

Bill shows gap in asbestos negotiations

By Klaus Marre

The Congressional Budget Office's (CBO) view of legislation aimed to end asbestos litigation shows the wide rift between the cost of the proposed plan and the money the insurance industry and defendants in asbestos litigation are willing to provide to resolve the claims.

In "scoring" the potential cost of the bill, a CBO report estimates it would cost \$136 billion over the next 50 years, a figure that is at the high end of previous estimates. The Senate Judiciary Committee marked up the proposed measure earlier this year. In addition, the insurance industry last week reiterated that it would contribute no more than \$28 billion up front to the trust fund, which it says would grow to \$45 billion over its duration.

Julie Rochman, spokeswoman for the American Insurance Association (AIA), said this is not a departure from the industry's previous position. She added that the AIA never agreed to a 50-50 cost-splitting formula in which the insurance industry and defendants in asbestos litigation would each give half to the trust fund.

While all sides say they continue to work on a compromise, the chances of resolving the issue this year seem to be slipping away.

Rochman noted, however, that the issue of a failing asbestos litigation system is a very real problem and will not go away. She is encouraged by the "bipartisan agreement in a partisan environment" to tackle the issue, adding a solution has to be found sooner rather than later.

Bill Samuel, the AFL-CIO's legislative director, said it would be "very difficult to get a bill if the party responsible for paying claims" is not willing to contribute enough.

Rochman said AIA wants to make sure people who are sick from asbestos get fair compensation. However, the industry is concerned that many people who have no negative health consequences because of their asbestos exposure would still receive some compensation and drain money away from the truly sick.

Rochman said a score of the bill as it was reported out of committee "doesn't matter" because the legislation would have to be changed significantly before the insurance industry could accept it

That is especially true, she said, regarding a provision that would void the legislation if the administrator of the trust fund were unable to pay 95 percent of awards in any year.

The industry is worried that trial lawyers would flood the program with claims near the end of a year to trigger this provision.

Peg Seminario, the AFL-CIO's safety and health director, said CBO assumes more claims will be filed than Sen. Orrin Hatch (R-Utah), the legislation's author, has estimated.

The AFL-CIO objects to the claims values in the current bill, saying they are unfair. It favors language that would increase the compensation each claimant would receive, further boosting the legislation's cost.

Seminario said organized labor's position on the issue, which includes defining medical criteria, fairly compensating claimants and ensuring trust fund money, has not changed and will not change.

CBO points out that under Hatch's concept both the revenue stream for the trust fund and the number of claims filed is uncertain. The congressional experts stated that business bankruptcies would be "exacerbated by the cost of dealing with asbestos liability - either under the current system of litigation or under the [Hatch] legislation itself."

Citing the Manville Trust, which as of this summer had received 560,000 claims despite experts' prognoses that there would be only up to 200,000, CBO's report states that its estimates for how many claims would be compensated under the Hatch legislation "could deviate in significant respects from our estimates in terms of cost, timing or both."