

BILL ANALYSIS

Senate Research Center
80R7964 DAK-D

S.B. 749
By: Janek
State Affairs
4/11/2007
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The asbestos and silica medical criteria legislation, passed as S.B. 15 by the 79th Legislature, Regular Session, was designed to improve the Texas civil justice system for victims of asbestos or silica exposure. That bill created multidistrict litigation (MDL) pretrial courts to assist in expediting action involving asbestos-related or silica-related injuries. Actions involving plaintiffs diagnosed with malignant asbestos-related cancer or malignant silica-related cancer continue to stall in the Texas court system and, as a result, injured plaintiffs succumb to their illness before they appear in court. Although current law authorizes an MDL pretrial court to expedite an action involving asbestos or silica-related injuries, the statute has proved ineffective at moving the actions through the court system.

As proposed, S.B. 749 is a clean-up bill that further protects the rights of people who are suffering from asbestos-related or silica-related injuries to pursue their claims for compensation in a fair and efficient manner through the court system. This bill authorizes an MDL panel, at the request of the MDL pretrial court, to compel the trial court to set a date for an action in which the exposed person is living and has been diagnosed with malignant mesothelioma, malignant silica or malignant asbestos-related cancer, or acute silicosis. In addition, this bill grants the MDL panel more authority to direct an action through the court system and requires the MDL pretrial court judge to receive increased compensation for retaining jurisdiction over the cases transferred to that court.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 90.001, Civil Practices and Remedies Code, by adding Subdivision (11-A), to define "MDL panel."

SECTION 2. Amends Section 90.010, Civil Practices and Remedies Code, by amending Subsection (c) and adding Subsection (1), as follows:

(c) Authorizes the MDL panel, at the request of the MDL pretrial court, to issue a writ of mandamus to the trial court requiring the trial court to set a trial date for the action.

(1) Requires an MDL pretrial court judge who has jurisdiction over cases to which this chapter applies to receive the maximum amount of compensation set by the Texas Judicial Council for a presiding judge under Section 74.051 (Compensation), Government Code, in addition to all other compensation, expenses, and perquisites authorized by law. Requires the annual amount to be apportioned equally over 12 months and to be paid to the judge for each month in which the judge retains jurisdiction over cases to which this section applies.

SECTION 3. (a) Makes application of this act retroactive.

(b) Makes the application of the compensation authorized by this Act prospective.

SECTION 4. Effective date: upon passage or September 1, 2007.