

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 741 Asbestos Trust Claims
SPONSOR(S): Civil Justice Subcommittee, Leek and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1582

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice Subcommittee	10 Y, 5 N, As CS	Mawn	Luczynski
2) Judiciary Committee	12 Y, 6 N	Mawn	Luczynski

SUMMARY ANALYSIS

Asbestos is the name given to six naturally-occurring fibrous minerals resistant to chemical, thermal, and electricity damage historically used in construction, manufacturing, and fireproofing. When handled, asbestos separates into microscopic particles, exposure to which causes cancer and other diseases, including lung cancer, mesothelioma, and asbestosis, which can take 20 to 40 years to develop following initial exposure.

Lawsuits against asbestos manufacturers and distributors began in the 1970s, and by the 1990s, these corporations began filing for reorganization under Chapter 11 of the United States Bankruptcy Code in the hopes of escaping their asbestos injury liability. In 1994, Congress enacted 11 U.S.C. § 524(g) to create a comprehensive, statutory mechanism for addressing asbestos liabilities in bankruptcy reorganization proceedings. This section authorizes bankruptcy courts to transfer a debtor corporation's asbestos liability to a trust, allowing the debtor to reorganize and operate free from present and future asbestos liability claims. Where liability for an asbestos injury comes from both a trust and a solvent corporation, an injured person may sue the solvent corporation to recover its share of the harm, and a court may offset the judgment by the amount of trust payments the plaintiff received for the same injury. However, where a plaintiff files a trust claim after obtaining a civil judgment for the same injury, a court loses its ability to offset the judgment against the solvent defendant. Plaintiffs use this loophole to increase their compensation for a single injury.

CS/HB 741:

- Defines the terms "asbestos trust," "trust claims material," and "trust governance documents."
- Requires a plaintiff to:
 - Provide a sworn statement verifying that he or she conducted an investigation of all asbestos trust claims and filed all asbestos trust claims he or she is eligible to file.
 - Identify all asbestos trust claims the plaintiff filed and provide all trust claim material.
- Allows a court, upon defendant's motion, to stay an asbestos action if the plaintiff did not file an asbestos trust claim he or she was eligible to file.
- Allows a defendant to seek discovery directly from an asbestos trust and requires the plaintiff to provide all necessary permissions for the release of trust claim material and governance documents.
- Provides that trust claim material and governance documents are presumed to be relevant and authentic, admissible in evidence, and not subject to claims of privilege.
- Requires a trial court, on a defendant's motion, to adjust the judgment in an asbestos action by the amount of any subsequent asbestos trust payments made to the plaintiff if the plaintiff makes an asbestos trust claim after obtaining a judgment in the asbestos action.

The bill does not appear to have a fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2020.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Asbestos

Asbestos is the commercial name given to six naturally-occurring fibrous minerals resistant to chemical, thermal, and electricity damage historically used in consumer goods including textiles, paper, toys, brake pads, shoes, and home appliances, and by the construction and ship-building industries as roofing, flooring, wallboard, insulation, and fireproofing.¹ When handled, asbestos separates into microscopic, circulating particles, exposure² to which causes cancer and other diseases, including lung cancer, mesothelioma,³ and asbestosis,⁴ which can take 20 to 40 years to develop following initial exposure.⁵

As early as the 1930s, many asbestos industry executives knew of the occupational hazard asbestos exposure posed.⁶ However, given the prolonged latency period of asbestos-related diseases and that the average working-class American of the day would not expect to live past 60 years of age, the executives did not give the risks serious attention.⁷ Further, given the legal standards of the day,⁸ the executives had little reason to contemplate corporate liability for harms occurring decades into the future, and thus did not advertise what they knew.⁹

By 1970, however, published medical evidence conclusively showed that some workers exposed to asbestos would, over time, contract asbestosis, lung cancer, or mesothelioma and be increasingly disabled by these conditions.¹⁰ After 1973, asbestos use declined sharply as knowledge of the exposure risks spread and the new Occupational Safety and Health Administration (“OSHA”)¹¹ called for its removal. Despite the decline in use, a leading epidemiological study found that, by 1979, at least 27.5 million Americans had suffered asbestos exposure.¹²

¹ United States Department of Health and Human Services (HHS), Centers for Disease Control and Prevention, *Asbestos*, <https://www.cdc.gov/niosh/topics/asbestos/default.html> (last visited Jan. 30, 2020).

