

1-1 By: Thompson of Harris, et al. H.B. No. 1445
 1-2 (Senate Sponsor - Duncan)
 1-3 (In the Senate - Received from the House April 22, 2013;
 1-4 April 29, 2013, read first time and referred to Committee on State
 1-5 Affairs; May 3, 2013, reported adversely, with favorable Committee
 1-6 Substitute by the following vote: Yeas 9, Nays 0; May 3, 2013,
 1-7 sent to printer.)

1-8 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-9				
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			
1-18	X			

1-19 COMMITTEE SUBSTITUTE FOR H.B. No. 1445 By: Duncan

1-20 A BILL TO BE ENTITLED
 1-21 AN ACT

1-22 relating to the distribution of certain civil penalties and civil
 1-23 restitution received by the attorney general.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. This Act shall be known as the Chief Justice Jack
 1-26 Pope Act.

1-27 SECTION 2. Section 402.007, Government Code, is amended to
 1-28 read as follows:

1-29 Sec. 402.007. PAYMENT TO TREASURY; ALLOCATION OF CERTAIN
 1-30 MONEY RECEIVED BY ATTORNEY GENERAL [~~PENALTIES~~]. (a) The attorney
 1-31 general shall immediately pay into the state treasury money
 1-32 received for a debt, a [~~or~~] penalty, or restitution.

1-33 (b) Subject to Subsection (d) [~~(c)~~], the comptroller shall
 1-34 credit to the judicial fund for programs approved by the supreme
 1-35 court that provide basic civil legal services to the indigent the
 1-36 net amount of:

1-37 (1) a civil penalty that is recovered in an action by
 1-38 the attorney general in any matter actionable under Subchapter E,
 1-39 Chapter 17, Business & Commerce Code, after deducting amounts
 1-40 allocated to or retained by the attorney general as authorized by
 1-41 law, unless:

1-42 (A) [~~(1)~~] another law requires that the penalty
 1-43 be credited to a different fund or account; or

1-44 (B) [~~(2)~~] the judgment awarding the penalty
 1-45 requires that the penalty be paid to another named recipient; and

1-46 (2) civil restitution recovered by the attorney
 1-47 general in an action brought by the attorney general arising from
 1-48 conduct that violates a consumer protection, public health, or
 1-49 general welfare law, if, on the hearing of an ex parte motion filed
 1-50 by the attorney general after the entry of a judgment awarding civil
 1-51 restitution, the court:

1-52 (A) determines that, based on the facts and
 1-53 circumstances of the case:

1-54 (i) it is impossible or impracticable to
 1-55 identify injured parties;

1-56 (ii) it is impossible or impracticable to
 1-57 determine the degree to which each claimant was injured and
 1-58 entitled to recover;

1-59 (iii) the cost of administering a claim
 1-60 procedure will disproportionately reduce the amount of restitution

2-1 available for the payment of individual claims; or
2-2 (iv) the claims of all identifiable persons
2-3 eligible to receive restitution have been paid without exhausting
2-4 the funds available for restitution; and
2-5 (B) enters a judgment or order that the
2-6 restitution be credited to the judicial fund for programs approved
2-7 by the supreme court that provide basic civil legal services to the
2-8 indigent.
2-9 (c) If a court enters a judgment or order that restitution
2-10 be credited to the judicial fund, the attorney general shall notify
2-11 the Legislative Budget Board and shall distribute that restitution
2-12 in accordance with the court judgment or order.
2-13 (d) The total amount credited to the judicial fund for
2-14 programs approved by the supreme court that provide basic civil
2-15 legal services to the indigent under Subsection (b) may not exceed
2-16 \$50 [~~\$10~~] million per state fiscal biennium.
2-17 (e) The provisions of this section do not limit the common
2-18 law authority or other statutory authority of the attorney general
2-19 to seek and obtain cy pres distribution from a court.
2-20 SECTION 3. The change in law made by this Act applies only
2-21 to a civil penalty or civil restitution that is received by the
2-22 attorney general on or after the effective date of this Act.
2-23 SECTION 4. This Act takes effect immediately if it receives
2-24 a vote of two-thirds of all the members elected to each house, as
2-25 provided by Section 39, Article III, Texas Constitution. If this
2-26 Act does not receive the vote necessary for immediate effect, this
2-27 Act takes effect September 1, 2013.

2-28 * * * * *