



Office of the City Clerk

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Legislation Text

File #: O2017-5612, **Version:** 1

ORDINANCE

WHEREAS, the City of Chicago is a home rule municipality as described in Section 6(a) of Article VII of the 1970 Constitution of the State of Illinois; and

WHEREAS, pursuant to its home rule power, the City of Chicago may exercise any power and perform any function relating to its government and affairs including the power to regulate for the protection of the public health, safety, morals, and welfare; and

WHEREAS, the defense of claims against the City and pursuit of its interests in claims against others is an essential government function, as is the oversight of such activities; and

WHEREAS, Illinois law provides that the corporation counsel "shall be and act as the legal adviser of the city council and of the several officers, boards and departments of the city," and that he or she "shall appear for and protect the rights and interests of the city in all actions, suits, and proceedings brought by or against it;" and

WHEREAS, the Municipal Code of Chicago establishes that the "corporation counsel shall have authority, when directed by the city council, to make settlements of lawsuits and controverted claims against the city;" and

WHEREAS, as has been the case for many years, the Annual Appropriation Ordinance for 2017 provides that no expenditure from any fund or line item may be used for the purpose of executing settlement agreements or entering into consent orders except upon order of the City Council, however, the section in question does not apply to settlement agreements or consent orders where the amount is \$100,000 or less; and

WHEREAS, while the Corporation Counsel's and City Council's obligations with respect to payment of claims against the City are established, less clear is the oversight of settlements of claims in which the City accepts a settlement amount; and

WHEREAS, in 2015, the Circuit Court of Cook County awarded the City \$29,103,076.23 in *City of Chicago v. Expedia, Inc.; Hotels.com <<http://Hotels.com>>, L.P.; and Hotwire, Inc.*, for the defendants' failure to collect and remit the correct Chicago Hotel Accommodations Tax; and

WHEREAS, that award was reversed and remanded on April 2017 and, on July 2017, the City agreed to settle the twelve year old lawsuit for \$18 million; and

WHEREAS, of that amount, 30%, or, \$5.4 million will be retained by the City's outside counsel, Cohen, Milstein, Sellers & Toll; and

WHEREAS, in *Rosenberg v. Redflex Traffic Systems, Inc.*, an action that began as a qui tarn ("whistleblower") lawsuit but in which the City went on to intervene, the City cited the amount paid to the defendant, \$125 million, as its damages and sought treble damages - over \$300,000,000 - as relief; and

WHEREAS, in February 2017, the City settled its claim against Redflex for \$20 million, in installments payable through 2023; and

WHEREAS, half of the Redflex settlement amount is slated to fund a \$38.75 million dollar settlement of a class action lawsuit filed against the City by individuals ticketed under the City's automated camera red light and speeding enforcement programs; and

WHEREAS, when the City expends considerable time and funds litigating a matter in which the City has ostensibly endured substantial loss or harm, the compromises it makes matter to the members of this City Council; and

WHEREAS, the potential financial "cost" to the City as a result of such negotiations merits at least as much oversight as the actual expenditure of funds for settlement of claims against the City; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. Section 2-60-080 of the Municipal Code of Chicago is hereby amended by inserting the underscored language as follows:

2-60-080 Settlement of suits and claims.

- a) The corporation counsel shall have authority, when directed by the city council, to make settlements of lawsuits and controverted claims against the city.
- b) The Corporation Counsel's settlement of any claim brought by the City in which the relief sought, damages claimed, judgment, or verdict is \$100,000 or more shall require City Council approval.
- c) It shall be the duty of the corporation counsel and all other officers of the city, if any, who shall be given authority to make settlements of lawsuits or controverted claims against the city, to report in writing, at the first regular meeting of the city council in each and every month all cases where settlements have been made of such lawsuits or claims.

SECTION 2. This ordinance shall take effect immediately upon passage and publication.

E<j[\vard M. Burke Alderman, 14th
Ward