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The James Madison Institute

P. O. Box 37460

Tallahassee, Florida 32315

Voice 850-386-3131

Toll free (1) 800-376-1119

Fax 850-386-1807

Web [www.jamesmadison.org](http://www.jamesmadison.org)

E-mail [jmi@jamesmadison.org](mailto:jmi@jamesmadison.org)

# Message from the publisher

j. stanley marshall



I was on the “faculty” of a Board Leadership Training Conference for two days this summer in Colorado Springs, along with about 10 other leaders of existing think tanks. The conference was conducted by the State Policy Network (SPN), an affiliation of some 45 think tanks in the United States, all devoted to the same principles on which The James Madison Institute was founded: free markets, limited government, traditional Western values, and the belief that ideas are the most powerful weapons known to man. The purpose of the conference was to provide training for members of boards of directors—especially boards of newly established organizations—in the nuts and bolts of operations in a venture new to most of those in attendance. JMI is one of the veterans in the SPN group; we were founded in April 1987 when only about six others were in existence. As the founder, I was invited to describe to those at the conference our history, recounting the steps in our evolution from a one-man operation to the present day.

Today there are free-market think tanks in operation in about 40 states. Some are providing exceptional leadership in the examination of public policy in their states, and we find in them much to emulate. The Mackinac Center in Michigan has been a pioneer in education reform with ideas and programs that have influenced the movement well beyond Michigan. The Evergreen Freedom Foundation in Washington State has led the way in “paycheck protection.” The citizens of Washington State have led the nation by first adopting a paycheck protection law forcing the teach-

ers union to stop collecting political action committee money from union members without the teachers' written consent. The result has been a decline from 80 percent to 9 percent of teachers who have agreed to such payments. The Evergreen Freedom Foundation has worked to see the complete enforcement of this law and has filed complaints resulting in union officials returning \$530,000 of wrongfully taken money to teachers. And of course the union in Washington has been apoplectic over the reduction in their income this has caused.

Board members of the new organizations are typically men and women from the business sector, a few from government, some retirees, and one or two from academia. I get the question often, "How did you—a university professor and administrator—get involved in a public policy organization that endorses free markets, limited government, and a generally conservative philosophy?" That seemed a likely question from the group in Colorado Springs and I tried to answer it. A decent explanation requires more space than we have here but if I sense there's interest—well, maybe another time.

Summarizing the comments of those on the program at the conference is no easy task. Nonetheless, let me try to list several of the main points I gleaned from the others.

- The mission and a mission statement of a think tank must be clear and unambiguous. In other words, a public policy organization dedicated to the principles given in the opening paragraph above must

express its mission in language easily understood.

- Each organization needs a board of directors (trustees) who will participate actively in the identification of policy issues for the staff to address, who will promote the organization throughout the state, and help raise funds. This is often more difficult than it appears simply because of the tendency of board members to go along with the policies and activities of a successful organization and to risk rocking the boat. Most organizations would benefit from an occasional boat-rocker, especially an organization whose mission is to stay at the cutting edge of public policy.
- The organization should think of its mission as having two distinct elements: defensive and offensive. In playing defense, we must be alert to bad policies that should be opposed (Florida's high-speed train); and on offense, we should look for opportunities to propose new policies and practices (school choice, which we began promoting in 1987).
- Recruit a dedicated staff who will work—and dance—like there's no tomorrow.

While we're generally pleased with JMI's progress and even a bit proud of what has been accomplished, we acknowledge that we're operating from an unfinished agenda, that there are public policies crying out for attention, and that our best days lie ahead. And we hope to be joined by many new organizations of similar purpose. The zeal of the group in Colorado Springs was encouraging. ∞

ERRATUM

**P**ublishers and editors don't like to let errors slip through but it sometimes happens. Well, it happened to us and the error was detected by one of our diligent readers. He told us about it (about *them* really, as he believes there may have been three errors in the same article). And we're doing what conscientious publishers do: Call our mistakes to our readers' attention, apologize, and try not to let it happen again.

The alert reader was Jere Moore of Tallahassee and the offending article was "New Tragedy, New Commons? Potential Environmental Degradation under Florida Sovereign Land Claims" that appeared in the Summer 2002 issue of the *Journal*.

Moore reminded us that the trustees of the Internal Improvement Trust Fund do not report to the secretary of state, as the authors had written, but to the Florida cabinet, acting as the trustees of the Internal Improvement Trust Fund, and one of the most accountable executive branch groups anywhere in America. They are elected by the people of Florida and they meet in public forum every two weeks. The authors of the article had written that the board reports to the Florida secretary of state, and while that officer is a member of the cabinet, the board could not be considered to report to the secretary anymore than to any other cabinet member or the governor. Moore wrote to say that lack of clarity by the authors on whom the

trustees report to would likely prevent the authors understanding "the subtleties of ownership of sovereign land."

