

The Madison Record The St. Clair Record

Metro East's Legal Journal

SWA failure shows impact of grass roots

Sunday, June 08, 2008

By Ed Murnane (emurnane@icjl.org)

So the Illinois General Assembly is finished, at least for now.

It's going to take weeks, even months, for the analysts and pundits to figure out exactly what happened with Illinois finances, with an as-yet undefined capital plan (roads, bridges, jobs, etc.), and with the legality of an unbalanced budget.

One thing that is certain, however, is that the outcry by business (and others) against the revival of the ancient Structural Work Act proved successful. HB 2094, which would have enacted an even worse law than the one that was repealed in 1995, appeared likely to pass when it was brought back to life by Rep. John Fritchey, D-Chicago, in early May.

After all, the new version was a trial lawyer pet project -- especially important for the current president of the Illinois Trial Lawyers Association, Bruce Kohen, who specialized in Structural Work Act cases with great success before the law was repealed in Illinois. Kohen, in fact, is credited with the largest SWA verdict in Illinois so dollar signs must have been dancing through his head.

And why not. Fritchey and his Democrat allies held a 67-51 edge over Republicans and the SWA, like many ITLA-backed bills, are among the most partisanly-divided bills to come before the General Assembly. When the Structural Work Act was repealed in 1995, not one member of either party crossed the aisle. Nothing

has changed, except that Republicans were in the majority in 1995.

So what happened to this trial lawyer slam dunk?

What happened was that constituents—*i.e.* voters—of many Democrat legislators heard from the folks back home.

Thousands of phone calls and e-mails and letters were sent to legislators. We know because we encouraged our members and supporters to contact their legislators and even those who didn't know what the Structural Work Act was all about responded when they learned what it was about.

The Illinois Civil Justice League wasn't alone in this effort. An effective coalition was created that included representatives of many business and industry groups -- many of them ICJL members and many not -- and it did outstanding work in talking to legislators and planting seeds of doubt among Democrats who would normally have been expected to go along with the trial lawyers.

The ICJL does stand out in the grass roots contact arena, however, because our membership is not only the business community. We have doctors, local government officials, lawyers and private citizens who are willing to speak out and contact their legislators when presented with the facts and urged to do so -- and they did it in a big way on this bill.

So SWA is dead for now -- nothing is ever really dead in Springfield, so keep the powder dry -- and ICJL and all of our friends and allies deserve a tip of the hat for beating the odds and the trial lawyers once again.