

## **BILL ANALYSIS**

C.S.H.B. 2517  
By: Turner, Sylvester  
Judiciary & Civil Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

On December 16, 2008, the Federal Reserve lowered its benchmark interest rate to an all-time low of zero to .25 percent. As a consequence, funding for civil legal aid in Texas, which depends primarily on interest on lawyers' trust accounts (IOLTA), is facing a crisis in funding cuts unlike any seen in over two decades. Conservative estimates for IOLTA funds in 2009 are less than \$1.5 million.

With interest rates at zero to .25 percent, little or no interest will accumulate on these accounts, which means funding for the Texas Access to Justice Foundation and 42 nonprofit programs will be drastically cut or eliminated. Without IOLTA funds, core services for free legal advice and representation of low-income Texans with civil legal problems such as landlord-tenant issues, foreclosure defense, family law matters, health and employment law matters, access to public benefits, and consumer issues are in serious jeopardy. Alternate sources of funding are needed immediately to keep legal aid providers afloat without IOLTA funds. It is important now more than ever to preserve legal aid in Texas as the economy weakens and the number of people needing legal services increases.

Currently, the attorney general is authorized to impose civil penalties on violators of Texas laws on deceptive trade practices for fraudulent and abusive business practices. In most cases, the lawsuits result in settlements that require the attorney general be reimbursed for investigative and other fees and individual victims, when identified, be provided restitution. The remaining civil penalty, if any, is directed into the state treasury and may be used in subsequent years for general appropriations.

C.S.H.B. 2517 requires the comptroller of public accounts to transfer the amount of civil penalty that is recovered in a deceptive trade practices action after deducting amounts allocated to or retained by the Office of the Attorney General, to the judicial fund for programs approved by the supreme court that provide basic civil legal services to the indigent and specifies exceptions. The bill prohibits the total amount credited to the judicial fund for programs approved by the Supreme Court of Texas that provide basic civil legal services to the indigent from exceeding \$10,000,000 per state fiscal biennium.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 2517 amends the Government Code to require the comptroller of public accounts to credit to the judicial fund for programs approved by the Supreme Court of Texas that provide basic civil legal services to the indigent the net amount of a civil penalty that is recovered in an action by the attorney general in any matter that is actionable under the Deceptive Trade Practices-Consumer Protection Act after deducting amounts allocated to or retained by the attorney general as authorized by law, unless another law requires that the penalty be credited to a different fund or account, or the judgment awarding the penalty requires that the penalty be paid to another named recipient. The bill prohibits the total amount credited to the judicial fund for programs approved by the supreme court that provide basic civil legal services to the indigent from exceeding \$10,000,000 per state fiscal biennium.

**EFFECTIVE DATE**

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

**COMPARISON OF ORIGINAL TO SUBSTITUTE**

C.S.H.B. 2517 adds a provision not in the original specifying that this credit applies as provided unless another law requires that the penalty be credited to a different fund or account. The substitute adds a provision not in the original prohibiting the total amount credited to the judicial fund for these purposes from exceeding \$10,000,000 per state fiscal biennium. The substitute differs from the original in nonsubstantive ways by using language reflective of certain bill drafting conventions.