Moore's second point of disagreement with the authors has to do with whether the state's standards for determining whether land in Florida is state-owned or privately owned are appropriate. The authors believe that the real policy issue is whether the state should claim ownership of lands to which title is held privately. They believe the distinction is important.

The third point to which Moore takes exception is the designation in the authors' table of Florida sovereign land claim cases that Fisheating Creek permitted clear public access before the claim was lodged in 1997. Professor Hawkins, the lead author, has told us that he had made a labeling error in his table.

Sovereign land claims in Florida are very important to many landowners and to others who believe the state has been guilty of overreaching in its land claims. We're grateful for the interest in this issue and especially grateful to Jere Moore for his critical review of the article. If any of our readers would like further clarification on the matter, feel free to get in touch with Professor Hawkins at [rhawkins@uwf.edu](mailto:rhawkins@uwf.edu) or Mr. Moore at [jeremoore@earthlink.net](mailto:jeremoore@earthlink.net).

*Rosemary Dupras, Editor*  
*Stan Marshall, Publisher*

COVER STORY

# three tax issues for florida

by randall g. holcombe



The chairman of JMI's Research Advisory Council evaluates Florida's current tax structure.

**T**ax issues, which are always among the high-profile items the legislature considers annually, may have even a higher profile than usual this year, after the attempt in the last legislative session by Florida Senate President John McKay to implement a major reform of the state sales tax. While McKay's proposal was not implemented, it prompted the legislature to approve placing a constitutional amendment to review all sales tax exemptions on the November ballot. Regardless of whether that amendment passes, the recent attempts at sales tax reform, along with slower state revenue growth associated with the economic downturn, may cause the legislature to consider sales tax reform more seriously.

One of the three issues this article considers is sales tax reform. The second is the intangibles tax, which was scheduled to be repealed this year but still remains. The third is the motor fuels tax. It has received less attention than the other two taxes considered here, but its adequacy as a source of highway funding over the long run is open to question. After discussing each of the taxes, this article draws some broader conclusions about tax policy in Florida.

## The Sales Tax

In Florida's overall tax structure, the sales tax is one of its bright spots. It has a relatively efficient design and is structured to grow along with Florida's

economy. Critics of the current sales tax argue that it will be inadequate to fund Florida's future revenue needs, but the facts suggest otherwise. The state's sales tax has grown more rapidly than Florida's economy throughout the 1990s, and the legislature's economic analysts forecast that it will grow along with the state's economy for the next decade.<sup>1</sup> Advocates of sales tax reform say that Florida keeps studying the sales tax but never undertakes any substantial reforms. This may be because the sales tax is fairly good as it stands. It could be improved, but the danger exists that any changes could make an already good tax worse.

Reform advocates also say that the shift in the economy from goods to services will erode the sales tax base, so services need to be taxed. A substantial shift in employment from manufacturing to services has occurred, but manufacturing output has grown at about the same pace as service output. Goods were 39 percent of the gross domestic product (GDP) in 1990 and 38 percent in 1999, whereas services were 52 percent of GDP in 1990 and 53 percent in 1999.<sup>2</sup> The shift toward employment in services has been the result of efficiency gains in manufacturing that allow fewer workers to produce more output. But the value of output is taxed, not the number of employees, so the tax base is not eroding as employment

shifts from goods to services.

At first, one might think that because the state's economy is heavily service oriented, it would feel a greater impact from any shift to services. But this is not the case


because what consumers buy is taxed, not what is produced in the state. Even if Florida produced no goods, when Florida consumers buy automobiles produced in Michigan, television sets produced in Japan, or computers made in Taiwan, they pay Florida sales tax.

The facts indicate that Florida's current sales tax structure will continue to provide revenue increases to fund the state's govern-


ment and reform is not required. Some Floridians contend that the needs of Florida's government are growing, so taxes must increase to fund its expansion. Others argue that Florida's government expenditures are already excessive and taxes should be cut. But whether Florida taxes need to be increased or cut is a separate issue—one that concerns the appropriate level of government expenditures, not the adequacy of the current sales tax.

### **Amend the Constitution?**

The 2002 Florida Legislature approved a measure to place on the November ballot a constitutional amendment that, if approved by the voters, would create a 12-member



***This proposal asks voters to amend Florida's constitution to do something that the legislature could do without a constitutional amendment.***



committee to review all sales tax exemptions. The committee would be made up of six legislators appointed by the President of the Senate and six appointed by the Speaker of the House. That committee could eliminate exemptions by a majority vote of its members. The entire legislature would have two years to evaluate the committee's decisions, and could reinstate any repealed exemptions within the two-year time frame. Any exemption repealed by the committee and not reinstated by the legislature would then be eliminated after this two-year period.

