

ONE HUNDRED FIRST LEGISLATURE - SECOND SESSION - 2010
COMMITTEE STATEMENT
LB763

Hearing Date: Thursday January 28, 2010
Committee On: Judiciary
Introducer: Mello
One Liner: Adopt the Successor Asbestos-Related Liability Act

Roll Call Vote - Final Committee Action:
Advanced to General File

Vote Results:

Aye:	7	Senators Ashford, Christensen, Coash, Council, Lautenbaugh, McGill, Rogert
Nay:		
Absent:		
Present Not Voting:	1	Senator Lathrop

Proponents:

Sen. Heath Mello
William Gallagher
Jim Hawkins
Jim Schober
Dacia Kruse

Representing:

Introducer
Crown Cork and Seal Co.
Crown Cork and Seal Co.
Crown Cork and Seal Co.
Greater Omaha Chamber; State Chamber of Commerce and Industry

Opponents:

John Lindsay

Representing:

NATA (Nebraska Association of Trial Attorneys)

Neutral:

Representing:

Summary of purpose and/or changes:

Legislative Bill 763 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 anyway related to asbestos; (2) define "corporation," "successor corporation," "successor asbestosrelated 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.

Brad Ashford, Chairperson