

BestWire Services

February 10, 2004

## The Power of Three: A Few Members Wield Senate Rules to Stall Insurers' Legislative Agenda

WASHINGTON February 09 (BestWire) - The insurance industry, through lobbying efforts and the contributions of millions of dollars to political campaigns, is seeking to push an agenda through Congress that, if successful, would protect insurers from billions of dollars in claims exposure. With the support of the Republican majority, getting that agenda through should be simple, right?

It hasn't worked out that way so far. Efforts to enact nationwide caps on medical-malpractice jury awards have been stalled on Capitol Hill, as have reform efforts intended to conclude billions of dollars in asbestos claims and enact tighter controls on "judge-shopping" in class-action suits.

Thanks to an obscure and sometimes confusing Senate rule, a mere handful of senators have been able to thwart the insurance industry's agenda, even though it is backed by the White House and a GOP majority in both houses of Congress. The process, called "cloture," safeguards the Senate's tradition of unlimited debate. The Senate was envisioned as a more sober, deliberative body than the House of Representatives, and so does not place time limits on the debate over a bill--except in the case of a cloture vote. Once rarely used, the Senate's Rule XXI requires a three-fifths vote of the full Senate to limit consideration of a pending matter to 30 additional hours--though in practice, once cloture has been established, opponents concede they are beaten and allow the vote.

The cloture rule means that, even though the Republicans might have a majority of 51 votes to pass a bill in the Senate, they don't always have the 60 votes needed to overturn a filibuster. Bills that passed the House and have the backing of the president and the entire insurance industry can be stalled by a mere handful of senators, who have of late managed to win significant compromises in return for their votes.

Pure party-line votes will always fall to the GOP in the House, where the party breakdown is 228-204 in favor of the Republicans; in the Senate, however, there are 50 Republicans, one Independent that usually votes with them, and 49 Democrats--enough to sustain any filibuster undertaken along party lines. To break filibusters, Republicans have had to rigorously enforce party discipline and sometimes reach out to Democratic opponents to gain their support.

Case in point: S.1751, the class-action bill now pending before the Senate, which essentially would limit insurers' exposure to big judgments. Thanks to the cloture rule, a mere three senators--Charles Schumer, D-N.Y.; Christopher Dodd, D-Conn.; and Mary Landrieu, D-La.--derailed passage of the bill in 2003, allowing them to extract several plaintiff-friendly concessions from GOP Senate leaders.

The cloture rule also means that medical-liability reform has been buried toward the end of the Senate's calendar, a clear signal that the GOP has acknowledged the bill's chances of passage are slim this session. The asbestos bill, which creates an insurance-industry funded pool to pay asbestos claims, is on the Senate calendar, but without a fixed date for a vote, also a sign that passage is less than certain.

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