

Tort Reform Would Level Playing Field

Ohio steel producers are pleased with tort reform bills in the House and Senate and are strongly in favor of further progress.

House Bill 292, which was recently signed into law by Governor Taft, addresses asbestos-related lawsuits, which constitute a large percentage of the litigation facing Ohio steel producers.

"We are glad that the Governor has signed HB 292. It is a step in the right direction," said Bob Lapp, vice president, government affairs at The Timken Company, Canton. "However, we think Senate Bill 80 would have the most positive impact on Ohio's steel industry."

SB 80 takes a more comprehensive approach to tort reform than HB 292 and is currently under review by the House Judiciary Committee.

In addition to reducing company risk and exposure, both forms of legislation should reduce the number of frivolous lawsuits filed, which will greatly benefit those with legitimate claims.

"Statewide tort reform, both general and asbestos-related, would make it easier for Ohio steel producers and other manufacturers to compete globally," Lapp said. "But tort reform also helps those who have been hurt or those who have suffered. These two bills offer additional protection by ensuring that those with legitimate claims are fairly compensated."

The proposed legislation in SB 80 would:

- Cap non-economic and punitive damages;
- Create a legal consumer's bill of rights;
- Devise a sliding scale of 35 percent to 15 percent on attorney contingency fees, which ensures that the plaintiffs, not their attorneys, receive a majority of the award;
- Establish a 10-year statute of limitation on filing product, liability and construction lawsuits; and
- Create more stringent standards regarding the conduct of the attorneys filing suits and allow judges to penalize those not adhering to these standards.

"A primary competitive challenge facing Ohio steel producers and their workers is the extra cost associated with tort litigation," Lapp said.

According to a study released by the National Association of Manufacturers, external, non-production costs — primarily tort litigation, corporate tax rates, employee benefits, regulatory compliance and energy —

add 22 percent or \$5 per hour worked to the labor costs of U.S. manufacturers.

HB 292 establishes minimum medical requirements for filing asbestos claims and sets limits on successor liabilities. Steel producers and other Ohio manufacturers believe this type of comprehensive tort reform is crucial to remaining competitive in today's global economy.

More than 10,000 asbestos lawsuits are pending in Ohio alone, according to Lapp. "We cannot competitively sell steel in the global market when we have to spend millions of dollars annually to defend ourselves against questionable litigation," he said. "Companies from China, Brazil and other foreign countries don't have these costly obstacles."

In the past, those filing asbestos-related lawsuits only had to prove that a defendant was exposed to asbestos. Because of this relatively low burden of proof, many

defendants won substantial financial rewards despite displaying no symptoms or showing any adverse physical effects. But now, under HB 292, plaintiffs must prove their injuries were a direct result of exposure to asbestos.

"Asbestos was a proven insulation material that was approved by the U.S. government for more than 50 years," Lapp said. "It was used to insulate the pipes in manufacturing facilities, commercial buildings and homes. Many people were exposed to asbestos, but the key is whether or not this exposure directly contributed to injuries or illness."

HB 292 also offers additional protection to companies that could be susceptible to successor claims. Successor claims are lawsuits filed against companies whose predecessors may have used asbestos in their facilities or equipment. HB 292 limits successor company liability to the price paid for the company.

Four New Members Join Ohio Steel Council

The Ohio Steel Council welcomes four new members after they recently were appointed by Ohio Gov. Bob Taft. The new members include **David Caldwell** of the United Steelworkers of America, Columbus, Ohio; **Roger Lindgren** of V&M STAR, Youngstown, Ohio; **Patrick G. Tatom** of WCI Steel Inc., Warren, Ohio; and **W.J. Timken, Jr.** of The Timken Company, Canton, Ohio.

Caldwell serves as the political and legislative coordinator for Ohio and as a sub-district director for the United Steelworkers of America. A member of the USWA since 1970, he joined the USWA staff in 1995. He also serves as a board member of Central Ohio United Way; an executive board member of the Ohio AFL-CIO; and president of the Central Ohio AFL-CIO. Caldwell became a full-time union officer in 1988, when he was elected president of USWA Local 2342, which represented union members of Columbus-based Buckeye Steel Castings.

Lindgren is the president and chief operating officer of V&M STAR. He has been with the company for one year. He most recently served as president of VAM PTS, a V&M company in Houston that manufactures premium threads for oil country tubular goods. He holds a master's degree in business administration and a bachelor's degree in metallurgical engineering, both from the University of Minnesota.

Tatom serves as the president and CEO of WCI Steel Inc. He has been with WCI since its inception in 1988. He came to WCI from LTV Steel Co., where he had held various sales and marketing management positions.

Timken, the president of steel operations at The Timken Company, has been with the company more than 12 years. A trustee for both the Henry & Louise Timken Foundation and the Timken Foundation, he also serves on the boards of the Firestone Country Club and Canton Country Day School. He holds a master's degree in business administration from the University of Virginia and a bachelor's degree in marketing from Georgetown University.

In addition to the four new members, the governor also reappointed six current members — **William A. Brake** of International Steel Group Inc., Cleveland, Ohio; **Joseph Lapinsky** of Republic Engineered Products Inc., Canton; **David R. McCall** of the United Steelworkers of America, Columbus; **Alan H. McCoy** of AK Steel Corp., Middletown, Ohio; **Mark P. Morelli** of Wheeling-Pittsburgh Steel Company of Martins Ferry, Ohio; and **Paul Worstell** of PRO-TEC Coating Company of Leipsic, Ohio.

Tax Relief Still a Year Away

A reform to Ohio's tax code could provide a much-needed boost to Ohio steel producers, who are at a competitive disadvantage nationally because of the overall tax burden they face.

Ohio is widely recognized as a state in which manufacturers bear a heavy tax burden. The Federation of Tax Administrators reports that only 13 states and the District of Columbia have corporate income tax rates higher than Ohio's top rate of 8.5 percent.

Several state lawmakers recognize the inequity of Ohio's tax code and are proposing legislation to rectify the situation.

Rep. Sally Conway Kilbane (R-Rocky River) recently proposed legislation that would eliminate Ohio's corporate franchise and personal property taxes and replace them with a "business activity tax" on sales, assets and payroll.

Ohio's personal property tax applies to machinery, buildings and inventory, which represent the lion's share of a steel maker's capital investments. Manufacturing equipment

is not exempt from the tax, as is the case in several other states. Ohio is just one of 16 states that taxes inventory as personal property.

As a result, the tax burden on Ohio's steel producers and other manufacturers is disproportionate to that of other industries. Until reform is enacted, Ohio's steel industry will continue paying a larger share of state taxes than businesses in less capital-intensive industries.

Elimination of the corporate franchise and personal property taxes as outlined in House Bill 58 would spread the tax burden over all business sectors and not continue to unfairly penalize capital investment industries.

Like Kilbane, Sen. Eric Fingerhut (D-Shaker Heights) is introducing an amendment that also would eliminate the personal property tax while extending the penny increase in the state sales tax to reimburse school districts for the lost revenue. The sales tax increase was approved last year and is scheduled to expire June 30, 2005.



Large, expensive machinery used by steel manufacturers are not exempt from Ohio's current personal property tax code, resulting in a heavier tax burden than other industries.

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