

Asbestos settlement fund proposal unleashes lobbying war

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WASHINGTON — As a child in Montana, Mike Switzer played around the local vermiculite mine, swinging off a rope into dusty piles of insulation and pushing toy cars through asbestos-laden dust in nearby yards.

Now, at 65, Switzer has asbestosis, one of the asbestos-related illnesses blamed for more than 200 deaths in the area near the W.R. Grace mine and mill in Libby, Mont.

"I pick up the paper every week and there's at least one every two weeks that dies from asbestosis," said Switzer, a former smoker who no longer can work his ranch after contracting the illness and losing a lung to cancer.

Switzer and thousands like him are at the heart of a complex question facing Congress: what to do about the costly and deadly fallout from the nation's long and wide-ranging use of asbestos.

It's a lobbying fight with the highest of stakes: life and death, lawsuits, corporate bankruptcies, jobs and billions of dollars.

Senate Judiciary Committee chairman Sen. Orrin Hatch has proposed a settlement fund that would shield asbestos-related companies from further lawsuits while providing at least \$108 billion to people sickened by the products. The money would come from companies and their insurers.

"Everybody's lobbying on this," said U.S. Chamber of Commerce lobbyist Bruce Josten, who is among them. According to Wall Street analysts, he said, "half of the Fortune 500, one way or another, is exposed."

On one side are victims and their relatives, who with the help of trial lawyers attest to the horrible effects of asbestos-related illness. On the other side, companies say lawsuits are threatening their solvency and jobs.

Unions are on both sides. The AFL-CIO says there's not enough money in Hatch's proposed fund and too many companies have hidden behind bankruptcy to avoid paying claims. But some of its affiliates, like the Boilermakers, also raise concerns about jobs lost to rising lawsuits.

It wasn't until the late 1960s and '70s that the American public learned that asbestos — used in products ranging from automotive brake linings to building insulation — caused cancer and other illnesses.

Now, years after asbestos began disappearing from commercial use in the United States, thousands exposed to it have gotten sick or fear they will. Many are suing companies that made or used asbestos, or acquired businesses that did.

Companies say in some cases they have been sued because of only peripheral connections to asbestos or by people who aren't even ill. The American Bar Association says asbestos claims are overwhelming the courts.

Several interest groups, along with the nation's governors, are looking to Congress for help. Hatch's proposal cleared the Senate Judiciary Committee this summer. Business groups are trying to resolve remaining issues — many with potential to derail the bill — and push it through the Senate before Congress heads home for the year.

Millions of dollars have been spent by lobbying interests as diverse as Viacom, General Motors, Pfizer, the PepsiAmericas bottling company, the Association of Trial Lawyers of America, National Association of Manufacturers and American Insurance Association.

The Chamber of Commerce is contacting member executives to get on board with the Hatch plan, saying it may be the best companies can hope for. Insurers have written Senate leaders saying they oppose the plan because it forces them to pay too much.

Trial lawyers are pressing a provision that would make the fund expire and let lawsuits resume under certain conditions.

There's general agreement on the concept of a settlement fund, but several key issues remain to be resolved:

- How much companies and insurers should pay into the fund.
- Who should get money, and how much.
- What would happen if the fund fell short of claims.
- Whether the fund should expire at a set time.

Some critics contend the legislation could let companies like Halliburton, the energy giant formerly run by Vice President Dick Cheney, get out of proposed settlements with victims and pay less into the new fund.

Halliburton spokeswoman Wendy Hall said if the legislation passes before the company's settlement is finalized, Halliburton's asbestos claims would move to the national fund. The company says it doesn't know if it would save money that way.

"We have said for some time that legislation is needed to cure the problem," she said. "It would allow for a more orderly and fairer resolution of these claims, reduce amounts paid out in legal fees, and would provide for distributions to the legitimate asbestos claimants."

The legislation also includes a provision by Sen. Max Baucus, D-Mont., aimed at ensuring compensation for people sickened by asbestos contamination in Libby.

Switzer, whose health care is being covered in part by W.R. Grace, prefers that his lawsuit proceed against the company, which has filed for bankruptcy protection.

W.R. Grace declined comment on Switzer's case and said just 105 of the 125,000 personal injury claims pending against the company when it entered bankruptcy protection two years ago came from Libby.

"I'm angry," said Switzer. "I'm angry that they deceived the people for so long. It was nothing but corporate greed. They made billions and billions of dollars out of our lives."