

# the Messenger

April 2001

## MESSAGE FROM THE PRESIDENT:

### The Rule of Law and Citizen Responsibility

It has been more than five months since the ballots were cast in the most contentious presidential election of modern times. A president has been seated and our nation has moved forward. Much of the credit for this miracle of democracy should go to our namesake, James Madison, who as the father of the Constitution, served as architect for a system that was founded upon the rule of law and that cannot be subverted by the whims of any man.

The duty of all United States citizens to follow the rule of law has stood our nation well since our fragile beginnings. It is fitting that we offer tribute to James Madison on the 250th anniversary of his birth.

Even now, partisan actors on the political stage continue to distort what really occurred during the election resolution in order to obtain a perceived short-term political gain. And yet the real problem of last November was the inability of citizens to vote properly due to their personal limitations and not due to problems with voting machines or systems. Florida must face the combined problems of illiteracy and lack of citizenship responsibilities with as much vigor as has been spent in angst over which voting system had the lowest error rate. The election confusion was as much due to citizen errors as it was to machines—possibly more. To vote properly, you must be able to read and follow instructions.

Gadsden County provided a good example of what can go wrong despite a high-quality voting system. Even after providing an optical scan system for voters, Gadsden had one of the highest levels of disallowed ballots. It also had a failure rate

on the Florida High School Competency Test (HSCT) in 1999 of 55 percent in communications and 61 percent in math. In the same year, it had an unwed teenage birth rate of 91.2 percent, which continued a trend of many previous years.

These problems were not isolated to Gadsden County alone. Broward County students failed the HSCT with a 32 percent rate in communications and 45 percent in math; Palm Beach County results were 32 percent and 46 percent respectively. Broward's unwed teenage birth rate was 85.9 percent; Palm Beach's was 84.8 percent. The graduation rate of entering ninth graders from each county as reported in 1999 was 46 percent for Gadsden, 53 percent for Broward, and 58 percent for Palm Beach.

Clearly we are faced with a new generation of voters who are destined to struggle with a complex process that requires basic literacy skills at the beginning level and analytical abilities at the highest level. Poorly educated citizens will not traverse the issues and candidate qualifications with ease, much less grasp the complexities of the process. A flourishing democracy demands an engaged and enlightened citizenry. We should not expect to find computer screens in each polling booth replete with pictures of the candidates to ease the burden of making an informed choice.

Further, the state should not have to provide improved voting systems for counties that chose long ago to spend their money elsewhere without some cost to the counties. Several Florida counties took the

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**“Our civil justice system should not be used to enrich either a small class of lawyers at the expense of the free enterprise system, or indeed, the class plaintiffs themselves.”**

—JUDGE ROBERT ANDREWS, 17<sup>TH</sup> JUDICIAL CIRCUIT

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initiative to purchase modern systems at local expense. Their residents should not be forced to spend tax money on neighboring counties that set different priorities and that spent local funds on preferred projects without some penalties for the offending counties. For these counties to come to the legislature now with their hands out, seeking funds to do what they should have done on their own, is an insult to the process. Yet it is time for the problem to be solved and time for decisive leadership to improve the most fundamental rights of man in a free, democratic society. The system must be fixed and a cost for repair assessed later.

The state bears the burden and responsibility of providing educational services and opportunities for its citizens. Time and money would be better spent in efforts to determine why so many children continue to fail and drop out. Literacy should take precedence over largesse when it comes to the state’s future responsibilities, but for now the required repairs must be made.

  
Edwin H. Moore  
President

## TORT REFORM PROGRESS

Every now and then, we read words that ring so true and clear and are so full of common sense that we wonder why we’re surprised. A recent ruling by Judge Robert Andrews of the 17th Judicial Circuit for Broward County, Florida, concerning proper attorneys fees in a class action lawsuit needs recognition and commendation.

The lawsuit concerned the methods used by a cruise line in assessing and collecting port charges. In a not-untypical finding for this type of lawsuit, the members of the class were offered coupons for future cruises valued between \$10 and \$60, at best an absurd benefit for passengers and of limited use. For their efforts in this action, lawyers representing those who received these coupons sought fees and expenses in the amount of \$1,375,000.

In his ruling on appropriate fees, Judge Andrews stated, “It is this Court’s opinion that this case represents a classic example



of the class action suit gone awry. Our civil justice system should not be used to enrich either a small class of lawyers at the expense of the free enterprise system, or indeed, the class plaintiffs themselves.”

The judge reduced the attorneys fees to \$293,682.50 and ordered 25 percent of the value to be paid in the same limited value certificates provided to the class. Sometimes, common sense prevails. \*

## Welfare for Millionaires Revisited

The Institute has been following the efforts of team owner John Henry to get Florida taxpayers to help build a new ballpark for the Florida Marlins. This “playground for millionaires” ran into a roadblock last year when Gov. Jeb Bush pulled the plug on Henry’s proposal to tax cruise ship passengers to fund his stadium.