² Asbestos exposure can be occupational or non-occupational. Non-occupational exposure includes domestic exposure, common in family members of a person occupationally exposed. See Nonhlanhla Tlotleng, et al., *The Significance of Non-Occupational Asbestos Exposure in Women with Mesothelioma*, *Respirology Case Reports*, Vol. 7 (2020), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6246071/> (last visited Jan. 30, 2020).

³ Mesothelioma is an aggressive cancer occurring in the thin tissue layer covering the majority of the internal organs, known as the mesothelium. Mesothelioma most often affects the tissue surrounding the lungs. See Mayo Clinic, *Mesothelioma*, <https://www.mayoclinic.org/diseases-conditions/mesothelioma/symptoms-causes/syc-20375022> (last visited Jan. 30, 2020).

⁴ Asbestosis is a chronic lung disease caused by inhaling asbestos fibers characterized by lung tissue scarring and shortness of breath. As asbestosis progresses, lung tissue scarring prevents lungs from contracting and expanding normally. See Mayo Clinic, *Asbestosis*, <https://www.mayoclinic.org/diseases-conditions/asbestosis/symptoms-causes/syc-20354637> (last visited Jan. 30, 2020).

⁵ HHS, *supra* note 1.

⁶ Paul D. Carrington, *Asbestos Lessons: The Unattended Consequences of Asbestos Litigation*, *The Review of Litigation*, Vol. 26 (2007), https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=2343&context=faculty_scholarship (last visited Jan. 30, 2020).

⁷ *Id.*

⁸ Tort law was not yet recognized as the primary means of discouraging management from consciously taking employee health and safety risks, and courts interpreted applicable statutes of limitation as starting to run when the harm occurred. It was only after 1960 that tort law began to predominantly govern the relationship between employees and corporations, and courts began to interpret statutes of limitation to start running only when the victim discovers the harm. *Id.*

⁹ Carrington, *supra* note 6.

¹⁰ *Id.*

¹¹ Congress created OSHA with the Occupational Safety and Health Act of 1970 to ensure safe working conditions for American workers by setting and enforcing workplace standards and providing training, outreach, education, and assistance. See United States Department of Labor, Occupational Safety and Health Administration, *About OSHA*, <https://www.osha.gov/aboutosha> (last visited Jan. 30, 2020).

¹² See Carrington, *supra* note 6, citing William Nicholson, et al., *Occupational Exposure to Asbestos: Population at Risk and Projected Mortality 1980-2030*, 3 *Am. Jur. Indus. Med.* 259 (1982).

Asbestos Litigation

In 1972, an insulation worker disabled by asbestosis and mesothelioma sued his employer, a building materials manufacturer, for failing to warn him of asbestos exposure risks.¹³ The evidence showed that the defendant knew of the risks but had not informed the plaintiff, and the jury awarded the plaintiff a \$68,000 verdict, finding the defendant strictly liable on the basis of s. 402A of the Restatement (Second) of Torts.¹⁴ The Fifth Circuit affirmed the trial court's opinion, finding that the defendant's failure to give "adequate warnings of the known or knowable dangers involved [in asbestos exposure]" made asbestos an "unreasonably dangerous" product.¹⁵

Asbestos injury lawsuits proliferated over the next two decades, with most cases filed before 1982 brought against the Johns-Manville Corporation ("Manville").¹⁶ The available evidence showed that Manville knew of the asbestos exposure risks and withheld that knowledge from its employees.¹⁷ Facing billions of dollars in present and future liabilities to tens of thousands of person injured by Manville products, in 1982, Manville filed for reorganization under Chapter 11¹⁸ of the United States Bankruptcy Code.¹⁹ The bankruptcy filing automatically stayed all pending asbestos injury lawsuits filed against Manville, but the bankruptcy court still faced the unique challenge of balancing Manville's right to reorganize free from liabilities with the right of an unknown number of future victims injured by Manville's products to receive compensation for their injuries.²⁰ The bankruptcy court's solution was novel: the court transferred Manville's asbestos injury liabilities to a specially-created trust ("Manville Trust"), allowing Manville to reorganize and operate free from all asbestos liability. No longer could a Manville victim sue the company for compensation for his or her injury; instead, a victim had to file a claim with the Manville Trust according to procedures set out in trust governance documents.

