

SESSION OF 2018

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2457

As Amended by House Committee on Judiciary

Brief*

HB 2457 would enact the Asbestos Trust Claims Transparency Act (Act), which would apply to all asbestos claims (as defined in the Silica and Asbestos Claims Act) filed on or after July 1, 2018.

The bill would require the plaintiff to provide certain statements and materials no later than 30 days prior to the date the court establishes for the completion of all fact discovery. Specifically, the plaintiff would be required to conduct an investigation, file all asbestos trust claims that can be made by the plaintiff, and provide a sworn statement indicating the investigation has been conducted and all possible claims filed. The plaintiff would be required to provide all parties with all trust claim materials, accompanied by a custodial affidavit from the asbestos trust. If the plaintiff's asbestos trust claim is based on exposure through another individual, the plaintiff would be required to produce all trust claim documents submitted by or on behalf of the other individual to any asbestos trust to which the plaintiff has access. The bill would also require the plaintiff to supplement the information and materials within 30 days after the plaintiff, or a person on the plaintiff's behalf, supplements an existing asbestos trust claim, receives additional information or materials related to such a claim, or files an additional asbestos trust claim.

The bill would outline circumstances under and procedures by which a defendant could file and the court

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

could grant a motion for the completion of all fact discovery regarding the plaintiff's asbestos trust claims.

Additionally, the bill would provide definitions for "asbestos," "asbestos claim," "asbestos trust," "plaintiff," "trust claim materials," and "trust governance documents"; establish evidentiary standards for asbestos claims; provide a procedure to reopen and adjust judgment in an asbestos claim if the plaintiff subsequently files an asbestos trust claim with an asbestos trust in existence at the time of judgment; and require defendants and judgment debtors to file any motion under the bill within a reasonable time and not more than one year after the judgment was entered.

Background

The bill was introduced by the House Committee on Judiciary at the request of the Kansas Chamber. In the House Committee hearing, representatives of the Kansas Chamber and the U.S. Chamber Institute for Legal Reform testified in support of the bill. Written-only proponent testimony was submitted by representatives of the Kansas Association of Defense Counsel, Kansas Association of Property and Casualty Insurance Companies, and National Association of Mutual Insurance Companies. A representative of the Kansas Trial Lawyers Association, an attorney, and a private citizen testified in opposition to the bill. Representatives of the Kansas AFL-CIO, Kansas State Council of Fire Fighters, and Military Order of the Purple Heart provided written-only opponent testimony.

The House Committee amended the bill to align deadlines with the case discovery timeline; remove dismissal, stay, evidence sufficiency, and retroactivity provisions; and clarify phrasing.

According to the fiscal note prepared by the Division of the Budget on the bill as introduced, the Office of Judicial Administration indicates enactment of the bill could increase

expenditures beginning in FY 2019 from additional personnel time conducting and processing asbestos cases. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2019 Governor's Budget Report*.