



June 21, 2019

To: All Senate Members

From: Jessica Devencenzi, CSAC Legislative Representative

**Re: AB 1477 (Gloria) – Unfair Practices Act.  
As Amended June 10, 2019 - OPPOSE**

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The California State Association of Counties (CSAC), representing all 58 counties, respectfully opposes Assembly Bill 1477 (Gloria), which entitles 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, unless the matter is jointly prosecuted or a county agency participated in the prelitigation investigation of the action.

California's Unfair Competition Law ("UCL"), codified in the Business & Professions Code section 17200 et seq., is extremely broad and allows for an enforcement action to be taken for any unlawful, unfair or fraudulent business act or practice, any unfair, deceptive, untrue or misleading advertising, as well as a variety of other consumer protection violations. These claims can be brought by public prosecutors on behalf of the People of California, including: the California Attorney General; any of the fifty-eight California county district attorneys; any city attorney from one of the California cities with populations over 750,000; county counsel, with the consent of the district attorney, where there has been a violation of a county ordinance; and city prosecutors, with the consent of the district attorney, in any city with a full-time city prosecutor. Bus. & Prof. Code § 17204. In matters brought by a public prosecutor, the UCL provides civil penalties. Specifically, a person found in violation of the UCL "shall be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each violation." Bus. & Prof. Code § 17206(a). 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. All of the funds collected must be used for the enforcement of consumer protection laws. Bus. & Prof. Code § 17206(c).

This legislation would allow a city to keep all penalty funds if the action is brought by a city attorney of a city having a population in excess of 750,000, unless the matter is jointly prosecuted or a county agency participated in the prelitigation investigation of the action. The intent of this legislation is to "ensure an equitable distribution of penalties awarded under the Unfair Competition Act and empower those eligible city attorneys to prosecute against unscrupulous businesses in the interest of consumers and the environment." (*See Assembly Bill 1477 (Gloria), Assembly Judiciary Analysis, Author's Statement, April 30, 2019.*) To this end, the sponsor of the legislation has argued, "division of civil penalties serves as a disincentive to consumer and environmental protection. City attorneys are less likely to bring actions that protect consumers and the environment when they are forced to split the proceeds with an agency that has not invested any resources in the prosecution." (*See Assembly Bill 1477 (Gloria), Assembly Judiciary Analysis, Argument in Support, April 30, 2019.*) Civil penalties are not intended to simply reward or compensate the office that brought the action, but rather to impose a penalty against the offender and broadly support consumer protection actions. By dividing the funding between the cities and counties—it provides both the city and the county the resources that they need to enforce consumer protection laws. AB 1477 would take these resources away from the county.

It is for these reasons that CSAC respectfully opposes AB 1477 and respectfully requests your **NO** vote. Should you have any questions or concerns regarding our position, please do not hesitate to contact me at [jdevencenzi@counties.org](mailto:jdevencenzi@counties.org) or 916.650.8131.

cc: The Honorable Todd Gloria, California State Assembly