Asbestos Bankruptcy Trusts

A dramatic surge in asbestos manufacturing corporations filing for bankruptcy followed the creation of the Manville Trust, but bankruptcy courts lacked express statutory authority for the trust scheme.²¹ In 1994, Congress enacted 11 U.S.C. § 524(g) to create a comprehensive, statutory mechanism for addressing asbestos liabilities in bankruptcy reorganization proceedings.²² This section authorizes bankruptcy courts to transfer a debtor corporation's asbestos liability to an independent trust funded by the reorganized company, allowing the reorganized company to operate free from present and future asbestos liability claims.²³ Since 1994, over 60 such asbestos bankruptcy trusts have been established, paying over \$17.5 billion on millions of asbestos injury claims.²⁴

¹³ *Borel v. Fibreboard Paper Prods. Corp.*, 493 F.2d 1076 (5th Cir. 1973).

¹⁴ *Id.*; Restatement (Second) Of Torts § 402A (1965) ("One who sells any product in a defective condition unreasonably dangerous to the user or consumer or to his property is subject to liability for physical harm thereby caused to the ultimate user or consumer...").

¹⁵ *Borel*, *supra* note 13.

¹⁶ Between 1925 and 1981, Manville, an asbestos miner and fabricator, dominated the United States asbestos industry, producing most of the asbestos used in the United States. Mark Kunkler, *The Manville Corporation Bankruptcy: An Abuse of the Judicial Process?*, 11 *Pepp. L. Rev.* 1 (1984), <https://digitalcommons.pepperdine.edu/cgi/viewcontent.cgi?article=1922&context=plr> (last visited Jan. 30, 2020).

¹⁷ Kunkler, *supra* note 16.

¹⁸ A case filed under Chapter 11, known as a reorganization, is primarily used by corporations to reorganize their finances and get a fresh start. A reorganizing business must ensure that it is capable of meeting all future financial obligations. See United States Courts, *Chapter 11- Bankruptcy Basics*, <https://www.uscourts.gov/services-forms/bankruptcy/bankruptcy-basics/chapter-11-bankruptcy-basics> (last visited Jan. 30, 2020).

¹⁹ Opinion issued in context of main bankruptcy case: *In re Johns-Manville Corp.* 60 B.R. 842 (S.D.N.Y. 1986); See also Kunkler, *supra* note 16.

²⁰ Kunkler, *supra* note 16.

²¹ Lloyd Dixon, et al., *Asbestos Bankruptcy Trusts: An Overview of Trust Structure and Activity with Detailed Reports on the Largest Trusts*, Rand Institute for Civil Justice, https://www.rand.org/content/dam/rand/pubs/technical_reports/2010/RAND_TR872.pdf (last visited Jan. 30, 2020).

²² United States Department of Justice, Office of Public Affairs, *Justice Department Files Statement of Interest in New Asbestos Trust Proposal* (Sept. 13, 2018), <https://www.justice.gov/opa/pr/justice-department-files-statement-interest-new-asbestos-trust-proposal> (last visited Jan. 30, 2020).

²³ See Dixon, *supra* note 21.

²⁴ *Id.*

Generally, a claimant seeking compensation from an asbestos trust must file a claim form with an injury statement and information establishing asbestos exposure linked to the trust's predecessor.²⁵ A claimant must also submit asbestos exposure evidence, such as employment and social security records, deposition testimony, and medical reports or records supporting a diagnosis of the specific disease claimed.²⁶ A trust claim is then reviewed by a trust committee and paid when the claimant meets exposure requirements and suffers from an asbestos-related injury linked to such exposure.²⁷ Payment schedules established by each trust determine the amount of compensation a claimant will receive for a specific medical condition, and claimants may make claims from multiple trusts for a single injury as each trust operates independently.²⁸

