

By: Smithee

H.B. No. 2638

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the exclusion from total revenue in computing the
3 franchise tax of certain funds, reimbursements, and expenses
4 related to certain legal services.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 171.1011(g-3), Tax Code, as effective
7 January 1, 2008, is amended to read as follows:

8 (g-3) A taxable entity that provides legal services shall
9 exclude from its total revenue, to the extent included under
10 Subsection (c)(1)(A), (c)(2)(A), or (c)(3):

11 (1) the following flow-through funds that are mandated
12 by law, contract, or fiduciary duty to be distributed to the
13 claimant by the claimant's attorney or to other entities on behalf
14 of a claimant by the claimant's attorney:

15 (A) damages due the claimant;

16 (B) funds subject to a lien or other contractual
17 obligation arising out of the representation, other than fees owed
18 to the attorney;

19 (C) funds subject to a subrogation interest or
20 other third-party contractual claim; and

21 (D) fees paid an attorney in the matter who is not
22 a member, partner, shareholder, or employee of the taxable entity;

23 (2) reimbursement of the taxable entity's expenses
24 incurred in prosecuting a claimant's matter that are specific to

1 the matter and that are not general operating expenses; and

2 (3) [~~the actual out-of-pocket expenses of the~~
3 ~~attorney, not to exceed~~] \$500 per pro bono services case handled by
4 the attorney, [~~of providing pro bono legal services to a person,~~]
5 but only if the attorney maintains records of the pro bono services
6 for auditing purposes in accordance with the manner in which those
7 services are reported to the State Bar of Texas.

8 SECTION 2. Section 171.1011(p)(4-b), Tax Code, as effective
9 January 1, 2008, is repealed.

10 SECTION 3. This Act applies only to a report originally due
11 on or after the effective date of this Act.

12 SECTION 4. This Act takes effect January 1, 2008.