

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION
Revision 1

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TO: Honorable Joe Nixon, Chair, House Committee on Civil Practices

FROM: John Keel, Director, Legislative Budget Board

IN RE: HB1240 by Nixon (Relating to civil claims involving exposure to asbestos and to certain successor liability.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1240, Committee Report 1st House, Substituted: a positive impact of \$2,971,575 through the biennium ending August 31, 2005.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2004	\$2,237,175
2005	\$734,400
2006	\$734,400
2007	\$734,400
2008	\$734,400

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>Asbestos Claims Inactive Docket</i> <i>Account</i>
2004	\$2,237,175
2005	\$734,400
2006	\$734,400
2007	\$734,400
2008	\$734,400

Fiscal Analysis

The bill would amend the Civil Practice and Remedies Code to add procedures relating to civil claims alleging personal injury or death caused by exposure to asbestos fibers. The bill would limit certain successor asbestos-related claims to the fair market value of the total gross assets of the transferor at the time of certain mergers or consolidations. The bill would create an inactive docket to track individual claimants in asbestos-related lawsuits that are filed without certain medical findings. The bill would require the Supreme Court to establish the inactive docket for claims that would be administered by the Office of Court Administration. The bill would require the Supreme Court to create and maintain a list of independent experts who would review petitions for removal from the inactive docket.

Upon the filing of each claim, the clerk of the district court in which each claim is filed would collect a filing fee from each claimant and would forward one-half of the filing fee to the Comptroller for deposit to the Asbestos Claims Inactive Docket Account created by the bill in the General Revenue Fund. One-half of the filing fee would be deposited in the local treasury. Additionally, the bill would require claimants in cases pending on the effective date but in which no trial has been convened to pay a filing fee.

Because the legislation would create a dedicated account in the General Revenue Fund, the account included in this bill would be subject to funds consolidation review by the current legislature. The bill would take effect immediately if the bill receives the vote of two-thirds of the members of each house. Otherwise, the bill would take effect September 1, 2003. The bill would apply only to claims filed after the effective date or to pending claims filed that have not gone to trial prior to the effective date of the bill.

Methodology

According to the Annual Report of the Texas Judicial System published by the Office of Court Administration, 16,320 civil actions involving injuries or damage other than those caused by a motor vehicle were filed in fiscal year 2002. At the end of fiscal year 2002, a total of 33,389 such civil actions were pending.

Assuming that 20 percent of an estimated 33,389 pending cases in fiscal year 2004 are asbestos-related, a total of 6,679 asbestos-related cases will be pending. This estimate assumes that the filing fee referenced in the bill is the fee authorized under Government Code, Section 51.317(b)(1). Assuming that each pending case has a total of 10 individual claimants, the clerk in each district court where the original case was filed would collect a \$45 filing fee from each claimant for a total of \$3,005,550. Of this amount, half, or \$1,502,775 would be sent to the Comptroller for deposit in the Asbestos Claims Inactive Docket Account and half would be deposited to local treasuries.

Assuming that 20 percent of an estimated 16,320 cases filed in fiscal year 2004 are asbestos-related, a total of 3,264 asbestos-related cases will be filed. This estimate assumes that the filing fee referenced in the bill is the fee authorized under Government Code, Section 51.317(b)(1). Assuming that each filed case has a total of 10 individual claimants, the clerk in each district court where the original case was filed will collect a \$45 filing fee from each claimant, for a total of \$1,468,800. Of this amount, half, or \$734,400 would be sent to the Comptroller for deposit in the Asbestos Claims Inactive Docket Account and half would be deposited to local treasuries.

This estimate assumes that together the filing fees collected in pending cases and new cases filed in fiscal year 2004 would total \$2,237,175. This estimate assumes that for each year thereafter, the filing fees for new cases would total \$734,400.

Additionally, based upon court and agency responses, the amounts necessary to handle the inactive docket and filing fee collection would be of no significant fiscal impact.

Local Government Impact

Given the assumptions made concerning the number of asbestos-related cases pending, the number of asbestos-related cases that may be filed, and the number of claimants in each case, local government should realize a revenue gain. Estimated revenue is detailed above and would total \$2,237,175 in fiscal year 2004 and \$734,400 in fiscal year 2005 and each year thereafter.

Source Agencies: 201 Supreme Court of Texas, 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 307 Secretary of State, 503 Board of Medical Examiners, 582 Commission on Environmental Quality

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