

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

March 17, 2013

TO: Honorable Robert Duncan, Chair, Senate Committee On State Affairs

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB635 by Duncan (Relating to the distribution of certain civil penalties and civil restitution received by the attorney general.), **As Introduced**

While the fiscal implication of certain elements of the bill are indeterminate, no significant fiscal implication to the State is anticipated.

The bill would amend the Government Code to provide that certain funds recovered by the Office of the Attorney General (OAG) as civil penalties and restitution pursuant to provisions of the Business and Commerce Code and credited to the Judicial Fund No. 573 to provide basic civil legal services for the indigent may not exceed \$50 million for the state fiscal biennium. Current statute does not allow deposits to the Judicial Fund from this revenue source to exceed \$10 million per state fiscal biennium.

Civil penalties currently collected by the Office of the Attorney General under existing law are revenue sources to General Revenue, General Revenue-Dedicated Account No. 273 Federal Health and Health Lab Funding Excess Revenue, General Revenue-Dedicated Account No. 5137 Regional Trauma, and Judicial Fund No. 573. The bill contains language stating that civil penalties collected by the OAG cannot be deposited to Judicial Fund No. 573 if another law requires that the penalty be credited to a different fund or account. Accordingly, this estimate assumes there would be no change to the distribution of revenues from civil penalties existing statute directs to the above funds and accounts.

The bill provides that a court may order civil restitution recovered by the OAG in a consumer protection, public health, or general welfare proceeding be credited to Judicial Fund No. 573 if the court finds that: 1) it is impossible or impracticable to identify injured parties; 2) it is impossible or impracticable to determine the degree to which the claimants were injured and entitled to recover; or 3) the cost of administering the claim is prohibitive due to the low probability of recovery for each claimant. In summary, any restitution funds or penalties collected in a settlement that for various reasons cannot be disbursed to defendants would be credited to Judicial Fund No. 573. The OAG has not identified any cases that would significantly affect the amount of civil penalties or civil restitution that would be received by the state. Accordingly, no significant fiscal impact to the state is anticipated if this legislation is enacted.

Finally, the bill also requires that the OAG notify the Legislative Budget Board and the court if the court orders that restitution be distributed in a manner that differs from the bill's provisions.

The Office of the Attorney General has indicated any additional work resulting from the bill could be absorbed within existing resources. The Comptroller of Public Accounts has indicated the fiscal impact on the state cannot be estimated.

The bill would take effect immediately if it receives a two-thirds vote in each house. Otherwise,

the bill would take effect September 1, 2013.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 304 Comptroller of Public Accounts

LBB Staff: UP, AG, ZS, JP