



CITY COUNCIL ACTION REQUEST			
Department(s): City Attorney	Date: June 14, 2019	Coordination: Office of Intergovernmental Affairs	Dept. Approval:
SUBJECT: Bill Number. AB 1477 (Gloria). Unfair Practices Act			
RECOMMENDED POSITION: Support			
RECOMMENDED ACTION:			
<ol style="list-style-type: none"> 1. Adopt a position of support for AB 1477 (Gloria) Unfair Practices Act 2. Recommend this item be agendized for the June 18, 2019 City Council Meeting so that the City's Legislative Representatives can advocate the City's support for AB 1477 			
BILL SYNOPSIS:			
<p>The Unfair Competition Act in the Business and Professions Code authorizes public prosecutors, like the Attorney General and district attorneys, to file lawsuits charging unfair business practices. Similarly, certain city attorneys of large cities in California, like San Diego, Los Angeles, and San Jose, are able to bring similar suits forward. However, under existing law, even if those eligible city attorneys receive no counsel, resource, or assistance from their district attorney, any civil penalties awarded to the city attorney must be shared equally with the County.</p> <p>AB 1477 (Gloria) will entitle a city with a population greater than 750,000 to keep the entirety of any civil penalty recovered from an action brought by the city attorney of that city in response to unfair business or advertising practices. If county agency participates in the action, one-half of the penalty shall be paid to the County and one-half shall be paid to the City.</p> <p>The revised language would read as follows:</p> <p>Business and Profession Code 17206 (c) If the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the General Fund. If the action is brought by a district attorney or county counsel, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered. <i>If the action is brought by a city attorney of a city having a population in excess of 750,000, the penalty collected shall be paid to the treasurer of the city whose attorney brought the action, unless a county agency participated in the prelitigation investigation of the action, in which case one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered, and one-half to the treasurer of the county in which the judgment was entered.</i> Except as provided in <i>the previous sentence and</i> subdivision (e), if the action is brought by a city attorney or city prosecutor, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered, and one-half to the treasurer of the county in which the judgment was entered. The aforementioned funds shall be for the exclusive use by the Attorney General, the district attorney, the county counsel, and the city attorney for the enforcement of consumer protection laws.</p>			
IMPACTS TO CITY OF SAN JOSE:			
<p>Penalties resulting from actions on unfair business practices must be used exclusively for consumer protection. Directing 100% of the penalties to the office that did 100% of the work would enable an office to</p>			

expand those efforts, maximizing the benefit to consumers. By contrast, arbitrarily splitting the penalties with an agency that had no involvement in the litigation undermines the objective of devoting those funds to their most effective use. AB 1477 allows counties to receive half of the penalties if they participate in the lawsuit.

POLICY ALIGNMENT:

AB 1477 (Gloria aligns with the following Legislative Guiding Principles:

- 1) Protect and increase funding to deliver city services, build infrastructure, and serve the San Jose community;
- 2) Protect local control;
- 3) Support efforts that improve the quality of life, affordability, health, environmental protection, economic development, equity, and safety in San Jose.

SUPPORTERS/OPPONENTS:

Supporters

City Attorney, City of San Diego
City Attorney, City of Los Angeles

Opponents

California State Association of Counties
County of Santa Clara
County of Los Angeles

STATUS OF BILL:

The Senate Judiciary Committee will hear AB 1477 on June 18, 2019.

FOR QUESTIONS CONTACT: Ed Moran, 408-535-1920.