Florida Law

Initiating a Lawsuit

Florida's Asbestos and Silica Compensation Fairness Act²⁹ ("the Act") allows the filing of an asbestos lawsuit against a solvent defendant in the state if the plaintiff is domiciled in Florida³⁰ or the asbestos exposure that substantially contributed to the exposed person's³¹ physical impairment³² occurred in the state.³³ The statute of limitations³⁴ to file an asbestos lawsuit does not begin to run until the exposed person discovers, or through exercising reasonable diligence should have discovered, his or her asbestos-related physical impairment.³⁵ An asbestos lawsuit alleging a non-cancerous injury is a separate cause of action from an asbestos lawsuit alleging asbestos-related cancer, and settlement of a non-cancerous asbestos injury claim may not require as a condition of settlement the release of any future asbestos-related cancer claim, meaning that a plaintiff who sued for a non-cancerous injury could sue the same defendant again should he or she develop asbestos-related cancer in the future.³⁶

Discovery

A plaintiff bringing an asbestos lawsuit must include a written report and supporting test results with the complaint constituting prima facie evidence³⁷ of the exposed person's asbestos-related impairment.³⁸ The defendant has an opportunity to challenge the evidence's adequacy, and the court must dismiss the asbestos lawsuit without prejudice³⁹ if the plaintiff fails to make the required prima facie showing.⁴⁰ In addition to the written report, a plaintiff must file a sworn information form containing:

²⁵ Mark A. Behrens, *Asbestos Trust Transparency*, 81 Fordham. L Rev. 107 (2018), <https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=5540&context=flr> (last visited Jan. 30, 2020).

²⁶ *Id.*

²⁷ See Dixon, *supra* note 21.

²⁸ *Id.*; See Behrens, *supra* note 25.

²⁹ Ch. 774, Part II, F.S.

³⁰ A person domiciled in Florida has his or her true, principal, and permanent home in this state. Such a person physically lives in the state, regards it as home, and intends to return even if currently residing elsewhere. See Legal Information Institute, *Domicile*, <https://www.law.cornell.edu/wex/domicile> (last visited Jan. 30, 2020).

³¹ "Exposed person" means a person whose asbestos exposure is the basis for an asbestos lawsuit or trust claim. S. 774.203(13), F.S.

³² Physical impairment, to which asbestos exposure was a substantial contributing factor, is an essential element of an asbestos lawsuit. A prima facie showing of physical impairment must include evidence verifying that a qualified physician took the exposed person's detailed occupational and exposure history, including identification of all of the exposed person's principal employment places and exposures to airborne contaminants, and a detailed medical and smoking history, including a thorough review of the exposed person's past and present medical problems and their most likely cause. S. 774.204(2)(a) and (b), F.S.

³³ S. 774.205(1), F.S.

³⁴ A statute of limitations bars the filing of a civil or criminal cause of action after a certain period of time following an injury or offense. See Legal Information Institute, *Statute of Limitations*, https://www.law.cornell.edu/wex/statute_of_limitations (last visited Jan. 30, 2020).

³⁵ S. 774.206(1), F.S.

³⁶ S. 774.206(2), F.S.

³⁷ Prima facie evidence is evidence sufficient to establish a fact or raise a presumption unless disproved or rebutted. See Legal Information Institute, *Prima Facie*, https://www.law.cornell.edu/wex/prima_facie (last visited Jan. 30, 2020).

³⁸ S. 774.205(2), F.S.

³⁹ When a case is dismissed without prejudice, the plaintiff is free to file another lawsuit based on the same grounds. See Legal Information Institute, *Dismissal Without Prejudice*, https://www.law.cornell.edu/wex/dismissal_without_prejudice (last visited Jan. 30, 2020).

⁴⁰ S. 774.205(1), F.S.

- The claimant's name, date of birth, and marital status;⁴¹
- The name, address, date of birth, and marital status of each index person;⁴²
- The specific exposure locations;⁴³
- The alleged exposure's beginning and ending dates;⁴⁴
- The exposed person's occupation and employer name at the time of the alleged exposure;⁴⁵
- The specific asbestos-related condition alleged;⁴⁶ and
- Any supporting documentation related to the asbestos lawsuit.⁴⁷

A plaintiff is not currently required to file a sworn statement or other information form identifying the asbestos trust claims he or she filed or to indicate that he or she investigated all asbestos trust claims to determine his or her claim eligibility.⁴⁸ Further, a plaintiff is not required to provide the parties with documents submitted to or received from an asbestos trust or relating to trust compensation eligibility and claim payment levels, and a defendant cannot seek discovery directly from an asbestos trust.⁴⁹ This enables a plaintiff to suppress exposure evidence connected to trust claims not yet filed.

