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Trial lawyers' favorite relic

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Around the state capitol the Structural Work Act (SWA) is known as the "trial lawyers' full employment law."

A statutory antique already eradicated by legislators in 49 of 50 states, it is once more rearing its ugly head in Springfield, to the horror of those businesses driving Illinois' economy.

State Rep. John Fritchey (D-Chicago) stealthily re-introduced SWA last week under innocuous-sounding legislative cover. He renamed it the sensible-sounding "Construction Safety Act," but left the unsensible text unedited.

SWA effectively allows construction workers to double dip for damages if they are injured, by first collecting their guaranteed workers' compensation benefits and then suing everyone else even tangentially involved in projects on which they were working.

Many disparate Illinois business groups have much to fear. Reenacting the SWA poses a serious financial threat to more than construction companies. Architects, engineers, land surveyors, designers, building owners, real estate investors, and developers-- whomever has deep enough pockets--could find themselves targeted.

If SWA were reenacted, they would all be asked to pay up. It would cost business some \$300 million per year in additional legal fees and settlement payouts according to a study done by consulting firm Watson-Wyatt. Those charges would have to be passed on to the rest of us in the form of higher prices.

What does Illinois gain?

Would SWA make construction sites more safe? Would it make life more just?

Hardly. Since its repeal 13 years ago, construction employment is up 30 percent and construction fatalities are down 28 percent.

Moreover, the workers' compensation system was set up to guarantee those hurt on the job are made whole. And it works. So it's notable that it isn't wronged Illinois construction workers who are pining for the SWA. It's their would-be lawyers who want it.

The fees of trial lawyers who made their living suing under SWA have dried up since its repeal. Reviving those fees seems to be the sole driving force behind bringing back SWA.

This attempt at a raw money grab by Illinois' lawsuit "industry" should be stopped cold.