A major problem with this proposal is that it contains provisions to raise taxes (by eliminating exemptions) but none for lowering them. Thus, regardless of whether Florida's sales tax structure could be improved, that issue is obscured by the asymmetric nature of the proposed amendment. Those who want to raise taxes would naturally support this measure, and those who want to maintain the current level of taxation, or reduce taxes, would naturally be opposed. By design, this proposed amendment is asking Floridians to vote for or against a tax increase, although exactly what kind of an increase would be determined by a 12-member committee.

One interesting aspect of this proposal is that it asks voters to amend Florida's constitution to do something that the legislature could do without a constitutional amendment. It already has the power to form a joint committee to examine sales tax exemptions, which then

could be voted on. The only substantial difference this amendment would make is that if it is approved, the governor could not veto any exemptions the legislature might remove. For those who want to raise taxes and view the governor as likely to be opposed to tax increases, this could be a selling point for the amendment.

### **Sales Tax Reform**

Florida's sales tax is good but not perfect, and it is likely that over the next few years, the legislature will consider sales tax reform.

Ideally, a sales tax should tax all retail sales once but only once. Florida's sales tax falls short of this ideal in two directions. First, it does not tax all retail sales, and second, it taxes many nonretail sales. Reformers want the tax base expanded. However, most items proposed for taxation in Senate President McKay's 2002 reform or in the 1987 services tax (that was passed and quickly repealed) are not retail purchases, but intermediate purchases. Under McKay's plan, most of the new sales tax revenue would have come from the taxation of business and professional services such as advertising, accounting, and legal services, which are business costs that sellers must include in the price of their sales. The largest problem with Florida's sales tax is not that it leaves some retail purchases untaxed, which it does, but that it taxes so many intermediate ones. Then, the tax becomes a cost of the final product, so it gets taxed again, leading to double taxation or tax pyramiding.

Tax pyramiding has several undesirable effects. It taxes different goods and services at different rates, which discourages the use of some goods and services by raising their prices relative to others. It gives purchasers an incentive to bring the taxed services in-house rather than to contract out for them and be taxed. For example, businesses could hire their own accountants and attorneys rather than contract for the services of an accounting or law firm. Decisions that should be based on efficiency criteria end up being driven by tax laws instead. While larger companies find it feasible to bring some services in-house, small businesses may not have enough work to hire a full-time accountant or attorney, for example, so they contract out instead. In this way, the taxation of intermediate services gives larger businesses an advantage over small ones. In addition, pyramided taxes may often be avoided by going outside the state for services, directly hurting Florida businesses.<sup>3</sup>

Ideally, Florida's sales tax could be reformed to eliminate all taxes on nonretail purchases. Practically speaking, this is not feasible because nearly one-third of sales tax revenues come from the taxation of nonretail purchases. Eliminating taxes on all nonretail purchases would result in a tax revenue loss of more than \$5 billion a year. It is hard to see where this revenue might be made up, and surely the legislature would not give up this revenue altogether. Still, recognizing the principle that ideally, sales taxes should not tax intermedi-

ate purchases, any reform should avoid exacerbating this problem.

Recent proposals for sales tax reform have focused on re-evaluating current sales tax exemptions. The first step in examining exemptions should be to organize the process so that it does not add sales taxes onto business purchases, and wherever possible, eliminates taxes on business purchases that are currently taxed. This could be done by dividing the review process into two discrete steps.

- First, divide exemptions into two categories: those that exempt business purchases and those that exempt retail purchases. Business exemptions should not be eliminated as a matter of principle.
- Second, evaluate how desirable it would be to eliminate exemptions on currently exempted retail purchases. Any elimination of a retail exemption could then be offset by exempting currently taxed intermediate purchases to keep the reform revenue-neutral.

This two-step process would assure current and prospective Florida businesses that they will not be threatened by a removal of exemptions on their business purchases or intermediate sales.

If just the possibility exists that additional sales taxes could be placed on businesses, that alone would harm Florida's economy, even if the taxes did not materialize. Companies that are considering either moving to the state or expanding their operations here look at the tax climate before deciding. Any

attempts at tax reform should be designed to reassure businesses that Florida is committed to creating an environment conducive to job growth and income growth. Not only is this the best strategy for Florida's citizens, it also is the best strategy for its government.

Florida's tax revenues ultimately come from the productivity of its economy, so any improvements in Florida's business climate improve the state government's fiscal health.

While recent sales tax reform initiatives have all been oriented toward re-evaluating current exemptions and eliminating undesirable exemptions, a more productive direction for sales tax reform would be to look for ways to exempt business purchases that are currently taxed. This would make Florida even more business-friendly, creating more jobs and more economic growth, which would ultimately lead to higher tax revenues.

