

February 2, 2017

The Honorable Rick Wilborn, Chairperson
Senate Committee on Judiciary
Statehouse, Room 541-E
Topeka, Kansas 66612

Dear Senator Wilborn:

SUBJECT: Fiscal Note for SB 73 by Senate Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning SB 73 is respectfully submitted to your committee.

SB 73 would enact the Asbestos Bankruptcy Trust Claims Transparency Act to establish a method the court could use to determine whether a person filing a claim for an asbestos action has made a claim or recovered monies from any Asbestos Trust in the past. In order for the court to make this determination, the bill would require the plaintiff to provide the court with information related to prior claims. Any action could be dismissed for noncompliance and a trial would not be set until at least 180 days after the requirements are met. The bill would allow the defendant to request a stay and a set timeframe in which to provide information supporting additional trust claims made by the plaintiff, upon which the plaintiff would have ten days to respond. In this circumstance, a trial would not be permitted until at least 60 days after the plaintiff provides all the required information. The court would be required to enter into the record a document that identifies every asbestos claim made by or on behalf of the plaintiff.

The Act would establish Rules for Discovery and Admissibility of Trust Claim Materials and Trust Governance documents, and claims of privilege and confidentiality would be limited to those materials. A defendant or judgment debtor would be allowed to seek sanctions if a plaintiff fails to comply with disclosure requirements. If the plaintiff receives Asbestos Trust payments after the case is closed, the court would have jurisdiction to reopen the judgment and make adjustments by the amount of any subsequent Asbestos Trust payments and order any other relief to the parties that the court considers just and proper. A defendant would be required to file motion for relief within one year after the judgment is entered. The provisions of SB 73 would apply to all asbestos actions filed on or after July 1, 2017.

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The Office of Judicial Administration indicates SB 73 could increase Judicial Branch expenditures beginning in FY 2018 from additional staff time spent by staff and judges conducting and processing asbestos cases. However, a fiscal effect of expenditures by the Judicial Branch cannot be given.

Sincerely,

A handwritten signature in black ink, appearing to read "Shawn Sullivan", with a horizontal line extending to the right.

Shawn Sullivan,
Director of the Budget

cc: Ashley Michaelis, Judiciary