

AN ACT

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

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

SECTION 1. This Act shall be known as the Chief Justice Jack Pope Act.

SECTION 2. Section 402.007, Government Code, is amended to read as follows:

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

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

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

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

(B) [~~(2)~~] the judgment awarding the penalty

1 requires that the penalty be paid to another named recipient; and
2 (2) civil restitution recovered by the attorney
3 general in an action brought by the attorney general arising from
4 conduct that violates a consumer protection, public health, or
5 general welfare law, if, on the hearing of an ex parte motion filed
6 by the attorney general after the entry of a judgment awarding civil
7 restitution, the court:

8 (A) determines that, based on the facts and
9 circumstances of the case:

10 (i) it is impossible or impracticable to
11 identify injured parties;

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

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

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

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

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

1 in accordance with the court judgment or order.

2 (d) The total amount credited to the judicial fund for
3 programs approved by the supreme court that provide basic civil
4 legal services to the indigent under Subsection (b) may not exceed
5 \$50 [~~\$10~~] million per state fiscal biennium.

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

9 SECTION 3. The change in law made by this Act applies only
10 to a civil penalty or civil restitution that is received by the
11 attorney general on or after the effective date of this Act.

12 SECTION 4. This Act takes effect immediately if it receives
13 a vote of two-thirds of all the members elected to each house, as
14 provided by Section 39, Article III, Texas Constitution. If this
15 Act does not receive the vote necessary for immediate effect, this
16 Act takes effect September 1, 2013.

President of the Senate

Speaker of the House

I certify that H.B. No. 1445 was passed by the House on April 18, 2013, by the following vote: Yeas 143, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1445 on May 16, 2013, by the following vote: Yeas 143, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1445 was passed by the Senate, with amendments, on May 15, 2013, by the following vote: Yeas 30, Nays 1.

Secretary of the Senate

APPROVED: _____

Date

Governor