### **The Intangibles Tax**

Florida is one of the few states that taxes intangible personal property such as holdings of stocks and bonds. Any tax discourages the taxed activity, and Florida's intangibles tax discourages saving and wealth accumulation. It tends to fall on older Floridians who have had time to accumulate wealth, and it burdens retirees by taxing assets they have accumulated to finance their retirement. It also burdens people who are

rapidly accumulating assets during their income-earning years, and it discourages productive and entrepreneurial individuals from living in the state. Florida's tax system should encourage citizens to save and invest, and the intangibles tax does the opposite.<sup>4</sup>

In the recent past, the legislature has agreed that the intangibles tax is undesirable and enacted a plan to repeal it. In the mid-1990s, the rate was 2 mills, and there was an agreement in 1997 that it would be phased out by reducing the rate by half a mill a year until the tax was repealed.

The rate fell to 1.5 mills in 1999 and to 1 mill in 2000. However, because of a state revenue slowdown in a recessionary economy, the phaseout stopped and the rate remained at 1 mill in 2001 and 2002. Even so, repeal of the intangibles tax was part of Senate President McKay's original 2002 sales tax reform proposal, and both Governor Bush and many members of the House of Representatives agree that the intangibles tax should be eliminated. Thus, it is disappointing that no action was taken on it in 2002. One of the priorities of the 2003 legislature should be to repeal the intangibles tax.

### **The Motor Fuels Tax**

The motor fuels tax may be Florida's weakest tax base. While Florida's sales tax revenues have grown more rapidly than income, motor fuel taxes have grown more slowly.<sup>5</sup> This

*One of the priorities of the 2003 legislature should be to repeal the intangibles tax.*

tax base is threatened in two ways.

1. As automobiles get increasingly better fuel mileage, a constant tax per gallon translates into a lower tax per mile.
2. The prospect of vehicles that use alternative fuels threatens gas tax revenues.

The motor fuels tax is earmarked to transportation, mostly for financing Florida's highways. One frequent complaint of Floridians is traffic congestion, and the best way to relieve congestion is to build more roads and to improve existing ones by widening them, and by improving intersections and access points. The debate on whether building new roads is the best way to deal with traffic congestion is heated,<sup>6</sup> but if legislators are concerned when revenues do not keep pace with the growth of Florida's economy, the motor fuels tax is a prime candidate for concern. A related issue is that as a method of financing roads, the gas tax does not adequately ration scarce space on roadways.

Charging users directly for roadway use makes more efficient use of scarce roadways, and potentially avoids the problems that undoubtedly will become worse with slowing gas tax revenues. Florida is already moving in this direction, but there is resistance to toll roads. One legitimate complaint is that users are already paying for roads with their gas taxes, so to charge them tolls makes them pay twice. This argument would lose its force if Florida relied less on motor fuel taxes. It is probably infeasible to start charging tolls on roads that do

not have them, because of citizen objections. However, it is feasible to build new thoroughfares financed through tolls, and the Veterans Expressway in Tampa is a good example. It parallels Dale Mabry, which is a congested major thoroughfare, so drivers who do not want to pay the toll can take Dale Mabry instead, as they did before the Veterans Expressway was built. Despite this alternative, the Veterans Expressway is being used to capacity, and is now expanding north as the Suncoast Parkway, which parallels U.S. 19 north of Tampa. Again, there is a non-toll alternative in U.S. 19, but the new limited access highway is being financed by tolls, giving drivers the option of faster transit in exchange for the toll, and relieving some congestion on the parallel road.

The 2002 legislature acted to make it easier to finance toll road construction, and future legislatures should continue looking for creative ways to finance roads. Gas tax revenues are not keeping up with the state's growth, many Floridians complain about traffic congestion, and these are likely to worsen. Because roads last a long time, a crisis will not appear suddenly, but unless action is taken, Floridians can expect these conditions to continue to deteriorate. The current situation shows that Florida should carefully examine alternatives for financing roads.

### Conclusion

The tax reform issue that appears most important to the future of Floridians is the motor fuel tax. It

needs legislative attention to reverse the steady deterioration of transportation funding that underlies increasing traffic congestion. The problems are clear, but designing effective solutions will be a challenge.

The intangibles tax also merits examination, but the appropriate policy here is clear: it should be repealed. Governor Bush favors repealing it, repeal has had substantial support in the House and Senate, and the tax would have been completely phased out this year had the schedule originally agreed to been kept. Floridians should hope that the legislature will take action to completely eliminate the intangibles tax this year.

The sales tax, which has been the most discussed, is the least in need of reform. It is a pretty good tax as it stands, sales tax revenues have been growing faster than Florida's economy for a decade, and forecasts indicate that strong growth will continue. Florida's fiscal health will not be compromised if no action is taken on the sales tax. There is considerable interest in reforming it, however, and indeed it could be improved. Ideally, a sales tax would tax all retail sales once but only once, and the main liability of Florida's sales tax is that it taxes a substantial number of intermediate purchases, resulting in tax pyramiding. Any examination of sales tax exemptions should be undertaken in a two-step process.

