

Advocating for Business



NORTHERN ILLINOIS  
BUSINESS ADVOCACY COALITION

## RESOLUTION:

### Opposing the Reinstatement of the Structural Work Act

#### HB 2094

WHEREAS: The Northern Illinois Business Advocacy Coalition (NIBAC), representing 12 Chambers of Commerce with some 6,000 business members, the vast majority of whom operate their businesses in Cook County, is opposing the return of a Structural Work Act in the State of Illinois;

WHEREAS: NIBAC members include the Chambers of Commerce of Arlington Heights, Barrington, Buffalo Grove Des Plaines, Elgin, Hoffman Estates, Lake Zurich, Mount Prospect, Rolling meadows, Wheeling/Prospect heights, and the Greater O'Hare Association;

WHEREAS: With the passage of Illinois' Workers' Compensation Law, the Structural Work Act remained dormant until the 1950s, when an Illinois court decision struck down a provision that prohibited third party lawsuits. From that point, until its repeal in 1995, a worker could collect benefits under Workers' Compensation and then sue everyone involved in the project regardless of fault, including owners, suppliers, contractors, subcontractors and designers;

WHEREAS: The Structural Work Act exposes virtually all Illinois employers, not just construction employers;

WHEREAS: The Structural Work Act is not a safety statute. In fact, since the repeal of the Structural Work Act, there have been fewer construction related fatalities even though construction employment has grown. OSHA requirements drive safety.

WHEREAS: Since the Structural Work Act was repealed in 1995, the number of Illinois construction employees has increased 28% (215,000 to 275,000) while Illinois has experienced a **30% decrease in construction fall fatalities** (20 down to 14);

WHEREAS: Illinois' overall **worker injury rate decreased 53 percent** between 1991 and 2003. In fact, Illinois has the **10<sup>th</sup> lowest injury rate in the country**;

WHEREAS: This bill would expose Illinois employers to a brand new layer of massive lawsuits from trial lawyers and their clients – even from those workers who are already receiving workers compensation benefits;

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WHEREAS: To afford protection from these new multiple layers of lawsuits, Illinois employers would be forced to **eliminate Illinois jobs and raise prices on consumers**;

WHEREAS: This bill gives Illinois trial lawyers and their clients the ability to sue everyone involved in the project for massive amounts of money -- regardless of fault -- including owners, suppliers, contractors, subcontractors and designers;

WHEREAS: The Structural Work Act allows trial lawyers to play the “Lawsuit Lottery” by suing everyone involved in a project – regardless of fault;

WHEREAS: Only one state in the nation (New York) has this outdated law still on the books;

WHEREAS: The Structural Work Act would cost Illinois employers \$113 million annually in direct insurance costs, and as much as \$170 million when indirect costs, court appearances, depositions and other expenses are included. These costs are passed on to *all* consumers. (Watson-Wyatt Group, 1998 study);

WHEREAS: Reinstating the Structural Work Act will increase construction costs, which will stifle both private investment and public works projects. It will also send an alarming negative message to companies looking to locate, expand or build in Illinois;

WHEREAS: Employers are faced with increased legal costs defending both workers’ compensation and Structural Work Act claims. Being removed from a lawsuit prior to trial still creates unnecessary legal costs for employers;

WHEREAS: Architects, engineers and land surveyors, building owners and developers are placed in legal and financial jeopardy under the Structural Work Act because they can be sued even though they are not involved in on-site;

THEREFORE BE IT RESOLVED that the NIBAC board of directors urges the General Assembly to vote “NO” to the reinstatement of the Structural Work Act. Reinstating the SWA will increase construction costs and will send an alarming message to companies looking to locate, expand or build in Illinois.

Passed and approved by the President and Board of Directors of NIBAC on this 12th day of May 2008.

Tom Rivera, President of NIBAC