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Opponents rally against revival of Structural Work Act

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Fixing a problem that doesn't exist? Opponents of the Construction Safety Act think so. Introduced last week by State Rep. John Fritchey (D-Chicago) as an amendment to House Bill 2094, the proposal would actually re-establish the Structural Work Act (SWA) -- which was repealed more than 13 years ago in Illinois -- allowing injured workers to sue third parties over workplace accidents.

The Illinois Trial Lawyers Association is backing the measure. Its president, Bruce Kohen, had negotiated the highest settlement in Illinois history for a personal injury case -- \$24 million for an ironworker as a result of a 50-foot fall -- under the Structural Work Act, according to an online profile of Kohen.

Ed Murnane, president of the Illinois Civil Justice League (ICJL), warned that reintroducing SWA would hurt a broad range of interests. In a commentary published today, Murnane also said the proposal could hurt state Democrats in the November election.

"[T]his is an issue that won't be forgotten by small businesses, by local governments, by big manufacturers, by homeowners and by consumers who will be adversely affected by it," Murnane said. "So legislators who think they should support it in 2008 might think twice."

The Structural Work Act was repealed in Illinois in January 1995 to the delight of business and manufacturing associations. In its place, workers were protected by stricter enforcement of the Occupational Safety and Health Administration (OSHA) standards.

The SWA allowed injured workers to sue com-

panies other than their own employer that were involved in workplace accidents, even if the incident was the fault of the injured party. It also allowed injured workers to collect workers' compensation while seeking damages from other parties.

New York is currently the only state that has such a law.

Murnane wrote that a lawyer representing local governments commented that SWA would result in less construction jobs in Illinois, which for labor unions "falls in the category of 'Be careful what you wish for.'"

Al Adomite, director of Government Affairs for ICJL, wrote that evidence indicates construction work places have become safer.

"[T]here is very little statistical evidence that construction work has grown more dangerous in the thirteen years since the repeal of the Structural Work Act in Illinois," Adomite wrote in a commentary today.

"[A]ny attempt to justify the reinstatement of the Structural Work Act based upon the need for deterrence is just plain hyperbole, because the evidence just doesn't stack up."

He wrote that a study conducted by the Center for Justice and Democracy indicated that fatal falls have dropped since the repeal of SWA in Illinois

"[T]he risks undertaken by construction workers is getting better - not worse - according to the statistics presented by the proponents of this legislation," Adomite wrote.

The legislation's sponsor, Fritchey, was quoted in Crain's Chicago Business as saying, "All I'm looking to do is restore the protections Illinois workers had for a century."