- First, identify exemptions that apply to non-retail transactions, and place them off limits to repeal.
- Second, examine those exemptions

on retail sales to determine if eliminating those exemptions would be beneficial. If so, new exemptions on retail sales could be offset by exempting some non-retail sales that are currently subject to sales taxation.

Despite the recent interest in repealing existing exemptions, a larger problem with Florida's sales tax is that it taxes a substantial number of nonretail transactions. A more productive direction for reform would be to look for ways in which taxes on nonretail transactions could be removed.

To summarize, I suggest the following agenda for Florida tax reform: design a financing system to supplement Florida's motor fuels tax; repeal Florida's intangibles tax; and examine Florida's sales tax with the goal in mind to make it more of a tax that is levied only on retail transactions. ☞

*Randall G. Holcombe is DeVoe Moore Professor of Economics at Florida State University and chairman of JMI's Research Advisory Council.*

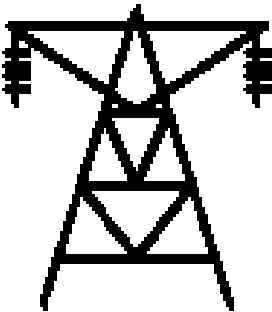
## Endnotes

- <sup>1</sup> See Randall G. Holcombe, "Principles for Florida's Sales Tax," *The James Madison Institute Backgrounder*, Policy Report #29, October 2000, for a history of Florida's sales tax growth. Projections are found in *2001 Florida Tax Handbook* published by the Florida Senate.
- <sup>2</sup> Statistics for income and output used in this section are calculated from the *Statistical Abstract of the United States*, 120th ed. (2000), p. 453.
- <sup>3</sup> Tax law should be designed to try to prevent this, but with multi-state firms that have an option about where to purchase services and flexibility as to how they account for them, service purchases by multi-state firms would undoubtedly migrate out of state.

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# in balance: the electric utility industry and the environment

by peter schorsch and j. stanley marshall



A look at the role  
of the electric  
utility industry in  
its influence on  
the health and  
welfare of  
planet earth  
and the people  
who inhabit it.

If The James Madison Institute stands for anything, it stands for reasoned discourse on public policy issues. That means we deliberate issues that range across the broadest spectrum of issues that, in our opinion, shape the quality of life for the people of Florida. Not just deliberate, but debate—and the debate part is critically important to those of us “in the office,” but also to all of those who look to the Institute as a source of reliable information and ideas worthy of their time and thought. (The “broadest spectrum” has not, however, been broad enough to include a few issues, the debate of which is likely to be characterized more by heat than light; examples might be abortion and gun control. While members of the JMI family may hold views on such issues, their inclusion on our agenda would, we believe, reduce the Institute’s influence with policymakers on issues in which we believe we can—and often do—make a difference.)

Environmental issues are often delicate, but not so delicate as to warn us away. In other words, we cannot duck the debate, especially when special occurrences and events, such as Earth Day, attract public notice. Earth Day was celebrated on April 22 and the media

reported vastly on biological diversity, clean water, reforestation and so on. We hear, and read, bold predictions about the future of an overdeveloped, overpopulated earth. Many of the spokespersons for the environmental movement insist that the planet and its inhabitants are careening toward an inevitable destruction. Those on the other side of the argument point to the needless invasion of citizens' rights, especially private property ownership, while they point to the very real and lasting damage to the economic health and well-being of the nation and, indeed, to its citizens individually. Our own state, blessed with a bounty of natural treasures, often finds itself the focal point of this preservation debate as the unique ecosystem that defines our state's beauty also entices countless individuals to travel and move here. In these differences lies a disturbing dilemma: As citizens of the global community, we are confronted with two drastically and perhaps dangerously different viewpoints on the viability of the planet.


As stated above, the Institute's position is that the health of the planet justifies our entry into the debate—indeed it requires it—and if we have a role to play, we believe it is to encourage dispassionate discussion of the issues. That probably means reaching out to people of more liberal persuasion than that of the Institute

on many issues. How do we do this? Mostly by focusing on reason rather than rhetoric, by understanding and underscoring the facts as best we can determine them. Facts, as someone has famously said, are stubborn things, and in this article we respectfully ask those who may differ fundamentally with our position on the particular issue at debate to examine the information we present below and to evaluate what we say on the basis of factual accuracy.