Motions to Stay

A trial court may stay⁵⁰ a civil action under its inherent case management powers.⁵¹ Whether a trial court grants a stay, or what conditions it imposes, is in the court's discretion.⁵² However, a court presiding over an asbestos lawsuit lacks the authority to require a plaintiff to file an asbestos trust claim, and thus lacks the authority to stay the asbestos lawsuit until the plaintiff files such a claim.⁵³

Judgments

Given the widespread use of asbestos prior to the 1970s, multiple corporations may have contributed to a person's asbestos exposure.⁵⁴ To ensure that damages awarded in an asbestos lawsuit are proportional to the defendant's fault, the Act requires a plaintiff to file a verified written report disclosing all collateral source payments received, and anticipated future payments, from settlements or judgments based on the same injury, and the court must allow judgment setoff based on this information.⁵⁵ However, where a plaintiff files a trust claim after obtaining a judgment, the court loses its ability to allow judgment setoff.⁵⁶

Some plaintiffs exploit this loophole by delaying trust claim filing and suppressing evidence of trust-related exposure, leading juries to find the defendant responsible for all or most of the plaintiff's injury and award a larger judgment, thereby increasing a plaintiff's compensation for a single injury and reducing the funds available for victims bringing future asbestos lawsuits against the defendant.⁵⁷ The *Garlock* bankruptcy proceeding highlighted this practice, demonstrating that some plaintiffs seek compensation for 100 percent of their injuries in an asbestos lawsuit while subsequently seeking additional compensation from asbestos trusts for the same injury.⁵⁸

⁴¹ S. 774.205(3)(a), F.S.

⁴² An index person is the person by which a plaintiff claims asbestos exposure if alleging such exposure through another's testimony or by other than direct or bystander exposure to a product. S. 774.205(3)(b), F.S.

⁴³ S. 774.205(3)(c), F.S.

⁴⁴ S. 774.205(3)(d), F.S.

⁴⁵ S. 774.205(3)(e), F.S.

⁴⁶ S. 774.205(3)(f), F.S.

⁴⁷ S. 774.205(3)(g), F.S.

⁴⁸ See generally Ch. 774, F.S.

⁴⁹ *Id.*

⁵⁰ A stay is a court ruling to stop or suspend a proceeding or trial for a specified time period. See Legal Information Institute, *Stay of Proceedings*, https://www.law.cornell.edu/wex/stay_of_proceedings (last visited Jan. 30, 2020).

⁵¹ *REWJB Gas Invs. V. Land O'Sun Realty, Ltd.*, 643 So. 2d 1107 (Fla. 4th DCA 1994).

⁵² *Id.*

⁵³ See generally Ch. 774, F.S.

⁵⁴ Carrington, *supra* note 6.

⁵⁵ S. 774.207(2), F.S.

⁵⁶ See generally Ch. 774, F.S.

⁵⁷ See Behrens, *supra* note 25.

⁵⁸ Garlock was an asbestos gaskets manufacturer widely sued during the 2000s. During proceedings to determine Garlock's liability for present and future asbestos injury claims following Garlock's bankruptcy petition, the judge allowed Garlock full discovery to assess 15

Other States

Since 2012, 16 states have passed asbestos trust claim transparency laws preventing a plaintiff from intentionally delaying the filing of a trust claim to obtain a larger verdict in an asbestos lawsuit and increase his or her compensation for a single injury:

State	Statute	Year Passed
Alabama	§§ 6-5-680 to 6-5-685	2019
Arizona	§ 12-782	2015
Iowa	§ 686A	2017
Kansas	§§ 60-4912 to 60.4918	2018
Michigan	§§ 600.3010 to 600.3016	2018
Mississippi	§ 11-67	2017
North Carolina	§§ 1A-1-26, 8C-4-415, and 1-75.12	2018
North Dakota	§ 32-46.1-6	2017
Ohio	§§ 2307.91 to 2307.98	2012
Oklahoma	§§ 76-81 to 76-89	2013
South Dakota	§ 21-66	2017
Tennessee	§ 29-34-6	2016
Texas	§§ 90.051-90.058	2015
Utah	§ 78B-6-20	2016
West Virginia	§ 55-7F	2015
Wisconsin	§ 802.025	2014

