

1-1 By: Duncan, Carona, Deuell S.B. No. 635
 1-2 (In the Senate - Filed February 18, 2013; February 25, 2013,
 1-3 read first time and referred to Committee on State Affairs;
 1-4 March 20, 2013, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 8, Nays 0; March 20, 2013,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
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 COMMITTEE SUBSTITUTE FOR S.B. No. 635 By: Duncan

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the distribution of certain civil penalties and civil
 1-22 restitution received by the attorney general.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 402.007, Government Code, is amended to
 1-25 read as follows:

1-26 Sec. 402.007. PAYMENT TO TREASURY; ALLOCATION OF CERTAIN
 1-27 MONEY RECEIVED BY ATTORNEY GENERAL [~~PENALTIES~~]. (a) The attorney
 1-28 general shall immediately pay into the state treasury money
 1-29 received for a debt, a [~~or~~] penalty, or restitution.

1-30 (b) Subject to Subsection (d) [~~(c)~~], the comptroller shall
 1-31 credit to the judicial fund for programs approved by the supreme
 1-32 court that provide basic civil legal services to the indigent the
 1-33 net amount of:

1-34 (1) a civil penalty that is recovered in an action by
 1-35 the attorney general in any matter actionable under Subchapter E,
 1-36 Chapter 17, Business & Commerce Code, after deducting amounts
 1-37 allocated to or retained by the attorney general as authorized by
 1-38 law, unless:

1-39 (A) [~~(1)~~] another law requires that the penalty
 1-40 be credited to a different fund or account; or

1-41 (B) [~~(2)~~] the judgment awarding the penalty
 1-42 requires that the penalty be paid to another named recipient; and

1-43 (2) civil restitution recovered by the attorney
 1-44 general in an action brought by the attorney general arising from
 1-45 conduct that violates a consumer protection, public health, or
 1-46 general welfare law, if, on the hearing of an ex parte motion filed
 1-47 by the attorney general after the entry of a judgment awarding civil
 1-48 restitution, the court:

1-49 (A) determines that, based on the facts and
 1-50 circumstances of the case:

1-51 (i) it is impossible or impracticable to
 1-52 identify injured parties;

1-53 (ii) it is impossible or impracticable to
 1-54 determine the degree to which each claimant was injured and
 1-55 entitled to recover;

1-56 (iii) the cost of administering a claim
 1-57 procedure will disproportionately reduce the amount of restitution
 1-58 available for the payment of individual claims; or

1-59 (iv) the claims of all identifiable persons
 1-60 eligible to receive restitution have been paid without exhausting

2-1 the funds available for restitution; and
2-2 (B) enters a judgment or order that the
2-3 restitution be credited to the judicial fund for programs approved
2-4 by the supreme court that provide basic civil legal services to the
2-5 indigent.

2-6 (c) If a court enters a judgment or order that restitution
2-7 be credited to the judicial fund, the attorney general shall notify
2-8 the Legislative Budget Board and shall distribute that restitution
2-9 in accordance with the court judgment or order.

2-10 (d) The total amount credited to the judicial fund for
2-11 programs approved by the supreme court that provide basic civil
2-12 legal services to the indigent under Subsection (b) may not exceed
2-13 \$50 [~~\$10~~] million per state fiscal biennium.

2-14 (e) The provisions of this section do not limit the common
2-15 law authority or other statutory authority of the attorney general
2-16 to seek and obtain cy pres distribution from a court.

2-17 SECTION 2. The change in law made by this Act applies only
2-18 to a civil penalty or civil restitution that is received by the
2-19 attorney general on or after the effective date of this Act.

2-20 SECTION 3. This Act takes effect immediately if it receives
2-21 a vote of two-thirds of all the members elected to each house, as
2-22 provided by Section 39, Article III, Texas Constitution. If this
2-23 Act does not receive the vote necessary for immediate effect, this
2-24 Act takes effect September 1, 2013.

2-25 * * * * *