

## VETOES

It is because of facts such as these that the decision to veto Senate Bill 500 has been very difficult. As compelling as the arguments to sign the legislation may be, however, there are simply too many problems that could result were the bill to become law. The Statute of Repose is intended to put an outside limit on lawsuits and provide finality. Lines must be drawn at some point; Senate Bill 500 does not draw a sharp line, but rather would result in inconsistent, indefinite, and difficult to interpret exposure to litigation for many who previously were protected by the Statute. This retroactive application of the bill strikes me as particularly unfair. I note also that many of those advocating a veto have argued that Senate Bill 500 represents a direct contradiction of my own 1987 tort reform initiative, which was intended to limit runaway tort claims.

The bill is unfair to suppliers, who in reality have little or no control over the composition of the products they sell. They would be indefinitely subject to litigation, while the architect or engineer who may have specified the products to be included in a building is fully protected, by a separate Statute of Repose, after only 10 years. The bill further draws impractical distinctions among suppliers based on their ownership and knowledge.

Many of those in favor of this legislation argue that the bill is only a clarification of the original 1970 enactment, which they further believe has been incorrectly interpreted by many trial courts. To the extent that it is really possible to know what a Legislature "intended" 20 years ago, our own analysis leads to the conclusion that this bill is not a clarification of that law, but is in fact a major, substantive revision of the Statute of Repose. That fact must not be lost.

Recent decisions by Circuit Court Judges Marshall A. Levin and J. William Hinkel, if upheld on appeal, will allow almost all of the individuals who claim injury to have their day in court. Those rulings determined that workers who handled asbestos before it became a fixture in a building are not prevented by the Statute of Repose from seeking compensation for injuries or damages. As many as 98% of those who wrote to me asking that Senate Bill 500 be signed would not be prevented from suing because of my veto of the bill.

What strikes me about the Statute of Repose and Senate Bill 500 is the extremely unsettled status of the issue, especially in the judicial system. Acting as it did, primarily on decisions of the Circuit Courts, the General Assembly's intervention in the issue at this time invites substantial problems. As it passed the General Assembly, Senate Bill 500 would not put an end to the uncertainty. Too many questions are raised by the language of the bill, particularly by the amendments added late in the Session. Endless litigation might be needed to clarify the intent of this 1990 Legislature. Rather than bring finality to the subject, this bill would result in great expense and much delay to participants in the legal process.

The courts must be allowed to continue to work toward a sensible application of the Statute of Repose. I will pledge to work with the sponsors and advocates of this issue next Session on compromise legislation that might address the problems of Senate Bill 500. The legislation should provide a just remedy for those injured by asbestos, including the many local governments facing expensive asbestos removal costs, but at the same time provide some type of finality that would allow reasonable prediction and