

Illinois passes bill criminalizing infrastructure-related protests

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On May 2, the 101st Illinois General Assembly passed House Bill 1633, entitled “New Penalties for Protests Near Critical Infrastructure.”

A draft version of the bill was produced by the American Legislative Exchange Council (ALEC) in the aftermath of the 2016 Dakota Access Pipeline protests. It was introduced to the Illinois legislature by Republican Representative Joe Sosnowski, a registered member of ALEC.

The coordinated effort in passing this type of legislation all over the US means Illinois H.B. 1633 bill is nearly identical to similar bills being pushed through numerous state legislatures, including Oklahoma, North and South Dakota, West Virginia, Tennessee and more.

In the last two years, 15 such bills have been enacted nationally while 26 are pending further review and votes. These are driven in large part by oil and energy corporations through the pro-business think-tank ALEC.

ALEC has for decades produced model bills on a broad range of issues, including deregulation and individual and corporate taxation, immigration, loosening restrictions on environmental regulations, tighter voter identification rules, weakening labor organizing and opposition to gun control. The essential element of the current infrastructure bills is to provide the states with the judicial authority to suppress strikes, demonstrations and protests on the pretext of protecting property and the right to free speech.

The text of the Illinois bill expands and modifies the criminal penalties for damage to any infrastructure, private property and workplaces, as one critic notes, “elevat[ing] a patchwork of locations and equipment to the same level of protection currently and exclusively afforded to nuclear power plants.” (Indivisible Chicago)

The text of the bill also expands the offense of criminal trespass, creating new categories of misdemeanor and felonies that would hold accountable any business, corporation or organization deemed involved with the

individual or group: “The industry protection list includes everything from telephone poles, cell towers, TV stations, railroad tracks, and ports to steel plants, coal mines and pipelines.”

The legislation also provides a legal excuse for pursuing harsh penalties for superficial offenses as well as criminalizing the exercise of one’s right to protest.

It is notable that “conspiracy” appears numerous times in the legislation, indicating the aim of the bill is to deter and harshly punish organized and coordinated protest, strike and demonstration activity. One representative clause reads: “[I]f a business, corporation or organization is convicted of conspiracy to commit any of the offenses the entity shall, in addition to any other applicable penalty, be sentenced to a fine of not less than 10 times the minimum fine authorized for the offense.”

The bill passed the Democrat-controlled Illinois House by a vote of 77 yes to 28 no. Pending a May 14 hearing by a compliance subcommittee, it is expected to proceed to the Senate and then to Democratic governor and multibillionaire J.B. Pritzker for his signature.

The prototype legislation for the anti-protest bills is Oklahoma’s House Bill 1123, entitled “New Penalties for Protests Near Critical Infrastructure,” introduced by Republican Scott Biggs and passed in 2017. According to *NPR*, “Trespassing is already illegal in Oklahoma. In its current form, HB 1123 creates three new classes of the crime and assigns minimum penalties for people trespassing on a dozen types of critical infrastructure. The classes range from a misdemeanor to felonies for people who damage or inhibit operations, or intend to. The minimum fines range from \$100 to \$100,000. The bill also adds steeper penalties for groups found to have conspired with trespassers that damage or tamper with critical infrastructure, though the state has anti-conspiracy laws on the books ... Minimum fines levied on critical infrastructure conspirators could be as high as \$1

million.”

Though the seemingly narrower intent of these bills is to prevent protesters from resisting the expansion of oil and energy infrastructure, as in the case of the Dakota Access pipeline, the general wording and broad categories used are intended to create legal avenues for the prosecution of demonstrators more widely, including those that take place near manufacturing plants or state capitol protests by teachers or other groups of workers.

The claims about “national security” in the bill are entirely fraudulent and being employed here to excuse a violent crackdown on political activity in anticipation of major social struggles.

In an ACLU report published in March of 2018, Vera Eidelman writes that the “bills are written so broadly that they could impose criminal penalties and devastating fines simply for offering food or housing to protesters. For instance, a bill currently being considered in Wyoming would impose a \$1 million penalty on any person or organization that ‘encourages’ certain forms of environmental protest. Legislation introduced in Tennessee, Florida, North Carolina, and North Dakota would have allowed drivers to hit protesters with cars without criminal repercussions.”

Many environmental organizations, including Greenpeace, are facing near billion-dollar lawsuits by Energy Transfer Partners alleging that a criminal enterprise was “put in place to stop the [Dakota Access] Pipeline project.” By burdening these organizations with astronomical costs for legal defense and penalties, it will force them to abandon their operations and with it their opposition and criticism.

Governor Jim Justice of West Virginia signed into law in March of 2018 HB 4618, “Eliminating Police Liability for Deaths While Dispersing Riots and Unlawful Assemblies.” The law strengthens West Virginia’s already restrictive rioting laws, to further empower the police. Authorities are not to be held liable for the deaths and wounding that occur in the course of dispersing “riots” and unlawful assemblies. Under prior West Virginia law, if a bystander was asked to leave a protest or assembly and failed to do so, he or she would “be deemed a rioter.” The new law eliminates police liability if anyone present, “as a spectator or otherwise, be killed or wounded,” while the authorities may use “any means” to disperse unlawful assemblies or arrest those involved.

That law was passed during a statewide teachers’ strike when tens of thousands protested at the state capitol in February 2018.

The US Congress sent a bipartisan letter to the Department of Justice signed by 84 members asking officials to prosecute pipeline activists as “terrorists” under the USA PATRIOT Act.

Reuters noted in October 2017, “A terrorism expert said it was ironic the lawmakers referred to the law, which defines ‘domestic terrorism’ as acts dangerous to human life intended to intimidate civilians but does not offer a way to prosecute anyone under it.” This oversight is being redressed with the passage of these bills.

Campus protests

Capitalist politicians in Illinois have mounted another effort this year to tamp down and control protests, this time on college campuses, under the cover of “free speech.” House Bill 2280 would seem to be anything but a defense of that.

The bill is entitled, “Mandatory Sanctions for Campus Protesters,” providing disciplinary sanctions applied to peaceful protesters on university campuses and requiring “public universities and community colleges to adopt a policy prohibiting and subjecting to sanction any ‘protests or demonstrations that infringe upon the rights of others to engage in or listen to expressive activity’ on campus.”

Violators would be suspended for at least one year and expelled for a second offense if “found responsible for infringing on the expressive rights of others.”

The essence of the bill is that individuals or groups who choose to invoke their First Amendment Rights to free speech could be found to be violating *other* individuals or groups’ rights, thereby creating a Catch-22, the intent of which is to curb protest and demonstrations on campuses in the face of the overt promotion of extreme-right politics at the highest levels (see: “Beloit College students protest speech by Blackwater founder”).

The objective of all these laws and penalties are to put in place further legal means to criminalize dissent and protest. The bourgeoisie is seeking to respond to opposition, strikes and protests with unrestrained force. The ruling class, lurching from crisis to crisis and riven internally, is not willing to countenance dissent.

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