Henry is back again, this time with a revised finance scheme, but one that still relies on taxpayer wallets. The Marlins have already received a 10-year, \$60 million sales-tax rebate from the state. Funding from the public trough must be addicting, as the run on the treasuries of state and local governments continues.

JMI will soon report on the issue of professional sports teams asking the public

to be nonparticipating “partners” in what should be a fully private enterprise. A recent study of this phenomenon by the Brookings Institute, a public policy group based in Washington, D.C., indicates these publicly funded, privately owned stadiums produce “extremely small or perhaps even negative effects on economic activity and employment.” According to Brookings, most of the taxpayer subsidies actually pay inflated player salaries.

Florida policymakers should recognize whose needs are met when public money flows for the benefit of a private few. We encourage our supporters and friends to relay their thoughts on “sports welfare” to members of their local legislative delegations. \*

# It's Time to Modernize Civil Service

By **Al Hoffman**

What kind of workforce should Florida state government have? How can it attract, reward, and compensate the best employees? Can it design a system that ensures fair treatment of workers while providing managers the tools they need to run programs effectively?

The Florida Council of 100 has spent the past year studying these questions. The council is made up of key business leaders, including some of the largest employers in the state who live in the real world of employee recruitment and retention challenges.

Florida's state civil service system has stagnated. It is archaic, cumbersome, and inefficient. While private businesses have overhauled their human resource systems to better meet the changing economic demands of both employees and companies, the state's personnel system has been broken for a long time.

As documented in our November 2000 report "Modernizing Florida's Civil Service System: Moving from Protection to Performance," Florida is losing the war for talent with alarming speed. In larger and larger numbers, public administration school graduates choose the private sector over state government. Students of government who are ideal candidates for leading governmental programs are choosing not to join it.

Why? Because Florida state government cannot compete with the private sector across most job categories. It's a concern in many areas—from secretary and assistant levels where pay differences are 10 to 20 percent less, to hard-to-fill technical and high-end professional positions such as business manager three. The difference between government and private sector pay levels can be as much as 50 percent. To operate more efficiently, improve in customer (taxpayer) satisfaction, and win the increased competition for talent, managers must be able to recruit and retain high performing individuals. If we want the best employees, we must be prepared to pay them more, and if we pay them more we must expect more accountability. It's that simple.

The council recommends these major reforms:

- Move executive branch employees from the protected status of employment to a model of "at will" employment similar to the legislative and judicial branches and several other governmental jurisdictions in Florida.
- Develop a credible group and individual performance-based bonus system to reward employees and to provide flexibility to attract talented employees.
- Eliminate "bumping" and begin retaining workers primarily on the basis of performance rather than seniority.
- Review compensation in hard-to-fill and key management positions to ensure adequate compensation for attracting and retaining talent.
- Transform agency organization to foster new results, and creating a service-oriented culture that accepts risk-taking and focuses on getting the job done efficiently and effectively.

Georgia has adopted a civil service reform that mirrors many of these goals. Its efforts have not led to the kind of wholesale firings or layoffs that many feared. Instead, problem employees have been weeded out more quickly, increasing from 49 to 174 in the year the reforms were adopted.

The experience in the Florida Legislature, judicial system, and the Florida Lottery are similar. All three have 100 percent "at will" employment, yet transitions to new leadership have not resulted in massive shifts in employees. Managers are able to discipline, terminate, promote, and reward staff members based on their performance rather than on their seniority.

However, only about 3 percent of the 125,000 executive branch workers are "at will." The other 97 percent enjoy a truly protected status; it is all but impossible to dismiss a nonperforming worker. The Florida Council of 100 believes that protected status employment is unnecessary.

State employees *do* deserve more, as do the citizens of Florida. That begins with the highest quality workforce performing at top levels, which thus earns the respect of Floridians. We believe the path starts by demonstrating to the public that government is responsive and accountable, beginning with our human resources system. \*

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Al Hoffman is a JMI board member and chief executive officer of WCI Communities in Bonita Springs, Fla. He serves as vice chairman of the Florida Council of 100 and chairman of the organization's civil service reform task force.

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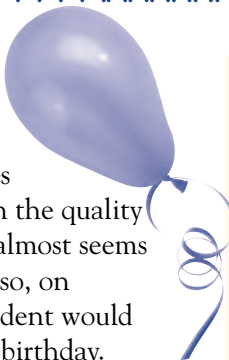
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## Happy Birthday, James Madison



The daily impact of James Madison's writing upon the quality of our lives is such that it almost seems he is still alive. Were that so, on March 16, our fourth president would have celebrated his 250th birthday. The "Father of the U.S. Constitution," Madison knew the power of the written word. We draw upon his wisdom when we publish our materials in support of government based on the rule of law and individual rights.

Help us defray the significant cost of our four upcoming *Backgrounders* with a special "birthday" contribution. Are your freedoms worth a dollar a year of Madison's 250-year impact? One-tenth of a dollar? What value *do* you give your individual rights? **Happy Birthday, Jemmy! \***

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