

By: Duncan

S.B. No. 635

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. The heading to Section 402.007, Government Code,  
6 is amended to read as follows:

7 Sec. 402.007. PAYMENT TO TREASURY; ALLOCATION OF CERTAIN  
8 MONEY RECEIVED BY ATTORNEY GENERAL [~~PENALTIES~~].

9 SECTION 2. Section 402.007, Government Code, is amended by  
10 amending Subsections (b) and (c) and adding Subsections (d) and (e)  
11 to read as follows:

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

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

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

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

1           (2) civil restitution recovered by the attorney  
2 general in an action brought by the attorney general arising from  
3 conduct that violates a consumer protection, public health, or  
4 general welfare law, if the court:

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

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

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

12                   (iii) the cost of administering a claim  
13 procedure is prohibitive due to a low probability of recovery for  
14 each claimant; and

15           (B) enters a judgment or order that the  
16 restitution be distributed by the attorney general.

17           (c) Notwithstanding Subsection (b)(2), if a court judgment  
18 or order specifies that restitution is to be distributed in a manner  
19 other than the manner provided by this section, the attorney  
20 general shall distribute that restitution in accordance with the  
21 court judgment or order. The attorney general shall notify the  
22 Legislative Budget Board and the court when the distribution of  
23 restitution under a court judgment or order is complete.

24           (d) The total amount credited to the judicial fund for  
25 programs approved by the supreme court that provide basic civil  
26 legal services to the indigent under Subsection (b) may not exceed  
27 \$50 [~~\$10~~] million per state fiscal biennium.

1       (e) The provisions of this section do not diminish the  
2 common law authority or other statutory authority of the attorney  
3 general to seek and obtain cy pres distribution from a court.

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

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