



One Hundred First Legislature - Second Session - 2010
Introducer's Statement of Intent
LB 763

Chairperson: Brad Ashford
Committee: Judiciary
Date of Hearing: January 28, 2010

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

LB763 would enact the Successor Asbestos-Related Liability Act. The bill applies only to companies that (1) made a decision to merge in years prior January 1, 1972, which are prior to the 1972 adoption of Federal Occupational Safety & Health Act (OSHA) regulations governing work-place asbestos exposure, and (2) after the merger, did not engage in the business of mining asbestos, in the business of selling or distributing asbestos fibers, or in the business of manufacturing, distributing, removing or installing asbestos-containing products that were the same or substantially the same as those products previously manufactured, distributed, removed or installed by the transferor.

LB763 would: (1) define "asbestos claim" as any claim, wherever or whenever made, for damages, losses, indemnification, contribution, or other relief arising out of, based on, or in any way related to asbestos; (2) define "corporation," "successor corporation," "successor asbestos-related liabilities," and "transferor"; (3) limit the cumulative successor liability of a corporation to the fair market value of the total gross assets of the transferor determined at the time of the merger or consolidation; (4) specify methods for calculating a successor corporation's fair market value of total gross assets; (5) establish the coefficient for increasing the fair market value of total gross assets on a year-by-year basis by taking the sum of the prime rate of interest plus 1%; and (6) make the Act applicable to all asbestos claims filed on or after the effective date of the Act and any pending asbestos claims in which the trial has not commenced by the bill's effective date.

Under the bill, successor corporations are not granted complete immunity and any successor that independently commits a tort, whether before or after a merger, could still be held liable to the full extent of its own assets for any harm it causes. Recoveries may be pursued against premises owners, former manufacturers of asbestos-containing products and all non-covered successors. Workers' Compensation benefits for workplace asbestos-related harms will continue to be collected since the bill does not apply to worker's compensation claims. Collections can continue from potentially dozens of trusts set up to pay claims against companies that have been forced into bankruptcy as a result of asbestos-related liabilities.

Principal Introducer:

Senator Heath Mello