



Senate Fiscal Agency
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BILL ANALYSIS



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House Bill 5456 (Substitute S-5 as reported by the Committee of the Whole)
Sponsor: Representative Jason Wentworth
House Committee: Michigan Competitiveness
Senate Committee: Michigan Competitiveness

CONTENT

The bill would enact the "Asbestos Bankruptcy Trust Claims Transparency Act" as Chapter 30A of the Revised Judicature Act to do the following:

- Require a plaintiff, at least 180 days before the initial date set for the trial of an asbestos action, to give the court and all parties a sworn statement that an investigation had been conducted and all asbestos trust claims that the plaintiff could make had been completed and filed; and to provide all parties with all trust claims materials.
- Impose on the plaintiff a continuing duty to supplement the information and materials.
- Require the defendant, at least 60 days before trial, to confer with the plaintiff if the defendant believed that the plaintiff had not filed all asbestos trust claims as required.
- Permit the defendant, after conferring with the plaintiff, to move the court for an order requiring the plaintiff to file additional trust claims.
- Require the plaintiff, within 10 days of receiving the motion, to file: 1) an asbestos trust claim, 2) a response stating why there was insufficient evidence to file the claim; or 3) a response requesting a determination that the cost to file exceeded the reasonably anticipated recovery.
- Require the court to stay the action until the plaintiff filed the trust claim if the court determined that there was sufficient basis for the plaintiff to do so.
- Require the court to stay the action until the plaintiff filed a statement regarding exposure to and use of asbestos, if the court determined that the cost of submitting a trust claim exceeded the plaintiff's reasonably anticipated recovery.
- Provide that the court could not schedule the action for trial sooner than 60 days after the plaintiff complied with these requirements.
- Permit a defendant to seek discovery from an asbestos trust.
- State that trust materials could be used to prove an alternative source for the cause of the plaintiff's alleged harm, and could serve as a basis to allocate responsibility for the harm.
- Provide that if a plaintiff filed an additional asbestos trust claim after obtaining a judgment in an asbestos action, and if the trust existed at the time of the judgment, the court could reopen and adjust the judgment by the amount of subsequent payments the plaintiff obtained and order other relief.

Proposed MCL 600.3010-600.3016

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Date Completed: 3-15-18

Fiscal Analyst: Michael Siracuse

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Bill Analysis @ www.senate.michigan.gov/sfa

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