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H.B. No. 1445

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the distribution of certain civil penalties and civil
3 restitution received by the attorney general.

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

5 SECTION 1. Section 402.007, Government Code, is amended to
6 read as follows:

7 Sec. 402.007. PAYMENT TO TREASURY; ALLOCATION OF CERTAIN
8 MONEY RECEIVED BY ATTORNEY GENERAL [~~PENALTIES~~]. (a) The attorney
9 general shall immediately pay into the state treasury money
10 received for a debt, a [ex] penalty, or restitution.

11 (b) Subject to Subsection (d) [~~(c)~~], the comptroller shall
12 credit to the judicial fund for programs approved by the supreme
13 court that provide basic civil legal services to the indigent the
14 net amount of:

15 (1) a civil penalty that is recovered in an action by
16 the attorney general in any matter actionable under Subchapter E,
17 Chapter 17, Business & Commerce Code, after deducting amounts
18 allocated to or retained by the attorney general as authorized by
19 law, unless:

20 (A) [~~(1)~~] another law requires that the penalty
21 be credited to a different fund or account; or

22 (B) [~~(2)~~] the judgment awarding the penalty
23 requires that the penalty be paid to another named recipient; or

24 (2) civil restitution recovered by the attorney

1 general in an action brought by the attorney general arising from
2 conduct that violates a consumer protection, public health, or
3 general welfare law, if, on the hearing of an ex parte motion filed
4 by the attorney general after the entry of a judgment awarding civil
5 restitution, the court:

6 (A) determines that, based on the facts and
7 circumstances of the case:

8 (i) it is impossible or impracticable to
9 identify injured parties;

10 (ii) it is impossible or impracticable to
11 determine the degree to which each claimant was injured and
12 entitled to recover;

13 (iii) the cost of administering a claim
14 procedure will disproportionately reduce the amount of restitution
15 available for the payment of individual claims; or

16 (iv) the claims of all identifiable persons
17 eligible to receive restitution have been paid without exhausting
18 the funds available for restitution; and

19 (B) enters a judgment or order that the
20 restitution be credited to the judicial fund for programs approved
21 by the supreme court that provide basic civil legal services to the
22 indigent.

23 (c) If a court enters a judgment or order that restitution
24 be credited to the judicial fund, the attorney general shall notify
25 the Legislative Budget Board and shall distribute that restitution
26 in accordance with the court judgment or order.

27 (d) The total amount credited to the judicial fund for

1 programs approved by the supreme court that provide basic civil
2 legal services to the indigent under Subsection (b) may not exceed
3 \$50 [~~\$10~~] million per state fiscal biennium.

4 (e) The provisions of this section do not limit the common
5 law authority or other statutory authority of the attorney general
6 to seek and obtain cy pres distribution from a court.

7 SECTION 2. The change in law made by this Act applies only
8 to a civil penalty or civil restitution that is received by the
9 attorney general on or after the effective date of this Act.

10 SECTION 3. This Act takes effect immediately if it receives
11 a vote of two-thirds of all the members elected to each house, as
12 provided by Section 39, Article III, Texas Constitution. If this
13 Act does not receive the vote necessary for immediate effect, this
14 Act takes effect September 1, 2013.