Effect of Proposed Changes

Definitions

CS/HB 741 defines the term:

- “Asbestos trust” to mean a government- or court-approved trust created through an administrative or legal action or a court-approved bankruptcy and intended to provide compensation to claimants related to asbestos exposure health effects.
- “Trust claim material” to mean any document or information submitted to or received from an asbestos trust or related to trust claim settlement.
- “Trust governance documents” to mean any document relating to compensation eligibility and claim payment levels.

Discovery

The bill provides that, within 30 days after filing an asbestos lawsuit, a plaintiff must provide the parties with a sworn statement verifying that he or she conducted an asbestos trust claims investigation and filed all asbestos trust claims he or she is eligible to file. Within that time, a plaintiff must also identify all asbestos trust claims the plaintiff filed and provide the parties with all trust claim material. Further, the bill requires a plaintiff to supplement his or her sworn information form and trust claim material within 30 days after filing another asbestos trust claim, supplementing an existing trust claim, or receiving additional trust claim material. This prevents a plaintiff from suppressing evidence pertinent to a liability determination in the asbestos lawsuit.

Additionally, the bill allows a defendant to seek discovery from an asbestos trust and prohibits a plaintiff from claiming privilege or confidentiality to prevent such discovery. The bill also requires a plaintiff to provide any necessary permissions the asbestos trust requires to release trust claim material and

governance documents to the defendant. This provides the defendant with a check on the plaintiff's sworn statement and the trust claim material provided, ensuring that the defendant receives all information pertinent to a liability determination.

Evidence Admissibility and Privilege

The bill provides that trust claim material and trust governance documents, whether provided by a plaintiff or obtained from a trust, are:

- Presumed to be relevant and authentic;
- Admissible in evidence; and
- Not subject to claims of privilege.

This allows a jury to consider all trust claim materials and trust governance documents pertinent to a liability determination in an asbestos lawsuit.

Motions to Stay

If a defendant in an asbestos lawsuit reasonably believes that the plaintiff has not filed all asbestos trust claims he or she must file, the bill allows the defendant to move for an order requiring the plaintiff to file the additional asbestos trust claims. The bill requires a defendant to file such motion no later than 60 days before trial, preventing the defendant from using such a motion as an eleventh-hour delay tactic.

If the court determines that there is a sufficient basis for the plaintiff to file the identified asbestos trust claims, the bill requires the court to stay the asbestos lawsuit until the plaintiff files such claims and produces all related trust claims material. Further, the bill prohibits an asbestos action from proceeding to trial until at least 60 days after the plaintiff complies with the court's order. This ensures that all asbestos trust claims known to the parties that the plaintiff is eligible to file are filed prior to trial in the asbestos lawsuit.

Post-Judgment Trust Claims

The bill provides that if a plaintiff files an asbestos trust claim after obtaining a judgment in an asbestos lawsuit, and the asbestos trust existed at the time the plaintiff obtained the judgment, the trial court must, upon the defendant's motion, adjust the judgment by the amount of any subsequent asbestos trust payments made to the plaintiff for the late-filed claim. This prevents a plaintiff from delaying the filing of a trust claim to obtain a larger verdict in an asbestos action and increase his or her compensation for a single injury.

B. SECTION DIRECTORY:

Section 1: Amends s. 774.203, F.S., relating to definitions.

Section 2: Creates s. 774.2055, F.S., relating to asbestos trust claim disclosures.

Section 3: Provides an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill continues to allow compensation of a plaintiff bringing an asbestos lawsuit, but may prevent a defendant from paying more than its share of the damages for the alleged injury. This leaves more funds available to compensate victims bringing future asbestos actions against the defendant.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 16, 2020, the Civil Justice Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment clarified that a plaintiff bringing an asbestos claim must provide the parties to the claim with all trust claim material.

This analysis is drafted to the committee substitute as passed by the Civil Justice Subcommittee.