

January 16, 2018

The Honorable Blaine Finch, Chairperson
House Committee on Judiciary
Statehouse, Room 519-N
Topeka, Kansas 66612

Dear Representative Finch:

SUBJECT: Fiscal Note for HB 2457 by House Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2457 is respectfully submitted to your committee.

HB 2457 would enact the Asbestos Bankruptcy Trust Claims Transparency Act, which would establish a method the court could use to determine whether a plaintiff filing a claim for an asbestos action has previously made a claim against or recovered monies from any asbestos trust in the past. In order for the court to make this determination, the bill would require the plaintiff to conduct an investigation into all asbestos trust claims that could be made by the plaintiff; provide a sworn statement indicating that the investigation was done, the status of any other asbestos trust claims found in the investigation, and provide certain information relating to the plaintiff's eligibility for and prior claims against any asbestos trust; provide all parties with all trust claim materials; and if the claims were based on exposure, the plaintiff would have to produce all trust claim materials submitted by or on behalf of the other individual. The court would be permitted to dismiss the claim if the plaintiff does not comply.

The defendant may motion for a stay within a certain time frame if the defendant obtains information that could support additional trust claims by the plaintiff. The plaintiff would then have ten days to respond, after which the court would decide whether to stay the claim. Trial would not be permitted until at least 60 days after the plaintiff provides all information required by the bill and the court would be required to enter into the record a document that identifies every asbestos trust claim made by or on behalf of the plaintiff.

The bill would establish rules for discovery and admissibility of trust claim materials and trust governance documents, which would limit claims of privilege and confidently related to those materials. If a claim is filed after judgement in an asbestos claim, and the trust was in existence at

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the time of judgement, the defendant or judgement debtor could seek sanctions. In this case, a trial court would have jurisdiction to reopen a judgement in an asbestos claim and adjust the judgement if the plaintiff receives asbestos trust payments after the case is closed. A defendant would be required to file this motion for relief within one year after the judgement is entered. HB 2457 would apply to all asbestos claims filed on or after July 1, 2018, and any pending asbestos claims in which trial has not yet commenced as of July 1, 2018.

The Office of Judicial Administration indicates enactment of HB 2457 could increase Judicial Branch expenditures beginning in FY 2019 from additional time spent by staff and judges conducting and processing asbestos cases. Any fiscal effect associated with HB 2457 is not reflected in *The FY 2019 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Shawn Sullivan", with a horizontal line extending to the right.

Shawn Sullivan,
Director of the Budget

cc: Ashley Michaelis, Judiciary