The issue discussed here is the role of the electric utility industry in its influence on the health and welfare of the earth and the people who inhabit it. We are

troubled by arguments advanced by strident environmentalists on incomplete or erroneous information that seem to be intended to mislead and misinform the public. The result is a manipulation of statistics to claim that pollutants from power plants are principally responsible for a wide range of health problems. They ignore dozens of peer-reviewed studies that have found no connection between power plant emissions and dangerous health effects. They shun consideration of the impacts of other, more significant factors in health problems such as diet, exercise, smoking and drinking habits, and income and education levels.

It is particularly unfortunate, we believe, that environmental activists



***As citizens of the global community, we are confronted with two drastically and perhaps dangerously different viewpoints on the viability of the planet.***



have crossed the line from well-meaning advocacy to irresponsible hysteria. In so doing, they strike unnecessary fear in the minds of consumers who count on the availability of reliable and affordable electricity to insure that their lives are safe and comfortable.

Despite being cast in the role of scapegoats, the electric utility industry has a remarkable story to tell about how they have helped make our air cleaner while expanding output to meet the needs of our businesses and homes. Since the passage of the Clean Air Act in 1990, utility power plant emissions have decreased significantly while demand for electricity has skyrocketed. According to EPA data, U.S. utility emissions of nitrogen oxides (NO<sub>x</sub>) are down 15 percent since 1990, while sulfur dioxide emissions are down 20 percent and particulate matter emissions are down 24 percent during the same period. All this has occurred at a time when generation has increased by 13 percent.

At the same time, electric utilities continue to invest vast sums in innovative technologies to make our air cleaner and to understand better any risks associated with energy production.

A pollutant that causes particular alarm is mercury, yet less than 1 percent of total mercury emissions come from utility power plants. These power plants contribute

minimally to the aggregate emissions of all other pollutants as well—while bearing much of the blame for the perceived harmful health effects.

Consider the automobile industry—a far less frequent but far more deserving target of environmentalist rancor. During the Clean Air Act era, while power plant emissions of NO<sub>x</sub> have been lowered, engine and vehicle NO<sub>x</sub> emissions have increased by 17 percent. NO<sub>x</sub> is a fundamental component of harmful ground-level ozone. The other ingredients in ground-level ozone—volatile organic compounds (VOCs)—also arise disproportionately

from vehicle and nonvehicle internal combustion engines. Forty-seven percent of the overall emissions of volatile organic compounds (VOCs) come from these sources. By comparison, electric utilities emit less than 1 percent of the overall VOCs present in the air.

The authors of this piece, one a senior writer for JMI and a serious student of public policy in Florida, and the other a longtime university faculty member and academic activist, appeal to the advocates of strict environmental controls to consider what we regard as undeniably reliable information. The place of particulate emissions from power plants, and their possible effect on public health, deserves nothing less than honest

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***Environmental activists have crossed the line from well-meaning advocacy to irresponsible hysteria.***

# teacher supply and free markets: why NOT?

by gary landry



**When a school fails to meet market demands, it withers and dies as parents opt out and send their children elsewhere.**

**D**espite the education establishment's attempts to stifle free-market forces in our nation's public schools, significant eruptions of laissez faire conditions are emerging in the form of charter schools and various other school choice programs.

While there are differences from one school choice program to another, competition for market share remains an essential ingredient in each. In a free-market system, schools would be required to meet the specific needs of the open education market and parents, the consumers in this market, would ultimately decide whether the school is succeeding. If a particular school satisfies the need, more parents would send their children to that school and it would thrive. When a school fails to meet market demands, it withers and dies as parents opt out and send their children to school elsewhere.

Recently, a charter school in Chicago was ordered closed at the end of the school year. Its closing, cited by critics of choice programs as a prime example of why market forces should not be introduced into public education, should be viewed instead as proof that market forces are an effective method of improving our nation's public schools. In Chicago, all but two of the city's 15 charter schools are out-performing neighborhood public schools on nearly every one of

70 measures—from reading and math scores to attendance to dropout rates. The exception was the one charter school that was ordered closed. The school in question, which opened on Chicago's Westside in 1997, failed and then, rightfully, the school board ordered it closed.

Freeing schools from some of the standard public school regulations appeals to parents who see school choice programs as the best means of insuring their children a high-quality education. Since 1996, in Florida the number of charter schools has grown from five to 149, enrolling some 50,000 students. Despite their appeal to many parents, charter schools are opposed by much of the education establishment, and especially the teacher unions. The unions in many school districts have gained the upper hand in issues of management, including teachers' salaries. Teacher salary schedules have, without doubt, helped to create the teacher shortage that we hear so much about today.

In most collective bargaining agreements, the unions insist upon a kind of "misery spread equally" formula in which all teachers are paid the same, based only upon years on the job and number of academic degrees. Thus, a physics teacher with a bachelor's degree and 10 years' experience is paid the same as an elementary school teacher with a bachelor's degree and 10 years on

the job; never mind the fact that there is, in most school districts, an abundance of applicants for elementary school teaching jobs and an acute shortage of physics teacher candidates.



