(A) if law requires that the penalty be credited to a different fund or account; or
(B) if 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.
(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 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. 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 4. 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.

Passed by the House on April 18, 2013: Yeas 143, Nays 0, 2 present, not voting; the House concurred in Senate amendments to H.B. No. 1445 on May 16, 2013: Yeas 143, Nays 0, 2 present, not voting; passed by the Senate, with amendments, on May 15, 2013: Yeas 30, Nays 1.

Approved May 28, 2013.
Effective May 28, 2013.

CHAPTER 209
H.B. No. 2767
AN ACT
relating to the treatment and recycling for beneficial use of certain waste arising out of or incidental to the drilling for or production of oil or gas.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Subtitle D, Title 3, Natural Resources Code, is amended by adding Chapter 122 to read as follows:

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CHAPTER 122. TREATMENT AND RECYCLING FOR BENEFICIAL USE OF CERTAIN OIL AND GAS WASTE

Sec. 122.001. DEFINITIONS. In this chapter:

(1) “Commission” means the Railroad Commission of Texas.

(2) “Fluid oil and gas waste” means waste containing salt or other mineralized substances, brine, hydraulic fracturing fluid, flowback water, produced water, or other fluid that arises out of or is incidental to the drilling for or production of oil or gas.

Sec. 122.002. OWNERSHIP OF CERTAIN OIL AND GAS WASTE TRANSFERRED FOR TREATMENT AND SUBSEQUENT BENEFICIAL USE. Unless otherwise expressly provided by a contract, bill of sale, or other legally binding document:

(1) when fluid oil and gas waste is transferred to a person who takes possession of that waste for the purpose of treating the waste for a subsequent beneficial use, the transferred material is considered to be the property of the person who takes possession of it for the purpose of treating the waste for subsequent beneficial use until the person transfers the waste or treated waste to another person for disposal or use; and

(2) when a person who takes possession of fluid oil and gas waste for the purpose of treating the waste for a subsequent beneficial use transfers possession of the treated product or any treatment byproduct to another person for the purpose of subsequent disposal or beneficial use, the transferred product or byproduct is considered to be the property of the person to whom the material is transferred.

Sec. 122.003. RESPONSIBILITY IN TORT. (a) Except as provided by Subsection (b), a person who takes possession of fluid oil and gas waste, produces from that waste a treated product generally considered in the oil and gas industry to be suitable for use in connection with the drilling for or production of oil or gas, and transfers the treated product to another person with the contractual understanding that the treated product will be used in connection with the drilling for or production of oil or gas is not liable in tort for a consequence of the subsequent use of that treated product by the person to whom the treated product is transferred or by another person.

(b) This section does not affect the liability of a person that treats fluid oil and gas waste for beneficial use in an action brought by a person for damages for personal injury, death, or property damage arising from exposure to fluid oil and gas waste or a treated product.

Sec. 122.004. COMMISSION RULES FOR TREATMENT AND BENEFICIAL USE. The commission shall adopt rules to govern the treatment and beneficial use of oil and gas waste.

SECTION 2. This Act takes effect September 1, 2013.

Passed by the House on May 9, 2013: Yeas 137, Nays 0, 2 present, not voting; passed by the Senate on May 22, 2013: Yeas 31, Nays 0.

Approved May 28, 2013.

Effective September 1, 2013.

CHAPTER 210

S.B. No. 259

AN ACT

relating to telecommunications services and markets.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 52.007, Utilities Code, is amended by adding Subsections (d-1), (d-2), and (d-3) to read as follows:

(d-1) The commission may not require a nondominant carrier to obtain advance approval for a filing with the commission or a posting on the nondominant carrier's Internet