

Asbestos Bill Struggling on Capitol Hill

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By Susan Cornwell

WASHINGTON (Reuters) - The late U.S. congresswoman Millicent Fenwick tried it. Even former Sen. Gary Hart tried it. Now some people contend Sen. Orrin Hatch's effort to solve the asbestos problem is likely to fail too.

"This asbestos bill is not dead. It's not on life support. But it's in a hospice," said David Austern, general counsel to the Manville Trust, set up in the 1980s to pay people sickened by asbestos after asbestos maker Johns-Manville Corp filed for bankruptcy.

Austern testified at recent Capitol Hill hearings examining how to compensate asbestos victims -- while curbing the hundreds of thousands of asbestos lawsuits that have choked courts and driven 67 companies into bankruptcy.

Asbestos was widely used for fireproofing and insulation until the 1970s, when scientists concluded that inhaled fibers could be linked to cancer and other diseases.

Utah Republican Hatch's bill passed the Senate Judiciary Committee on a near party-line vote in July. It would end the right of asbestos victims to sue, while requiring business and insurers to fund a trust of up to \$153 billion to pay claims.

The bill was scarcely out of committee before support eroded among Republicans, who questioned whether insurers were being asked to pay too much of the cost.

Democratic support was thin already, as organized labor complained the planned payouts to asbestos victims were too low and corporations facing asbestos liabilities, like Halliburton Co., were getting too much of a break.

With Congress returning to town this week, the measure has not been scheduled for Senate floor time and may have a hard time getting it without compromise among the warring parties -- business, insurance, labor and trial lawyers.

Some are talking tough. "We are not negotiating. That would imply that we thought the bill could be fixed, which we do not think," Julie Rochman of the American Insurance Association declared.

Hatch's proposal would split trust fund costs equally between up to 8,500 industrial companies facing asbestos litigation and about a dozen insurers, an allocation insurers consider unfair.

UNCERTAIN PROSPECTS

But Patrick Hanlon, a Washington attorney representing the Asbestos Alliance, a coalition led by the National Association of Manufacturers, said he detected "quite a bit of commitment" to doing something on the issue.

"We will be trying to find a middle position. ... I'm still confident that that place is there, but I don't know where it is," Hanlon said.

Jonathan Hiatt, general counsel for the AFL-CIO labor federation, said he was uncertain about whether a bill could pass this year.

"If the business and insurance community is determined to get a bill like the one coming out of committee, I'd be pessimistic. But if they are willing to make it more fair to victims, I still think there's a chance," Hiatt said.

Congress has tried before. In 1977, Fenwick, a Republican representative from New Jersey, proposed a federally administered fund to pay asbestos victims.

In the 1980s, Colorado Democrat Hart said the asbestos industry and the government should share the costs of compensating victims. In 2000, an attempt was made to set medical criteria for awards. All those efforts failed.

Sen. Arlen Specter is now trying to barter a compromise. At the Pennsylvania Republican's request, U.S. appeals court judge Edward Becker has been hosting meetings of interested parties.

"I hope a deal is made," said the Manville Trust's Austern. "I just don't think it's going to happen."