

House Bill 1445
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

No equivalent provision.

SECTION 1. 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 ~~[€]~~ penalty, or restitution.

(b) Subject to Subsection ~~(d)~~ ~~[(€)]~~, 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 requires that the penalty be paid to another named recipient; ~~or~~

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

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

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

SENATE VERSION (CS)

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 ~~[€]~~ penalty, or restitution.

(b) Subject to Subsection ~~(d)~~ ~~[(€)]~~, 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 requires that the penalty be paid to another named recipient; ~~and~~

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

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

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

CONFERENCE

House Bill 1445
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

- (ii) it is impossible or impracticable to determine the degree to which each claimant was injured and entitled to recover;
- (iii) the cost of administering a claim procedure will disproportionately reduce the amount of restitution available for the payment of individual claims; or
- (iv) the claims of all identifiable persons eligible to receive restitution have been paid without exhausting the funds available for restitution; and
- (B) enters a judgment or order that the restitution be credited to the judicial fund for programs approved by the supreme court that provide basic civil legal services to the indigent.
- (c) If a court enters a judgment or order that restitution be credited to the judicial fund, the attorney general shall notify the Legislative Budget Board and shall distribute that restitution in accordance with the court judgment or order.
- (d) The total amount credited to the judicial fund for programs approved by the supreme court that provide basic civil legal services to the indigent under Subsection (b) may not exceed \$50 [~~\$40~~] million per state fiscal biennium.
- (e) The provisions of this section do not limit the common law authority or other statutory authority of the attorney general to seek and obtain cy pres distribution from a court.

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

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

SENATE VERSION (CS)

- (ii) it is impossible or impracticable to determine the degree to which each claimant was injured and entitled to recover;
- (iii) the cost of administering a claim procedure will disproportionately reduce the amount of restitution available for the payment of individual claims; or
- (iv) the claims of all identifiable persons eligible to receive restitution have been paid without exhausting the funds available for restitution; and
- (B) enters a judgment or order that the restitution be credited to the judicial fund for programs approved by the supreme court that provide basic civil legal services to the indigent.
- (c) If a court enters a judgment or order that restitution be credited to the judicial fund, the attorney general shall notify the Legislative Budget Board and shall distribute that restitution in accordance with the court judgment or order.
- (d) The total amount credited to the judicial fund for programs approved by the supreme court that provide basic civil legal services to the indigent under Subsection (b) may not exceed \$50 [~~\$40~~] million per state fiscal biennium.
- (e) The provisions of this section do not limit the common law authority or other statutory authority of the attorney general to seek and obtain cy pres distribution from a court.

SECTION 3. Same as House version.

SECTION 4. Same as House version.

CONFERENCE