***Since 1996, in Florida the number of charter schools has grown from five to 149, enrolling some 50,000 students.***



Our nation's colleges and universities are producing more than 100,000 teacher graduates each year, and 6,000 or more of those are in Florida. An examination of the pool of graduates reveals that the problem is not so much one of too few teachers overall but, instead, too few in fields where there is market demand, such as math, science, and special education.

If free-market forces were allowed to operate, two things could happen:

1. Districts would be free to pay premium wages to teachers who hold degrees in such areas of shortage as math, science, and special education. That could entice college students to major in those fields, knowing that attractive jobs at better-than-average teacher salaries are out there.
2. Many of the students who major in elementary education, social studies education, or physical education, for example, might be persuaded to major in fields where the shortages exist.

In both cases, market forces would have a chance to work.

Currently more than 200,000

credentialed teachers reside in Florida and fully one-third of them are not working in our schools. Clearly, evidence shows that improved wages could draw many of them back into the profession and prompt college students to consider education as a career choice.

There is widespread support for raising teachers' salaries but taxpayers would more readily accept a pay-plan tied to free markets. Principals should be given greater authority in the selection of their teachers and they should be encouraged to reward excellent teachers—and, of course,

they should not be hamstrung by a one-size-fits-all pay scale in their efforts to recruit the best teachers. Many college students shun education as a career because the compensation system that simply recognizes time on the job and academic degrees is seen to be inadequate by those who expect to be compensated based on job performance and for teaching in those fields in which there are presently serious teacher shortages. ❧

*Gary Landry is a policy analyst with The James Madison Institute.*

## three tax issues for florida *(Continued from page 11)*

<sup>4</sup> For a more detailed analysis, see Randall G. Holcombe, "Florida's Intangibles Tax: A Large Burden for a Small Return," The James Madison Institute *Backgrounder* #20, March 1997.

<sup>5</sup> See Randall G. Holcombe, "Florida's Tax Structure: An Overview and Evaluation," The James Madison Institute *Backgrounder*, Policy Report #27, October 2000, for a discussion of

the motor fuels tax and how it relates to Florida's overall tax structure.

<sup>6</sup> See Randall G. Holcombe and Samuel R. Staley, eds., *Smarter Growth: Market-Based Strategies for Land-Use Planning in the 21st Century* (Westport, Conn.: Greenwood, 2001) for a discussion of transportation and land use issues from a market-based perspective.

## electric utility industry *(Continued from page 14)*

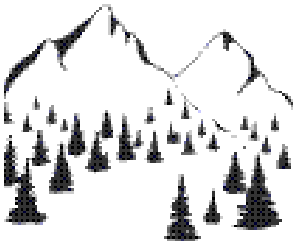
analysis characterized by facts, not unbridled rhetoric. If a thorough and rigorous scientific review produces conclusive evidence that harmful health effects can be traced to a particular source, then action should and must be taken to mitigate those effects. In the meantime, we believe that the electric utility industry is working hard to meet the burgeoning demands for electricity while meeting its goal, shared by the public and policymakers and codified in the Clean Air Act, to reduce their

emissions and safeguard public health. However well-meant, the public interest is not served by directing harsh and misleading accusations at the electric utility industry if the facts do not sustain such accusations. It is our opinion that they do not. ❧

*Peter Schorsch, a policy analyst and senior writer with the James Madison Institute, lives in St. Petersburg, Fla. J. Stanley Marshall is founder of the Institute and publisher of this magazine.*

# a signature victory for property rights

by peter schorsch



A report on the  
contentious  
legislative battle to  
regulate outdoor  
advertising.

**S**pend the seasons driving from sea to shining sea across America, as I do in pursuit of the Dave Matthews Band or Florida State University football, and you will come to view the scenic stretch across North Carolina's majestic Blue Ridge Mountains as visually rewarding a journey as can be undertaken.

Of course, there are few, if any, obtrusive outdoor billboards blocking the panoramic views of the lush Carolina mountainside. Their absence here only reinforces how unsightly a 24 foot by 12 foot beer advertisement can be when erected along a highway or street.

Billboards are a scar on every community's streetscape. They invariably lower the property values of adjacent neighborhoods. They are a blight. They are hideous. I am in the advertising industry and I know the ugly truth that, well, billboards are ugly.

But, as private property, billboards have a constitutionally protected right to be located where they are. The Fifth Amendment states, "Private property shall not be taken for the public use without just compensation."

