



Legislative Council Staff

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FISCAL NOTE

Drafting Number:	LLS 18-0353	Date:	February 6, 2018
Prime Sponsors:	Sen. Sonnenberg Rep. Liston	Bill Status:	Senate Judiciary
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Bill Topic: ASBESTOS BANKRUPTCY TRUST CLAIMS TRANSPARENCY ACT

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue (<i>minimal</i>)	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure (<i>minimal</i>)	<input type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill establishes the Asbestos Bankruptcy Trust Claims Transparency Act which impacts Judicial Department workload by a minimal amount on an ongoing basis.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: This fiscal note reflects the introduced bill.

Summary of Legislation

This bill creates the Asbestos Bankruptcy Trust Claims Transparency Act. This bill adds statutory definitions and establishes procedures for the filing of asbestos trust claims and related materials.

Required disclosures. Each plaintiff in an asbestos trust claim must provide all parties with a sworn statement identifying all asbestos trust claims that have been filed no later than 120 days prior to the trial. The bill specifies the information that must be included in the sworn statement including, but not limited to, the name and contact information of the asbestos trust, the amount claimed, and the disposition of the claim. If the plaintiff files an additional claim or receives additional information or materials related to any claim, related supplemental materials must be provided within 90 days. The failure by a plaintiff to make all trust claim materials available to all parties is grounds for the court to extend the trial date until resolved.

Discovery. Trust claim materials and governance documents are presumed to be relevant and admissible as evidence and defendants may seek discovery from an asbestos claim. Trust claim materials may be sufficient to support a jury finding that the plaintiff may have been exposed to asbestos products for which an asbestos trust was established.

Additional or alternative asbestos trusts. Prior to 90 days before the trial, if a defendant identifies an asbestos claim not previously identified by the plaintiff, the defendant may ask for a court order requiring the plaintiff to file an additional asbestos trust claim. Within ten days of this motion, the plaintiff must file the asbestos trust claim or respond to the court that insufficient

evidence exists to file the claim or that the cost to file the claim exceeds the plaintiff's reasonable anticipated recovery. The court is authorized to stay the asbestos action until the additional claims are filed or additional information is received from the plaintiff.

State Revenue

This bill may both increase and decrease state cash fund revenue from civil filing fees credited to the Judicial Department. Revenue is increased from additional pre-trial motions and decreased to the extent that asbestos trust cases are settled before going to court. Overall, the number of asbestos trust claims filed with the court is low and this impact is expected to be minimal.

TABOR Refund

The bill impacts state cash fund revenue from court fees subject to TABOR by a minimal amount in FY 2018-19 and in FY 2019-20. State revenue is not currently expected to exceed the TABOR limit in either year and no refund is required. Therefore, the bill is not expected to impact TABOR refunds in these years. However, refunds in future years when the state next collects a TABOR surplus will be impacted.

State Expenditures

This bill both increases and decreases trial court workload in the Judicial Department. Workload is increased for the courts to consider additional asbestos trust claim pre-trial motions. To the extent cases are settled before going to trial due to the discovery process and required disclosures created by this bill, workload will decrease. Because the number of asbestos trust civil filings is low, these impacts are expected to be minimal and no change in appropriations is required.

Effective Date

The bill takes effect August 8, 2018, if the General Assembly adjourns on May 9, 2018, as scheduled, and no referendum petition is filed. It applies to all asbestos actions filed on or after this date.

State and Local Government Contacts

Judicial