

Prospects look dim in Congress for asbestos trust fund

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WASHINGTON – Prospects are bleak for legislation that would create a \$108 billion trust fund for Libby residents and others who have been sickened by asbestos.

Judiciary Committee Chairman Sen. Orrin Hatch, R-Utah, is practically the only person saying the bill, SB1125, creating the trust fund and limiting lawsuits will pass.

“I am going to get it done, just count on it,” Hatch said.

Others involved in the process dismiss the senator’s optimism.

“That’s a bill that looks like it is languishing,” said J.P. Dowd, who is a spokesman for Sen. Patrick Leahy, D-Vt., the top Democrat on the Judiciary Committee.

Hatch has upset his fellow Republicans by increasing the generosity of the benefits that asbestos victims would receive. Business groups and labor officials have also grown disillusioned with the effort and are urging legislators to kill it. Business officials initially urged Hatch on because they say a flood of asbestos lawsuits is hindering the economy and is responsible for more than 60 bankruptcies since 2000. Critics of the lawsuit say many of the people who have filed them have not been made ill by their exposure to asbestos.

“It’s got a confluence of people against it,” Dowd said. “It’s a bill that is going nowhere.”

Asbestos-related diseases that were caused by a vermiculite mine run by the now-bankrupt W.R. Grace and Co. have devastated Libby.

The bill would establish a special court to handle claims by people exposed to asbestos. People would only receive payments if they met specific medical criteria. The money for the payments would come from contributions from companies that manufactured or used asbestos and their insurers. The companies would be shielded from civil liability in exchange for the payments.

Libby residents and former Grace workers would be exempt from the medical criteria requirements. Their claims would go to a special medical advisory committee.

Dowd and others praised Sen. Max Baucus, D-Mont., for making sure that the Libby provision was included in the bill, but they said that if the bill dies, Libby residents will not be able to collect much from the bankrupt company.

“The folks in Libby will probably get screwed by the bankruptcy court,” said Steven Kazan, an attorney based in Oakland, Calif., handling asbestos-related lawsuits.

Kazan, who opposes Hatch’s bill, said Libby was a relatively small portion of the overall asbestos problem.

Kazan opposes the bill because the fund is not large enough. He is afraid that it will run dry, and the federal government will be left to pay the cost.

“I think the appropriate thing to do is drive a stake through its heart and bury it,” Kazan said.

He is optimistic that Republican senators who are concerned about creating a new federal entitlement program will eventually euthanize the bill.

Baucus, who struggled to get the Libby exemption in the bill, said he plans to try to save the bill because he sees it as the best way to help the residents of Libby.

“It’s not dead yet,” Baucus said. “I am going to keep on working on it for the people of Libby. That’s my main concern. The people of Libby.”