

## **BILL ANALYSIS**

C.S.H.B. 1079  
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Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Currently, the comptroller of public accounts is required to credit the net amount of certain civil penalties or restitution recovered in an action by the attorney general to a judicial fund for approved programs that provide basic civil legal services to the indigent. C.S.H.B. 1079 seeks to expand the types of fines, fees, and other collections to be allocated for indigent legal service programs.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 1079 amends the Government Code, for purposes of the requirement that the comptroller of public accounts credit to the judicial fund for indigent legal services certain net amounts of a civil penalty or civil restitution recovered in certain actions by the attorney general, to remove the limitation on the types of actions brought by the attorney general from which a civil penalty or civil restitution is recovered and to include a payment recovered in such an action among the net amount funds to be credited by the comptroller to the judicial fund for indigent legal services.

### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1079 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

#### **INTRODUCED**

SECTION 1. Section 402.007(b), Government Code, is amended to read as follows:

#### **HOUSE COMMITTEE SUBSTITUTE**

SECTION 1. Section 402.007(b), Government Code, is amended to read as follows:

(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) another law requires that the **penalty** be credited to a different fund or account; or

(B) 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;

(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.

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. A civil penalty or civil restitution received by the attorney general before the effective date of this Act is

(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 **or payment** that is recovered in an action by the attorney general in any matter actionable under the [~~Subchapter E, Chapter 17,~~] Business & Commerce Code, after deducting amounts allocated to or retained by the attorney general as authorized by law, unless:

(A) another law requires that the **funds** [**penalty**] be credited to a different fund or account; or

(B) the judgment awarding the **funds** [**penalty**] requires that the **funds** [**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;

(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.

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

governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

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, 2015.

this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3. Same as introduced version.