

BILL ANALYSIS

S.B. 749
By: Janek
Judiciary
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The asbestos and silica medical criteria legislation, passed as S.B. 15 by the 79th Legislature, Regular Session, was designed to improve the Texas civil justice system for victims of asbestos or silica exposure. That bill created multidistrict litigation (MDL) pretrial courts to assist in expediting action involving asbestos-related or silica-related injuries. Actions involving plaintiffs diagnosed with malignant asbestos-related cancer or malignant silica-related cancer continue to stall in the Texas court system and, as a result, injured plaintiffs succumb to their illness before they appear in court. Although current law authorizes an MDL pretrial court to expedite an action involving asbestos or silica-related injuries, the statute has proved ineffective at moving the actions through the court system.

The bill is a clean-up bill intended to further protect the rights of people who are suffering from asbestos-related or silica-related injuries to pursue their claims for compensation in a fair and efficient manner through the court system. This bill makes the presiding judge a party in interest for the limited purpose of requesting a writ of mandamus from appellate courts to enforce priority in setting hearings and trials for asbestos or silica-related cases in which the exposed person is living and has been diagnosed with malignant mesothelioma, malignant silica or malignant asbestos-related cancer, or acute silicosis. In addition, this bill authorizes additional compensation for the presiding judge of asbestos or silica MDL and authorizes the presiding judge to appoint up to four staff members to address the additional workload.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Section 23.101, Government Code, by adding Subsections (c) and (d), as follows:

(c) Requires a district judge who presides over multidistrict litigation involving claims for asbestos-related or silica-related injuries to confer with a trial court regarding trial settings or other matters regarding remand. Requires the trial court to cooperate with the multidistrict litigation court and prohibits the trial court from continuing or postponing a trial setting without the concurrence of the multidistrict litigation court.

(d) Provides that a district judge who presides over multidistrict litigation involving claims for asbestos-related or silica-related injuries is a party in interest for the limited purpose of requesting mandamus enforcement of the priority in setting hearings and trials under this section.

SECTION 2. Amends Chapter 74, Government Code, by adding Subchapter I, as follows:

SUBCHAPTER I. JUDGE PRESIDING OVER MULTIDISTRICT LITIGATION

Sec. 74.201. STAFF. Authorizes a district judge who presides over a multidistrict litigation involving claims for asbestos-related or silica-related injuries to appoint one briefing attorney and not more than three clerks to assist the judge.

SECTION 3. Amends Subchapter B, Chapter 659, Government Code, by adding Section 659.0125, as follows:

Sec. 659.0125. SALARY FOR DISTRICT JUDGE PRESIDING OVER MULTIDISTRICT LITIGATION. (a) Entitles a district judge who presides over multidistrict litigation involving claims for asbestos-related or silica-related injuries, notwithstanding Section 659.012 or any other law, to receive the maximum amount of compensation set by the Texas Judicial Council (TJC) for a presiding judge (currently \$33,000) in addition to all other compensation, expenses, and perquisites authorized by law. Requires the amount to be apportioned over 12 equal monthly payments and be paid to the judge by TJC for each month during which the judge retains jurisdiction over the claims.

(b) Provides that, notwithstanding any other law, supplemental compensation paid to a district judge under this section is not included as part of the district judge's total annual salary for the purpose of computing another salary that is based on the salary of the district judge.

SECTION 4. Makes the application of the compensation authorized by this Act prospective.

EFFECTIVE DATE

Immediately on receipt of required vote; otherwise September 1, 2007.