Florida has a negligent record of protecting private property rights at all levels of government and has left the door open for city and county governments to

remove billboards through the process of amortization rather than just compensation. Basically, amortization allows government to inform the owners of existing billboards that they have a period of time—usually five to 10 years—to recoup their investment in the billboard structures, and then they must be removed.<sup>1</sup>

However, amortization is not *really* just compensation. It deprives the landowner of the full use and income-producing potential of the property. That's why 39 other states and the federal government prohibit amortization as a substitute for just compensation.

This is not a complicated legal issue. If a local government sought to remove your business or house for a particular reason, most would argue that the appropriate payment would not be simply allowing you to stay there for five to ten years. Rather, it would be payment for the value of loss. This is the obvious intent of the Fifth Amendment.

Defending this principle and the rights of private property owners is not always a popular issue. And billboards make an easy, obvious target for local governments interested in beautifying their communities.

Yet, as the late U.S. Sen. Edmund S. Muskie once said, "When an individual suffers a loss because of some broad public interest, the public interest also requires that the loss be compensated for. If we cannot


sustain that kind of concept in the public interest, then the public interest ought to be reviewed."<sup>2</sup>

Fortunately, state lawmakers made an impressive stand in defense of the Constitution and property rights this past legislative session by enacting a measure that will provide for a fair process of negotiation (that approaches just compensation) between local government and sign owners. This was the second year the legislature passed the billboard measure. Gov. Jeb Bush


vetoed the legislation last year because it was part of an expansive transportation package he opposed.<sup>3</sup>

The legislation requires local governments to negotiate with outdoor advertising companies when they want signs removed, and to submit to nonbonding arbitration if they fail to reach an agreement. If the municipality disagrees with the arbitrators and insists on removing a sign, the city would be required to compensate the billboard company for the cost of erecting the sign as well as paying for the company's lost advertising revenues.<sup>4</sup>

Essentially, property owners will receive just compensation for the removal of billboard property, and this measure puts in place model legislation to help local governments and outdoor advertising companies avoid expensive and prolonged litigation. The law also provides for a balancing of interests by establishing a process for local governments to



***Billboards are  
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negotiate with billboard owners to remove and relocate signs to a mutually agreed upon location.

“The bill’s requirements for negotiations, arbitration—and even compensation—create opportunities for compromise,” was the meager admission in one editorial by the *Miami Herald*, one of many state newspapers always eager to criticize a direct competitor (as billboard owners are) for advertising business.

Critics of the legislation contend that removing just a single sign could cost hundreds of thousands of dollars—a financial burden few cities or counties can sustain.<sup>5</sup> For example, officials in Orange County estimate the new law could cost the county \$13 million,<sup>6</sup> while for the city of Miami, which wants to remove about 200 billboards, the cost could exceed tens of millions of dollars.

But, as one billboard lobbyist remarked, “If it’s going to cost you millions, then it should occur to you that you are taking something of mine that’s worth millions.”<sup>7</sup>

The magnitude of the issue—it has been addressed in committee on at least 20 separate occasions over the course of the last two legislative sessions—apparently weighed heavily on Gov. Bush, who, as mentioned above, vetoed similar legislation last year when it was part of a transportation package he opposed. This year, the governor joined his colleagues in the House and Senate in defense of property rights—despite an opposi-

tion campaign led by the Florida League of Cities and involving dozens of local governments and their lobby teams.

In a detailed memorandum explaining his actions, Bush stated that the law would “level the playing field” between the billboard owners and local governments. “It protects the rights of property owners while still allowing local governments the latitude to remove or relocate a billboard,” he said.<sup>8</sup>

Even if one does not support billboards and the services they provide to consumers and tourists, state lawmakers made the right, principled decision. Government should pay property owners just compensation for property taken, including billboards torn down in a beautification drive.

And that’s just the truth—no matter how ugly. ☞

*Peter Schorsch, a policy analyst and senior writer with the James Madison Institute, lives in St. Petersburg, Fla.*

## Endnotes

<sup>1</sup> Steinle, Diane, “Bad bill will become costly law without Bush veto,” *St. Petersburg Times*, Apr. 3, 2002.

<sup>2</sup> Jacob, John, “For billboard property rights,” *Miami Herald*, Apr. 5, 2002.

<sup>3</sup> Charles, Jacqueline, “Bush makes billboard removal more difficult,” *Miami Herald*, Mar. 11, 2002.

<sup>4</sup> Editorial, “Unfair to Cities,” *Miami Herald*, Mar. 27, 2002.

<sup>5</sup> Mahlburg, Bob, “Billboards’ removal is now costly,” *Orlando Sentinel*, Apr. 5, 2002.

<sup>6</sup> Mahlburg, Ibid.

<sup>7</sup> Maxwell, Scott, “Billboard lobby flexed cash muscle,” *Orlando Sentinel*, Mar. 28, 2002.

<sup>8</sup> Governor’s message to Secretary of State Katherine Harris regarding HB 715, Apr. 4, 2002.