the Commission on Health and Safety and Workers' Compensation (CHSWC) to study the "risk of exposure to carcinogenic materials and incidence of occupational cancer in mechanics who repair and clean firefighting vehicles."

This research, although due to the legislature on January 1, 2021, has not yet been completed or delivered and is not available to stakeholders for evaluation. For that reason, the City of Los Altos believes that AB 415 is premature and remains unsupported by objective evidence.

Scope of AB 415 Beyond Pending Research

If enacted into law, AB 415 would create the presumption that an agency's employee is entitled to workers' compensation coverage for certain injuries. This is inconsistent with the structure of California's workers' compensation law and would place an enormous burden on local agencies like the City of Los Altos.

The language in AB 415 would apply the presumption to "employees of a city, county, district, or other municipal corporation or political subdivision" if their job duties cause them to be "regularly exposed to active fires or health hazards directly resulting from firefighting operations, such as exposure to toxic chemicals deposited on firefighting equipment."

The scope of this bill includes any municipal employee - not just those who work for fire departments and are in close proximity to actual firefighting operations. This could apply to any employee who works outdoors when smoke from wildfires descends over large parts of the state because of how the bill is drafted. There is no definition or explanation of what it means to be

“regularly exposed,” nor any correlation to an exposure being greater than the general public during a wildfire.

By placing the burden of proof on an agency, AB 415 puts local agencies at an enormous disadvantage. Section 3202 of the California Labor Code requires California’s workers’ compensation laws to be “liberally construed by the courts with the purpose of extending their benefits for the protection of person injured in the course of their employment.” Therefore, the practical effect of AB 415 would be to unfairly prejudice local agencies. We do not understand why cities like Los Altos should be treated differently from other employers with respect to evaluating a worker’s compensation claim.

Focus on Safety

When the League of California Cities and others opposed AB 1400, they offered - in writing - to sit down with stakeholders and focus on workplace safety and preventative measures in an effort to better protect workers. Our understanding is that the League continues to be willing to partner with the author and stakeholders on conversations about workplace safety. The City of Los Altos strongly requests that the author and other stakeholders avail themselves of that opportunity once the research mandated by AB 1400 is available.

Simply put, AB 415 is premature. We do not know whether there is a problem in need of correction. Assuming that there is a problem, *arguendo*, we cannot evaluate the true effect of AB 415 without that research. This lack of information makes it impossible to predict or understand how AB 415 will affect local agencies and their employees.

Presumptions Should be Limited

California’s workers’ compensation system was established to treat workplace injuries. When the legislature establishes a presumption, as is proposed by AB 415, it essentially deprives employers of the ability to effectively refute that a claim is connected to work. The law says that presumptions are rebuttable, but as a practical matter they rarely are. To overcome the presumption established by AB 415 an employer would have to prove with medical evidence that the employee’s cancer was not caused by her/his work. If the law was unchanged an injured worker would face a far more manageable standard for establishing their illness as work related.

The net result of this legislation will be that public agencies with limited budgets and a high demand for vital public services will be forced to divert funding to provide extraordinarily expensive workers’ compensation benefits (medical, lost wages, permanent disability, death benefits) and disability retirement benefits to people who did not develop cancer as a result of their employment and have generous benefits available in their employer- funded health insurance. At this time, there is a lack of objective evidence to support the changes proposed in this bill.

For the foregoing reasons, the City of Los Altos opposes AB 415 as premature.

Sincerely,

Neysa Fligor
Mayor
City of Los Altos

cc: The Honorable Robert Rivas
The Honorable Josh Becker
The Honorable Tom Daly
Seth Miller (via email)
League of California Cities, cityletters@cacities.org

DRAFT