Fiscal Note & Local Impact Statement

125 th General Assembly of Ohio

Ohio Legislative Service Commission
77 South High Street, 9th Floor, Columbus, OH 43215-6136 ✧ Phone: (614) 466-3615
✧ *Internet Web Site:* http://www.lsc.state.oh.us/

BILL: **Sub. H.B. 292 (LSC 125 1235-1)** DATE: **December 3, 2003**

STATUS: **In House Civil and Commercial Law** SPONSOR: **Rep. Oelslager**

LOCAL IMPACT STATEMENT REQUIRED: **No — Minimal cost**

CONTENTS: **Establishes minimum medical requirements for filing certain asbestos claims, specifies a plaintiff's burden of proof in tort actions involving exposure to hazardous or toxic substances, and establishes limitations on successor asbestos-related liabilities relating to corporations**

State Fiscal Highlights

STATE FUND	FY 2004	FY 2005	FUTURE YEARS
General Revenue Fund			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential decrease	Potential decrease	Potential annual decrease
Other State Funds			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential decrease	Potential decrease	Potential annual decrease

Note: The state fiscal year is July 1 through June 30. For example, FY 2004 is July 1, 2003 – June 30, 2004.

- ***Healthcare expenditures.*** It is difficult to establish a direct empirical or causal connection between the bill and its fiscal effects on the state, particularly in terms of various healthcare expenditures. There is likely some proportion of medical costs incurred annually by the state that are the result of or directly affected by the current liability system. It is not unreasonable to conclude therefore that the bill's provisions relative to establishing certain medical requirements for filing asbestos-related claims and limiting successor asbestos-related liability might limit future state expenditures.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2004	FY 2005	FUTURE YEARS
Counties			
Revenues	Potential loss in filing fee revenues, likely to be no more than minimal, if that, in most local jurisdictions	Potential loss in filing fee revenues, likely to be no more than minimal, if that, in most local jurisdictions	Potential annual loss in filing fee revenues, likely to be no more than minimal, if that, in most local jurisdictions
Expenditures	Potential decrease in civil justice system expenditures, likely to more than offset any associated revenue losses	Potential decrease in civil justice system expenditures, likely to more than offset any associated revenue losses	Potential annual decrease in civil justice system expenditures, likely to more than offset any associated revenue losses

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- ***Courts of common pleas.*** The asbestos-related tort action cases affected by the bill are most likely handled by courts of common pleas due to the dollar amount of the damages sought. The net effect of the bill's various changes to civil practice and procedure in relation to asbestos-related claims is potentially that fewer such actions will be filed in courts of common pleas by plaintiffs to recover asbestos-related damages or that such actions may be curtailed. If there were in fact a reduction in the number of asbestos-related tort actions filed or a curtailment to such actions, there would in all likelihood be an overall operational savings realized in various courts of common pleas resulting from a decrease in judicial dockets and in the related workload of other court personnel. Whether the resulting savings in annual operating costs for any given court of common pleas might exceed minimal is uncertain. If the number of asbestos-related tort actions was reduced or such actions were curtailed, courts of common pleas will likely see a loss in various related filing fee revenues. However, the savings realized by those courts in terms of their personnel and related operating costs would likely be noticeably greater than any possible revenue loss.

Detailed Fiscal Analysis

Operation of the bill

The bill makes changes to civil practice and procedure relative to establishing minimum medical requirements for filing certain asbestos-related claims, specifying a plaintiff's burden of proof in certain tort actions, and establishing limitations on the successor asbestos-related liabilities of certain domestic corporations.

Asbestos claims

Under the bill, a cause of action for bodily injury caused by exposure to asbestos accrues, or arises, upon the date on which the plaintiff is informed by competent medical authorities that the plaintiff has an injury related to the exposure or upon the date on which by the exercise of reasonable diligence the plaintiff should have known that the injury was related to the asbestos exposure. The bill requires that tort actions alleging physical illness or impairment as the result of asbestos exposure include a written report and supporting test results constituting prima facie evidence of a linkage between the alleged exposure and the resulting illness or impairment. The bill also limits the asbestos-related liabilities of certain successor domestic corporations.

The net effect of these changes relative to asbestos-related claims and liabilities will likely be to eliminate or curtail some causes for action involving alleged asbestos exposure and resulting illness or impairment.

Burden of proof

The bill also establishes the criteria for a plaintiff's burden of proof in tort actions alleging some injury or loss that resulted from exposure to hazardous or toxic substances. This provision of the bill is largely a procedural change and would not likely affect such causes of action or the number of such cases being filed.

State fiscal effects

It is difficult to establish a direct empirical or causal connection between the bill and its fiscal effects on the state, particularly in terms of healthcare expenditures related to asbestos claims. There is likely some proportion of such medical costs incurred annually by the state that are the result of or directly affected by the current liability system. It is not unreasonable to conclude therefore that state healthcare expenditures may experience some decrease as a result of the bill. The bill's provisions relative to the establishment of certain medical requirements for filing asbestos-related claims and the limitation of successor asbestos-related liability might limit future state expenditures.

Local fiscal effects

Local civil justice systems generally

The net effect of the bill's changes to civil practice and procedure in relation to certain asbestos-related claims will potentially be that fewer tort actions will be filed by plaintiffs to recover asbestos-related damages or that such actions may be curtailed.

If there were in fact a reduction in the number of asbestos-related tort actions or such actions are curtailed, there would in all likelihood be an overall savings realized in various local civil justice systems resulting from a decrease in judicial dockets and in the related workload of other court personnel. The asbestos-related tort action cases affected by the bill are likely handled by courts of common pleas, which hear professional tort actions, product liability actions, and all civil cases in which the amount in controversy exceeds $500. Municipal and county courts are permitted to handle civil actions in which the amount in controversy does not exceed $15,000.

If the number of asbestos-related tort actions was reduced or such actions were curtailed, courts will likely see a loss in various related filing fee revenues. However, the savings realized by courts in terms of their personnel and related operating costs would likely be noticeably greater than any possible revenue loss. Revenues from filing fees flow to county treasuries in the case of the courts of common pleas and county courts. In the case of a municipal court, these revenues flow to the treasury of the municipal corporation within which that court is located.

Courts of common pleas

The bill's provisions will primarily affect asbestos-related tort actions filed in courts of common pleas given the relatively large dollar amount in damages likely being sought. The net effect of the bill's various changes to civil practice and procedure in relation to asbestos-related claims is potentially that fewer actions will be filed in courts of common pleas by plaintiffs to recover asbestos-related damages or that such actions may be curtailed. If there were in fact a reduction in the number of asbestos-related tort actions filed or a curtailment to such actions, there would in all likelihood be an overall operational savings realized in various courts of common pleas resulting from a decrease in judicial dockets and in the related workload of other court personnel. Whether the resulting savings in annual operating costs for any given court of common pleas might exceed minimal is uncertain.

Municipal and county courts

It appears unlikely that the bill will noticeably affect, if at all, the annual operating expenditures and revenue generating activities of municipal and county courts.

Synopsis of Fiscal Changes

From a fiscal perspective, there are no notable differences between the accepted substitute version of the bill (LSC 125 1235-1) and its previous version (As Introduced). As a result, the accepted substitute version does not appear to significantly change the fiscal effects on the state and its political subdivisions from what would have occurred under the As Introduced version of the bill. The accepted substitute version of the bill does add language establishing the criteria for a plaintiff's burden of proof in tort actions alleging some injury or loss that resulted from exposure to hazardous or toxic substances. This is largely a procedural change and would not likely produce any significant fiscal effect.

LSC fiscal staff: Joseph Rogers, Budget Analyst

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