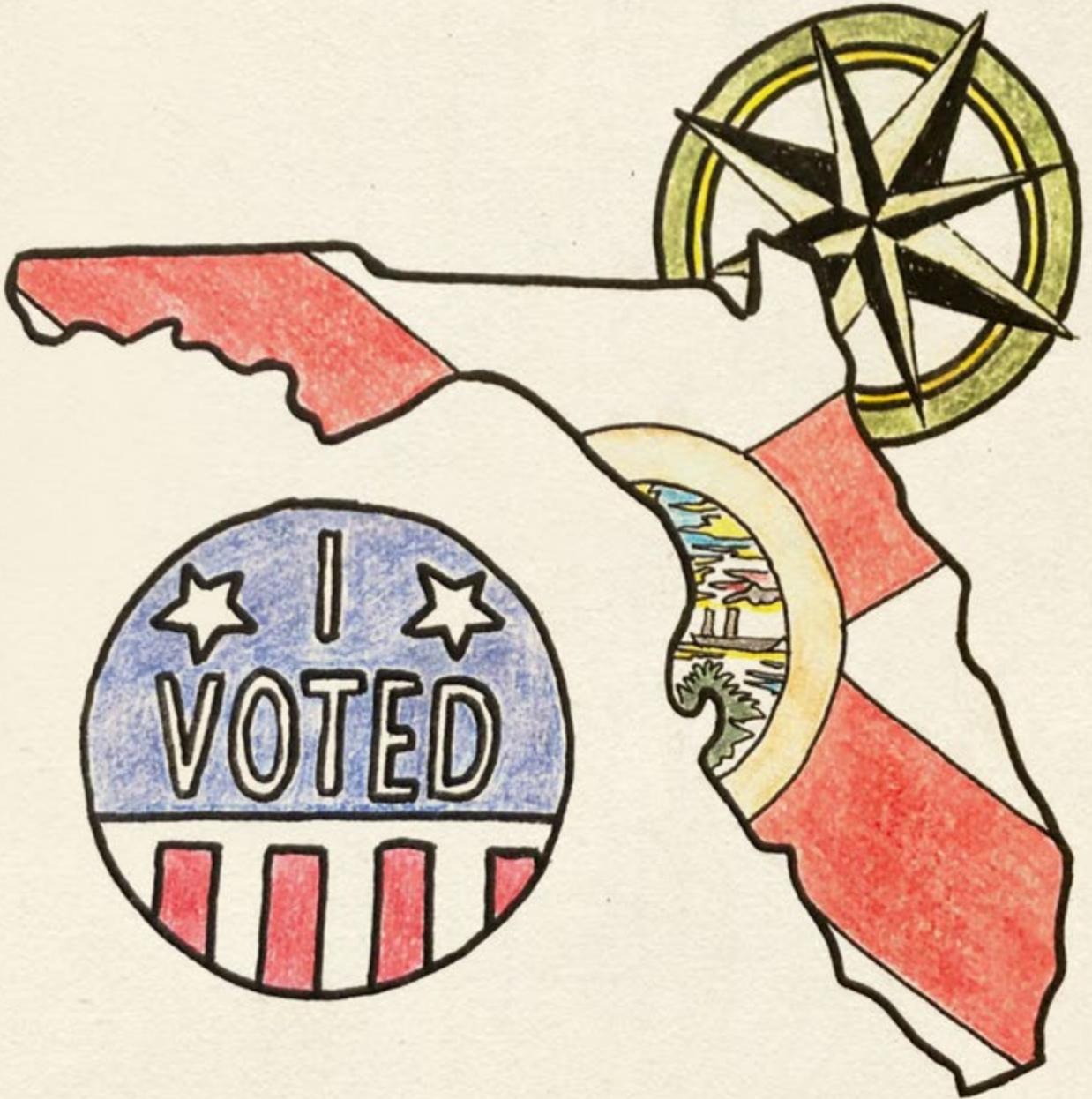


THE JOURNAL

Fall 2018 | Number 61



The James Madison Institute

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CONTACT US

Mail The James Madison Institute The Columns 100 North Duval Street Tallahassee, FL 32301
Phone 850-386-3131 **Email** jmi@jamesmadison.org **Website** www.jamesmadison.org

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PUBLISHER **J. Robert McClure III, Ph.D.** President & CEO of The James Madison Institute
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Cover art by **Lucianna Nuzzo**, Age 10, next generation voter. #Election2026



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On Interesting Times, and a Less Dramatic Future...

Sal Nuzzo

VICE PRESIDENT OF POLICY, THE JAMES MADISON INSTITUTE

There's an ancient proverb that states, "May you live in interesting times." Regardless of one's philosophical ideology, I think we can all agree that the times are, in fact, quite interesting. I am reminded of something a friend told me recently: "think about going back in time 20 years to 1998 and attempting to convince people that Arnold Schwarzenegger would

be elected Governor of California TWICE, and Donald Trump would be elected President."

In the wake of these interesting times – Trump, North Korea, Russia, Twitter, Iran, G7 – we would be forgiven for missing the onset of what might be the single most pivotal election in Florida's history. An election cycle that may chart the course of

our state for generations. I am not prone to hyperbole, I tend to regard headlines that exaggerate an election cycle as a bit clownish. With that said, the 2018 election in Florida is that important.

Consider Florida's cabinet – Governor, Attorney General, Chief Financial Officer, Commissioner of Agriculture. Voters will be choosing new occupants for each of these offices (CFO Jimmy Patronis was appointed to serve out the remainder of Jeff Atwater's term and will be on a statewide ballot for the first time). At the top of its list of duties, a new cabinet will set an economic agenda, appoint agency heads, oversee a \$1 trillion-dollar economy (the 17th largest on the planet), direct law enforcement policy, and navigate the three biggest drivers of our state's economic engine – construction, agriculture, and tourism. And if that wasn't enough to make this election pivotal, bear in mind that our next Governor will immediately be able to appoint three new justices to Florida's Supreme Court (because of mandatory retirements).

In addition to Florida's cabinet officers, every member of the Florida House of Representatives and half of the Florida Senate will face election. Over the past 20 years, Florida's legislature has set a largely conservative path – embracing limited government involvement in the economy and free markets. In 2018, the legislature passed an \$87 billion budget. By way of contrast, the state of New York, with slightly less population, passed a \$175 billion budget. Because of these policies we have seen greater degrees of economic prosperity than we otherwise would. Florida bounced back from the “great recession” faster than anywhere, and over the past eight years our

economy has created approximately 1.5 million new jobs. These past 20 years have seen \$125 billion in annual income migrate from states like Illinois, New Jersey, and Connecticut to the Sunshine State.

Florida is also pivotal at the federal level. One of the most closely watched U.S. Senate races pits Rick Scott against incumbent Bill Nelson. And with Republicans holding a razor thin majority, control of the Senate could hinge on this race.

And if all of this wasn't enough to make the election a must-follow, there are 13 constitutional initiatives on the ballot. Initiatives put forth by the legislature, citizens, and the Constitution Revision Commission have the possibility to either reinforce or radically alter the trajectory of our state. Merriam-Webster provides my favorite definition of humility: freedom from pride or arrogance. It's an attribute most of us have an appreciation of when seeing it in others.

This is why I'd like to take the opportunity to discuss something that I feel we (myself 100 percent included) could use a healthy dose of, both now and in what will come post-election – and that's humility. Over my years in the policy world, we have often used terms that equate our efforts and those of our political or philosophical opponents to those of the worst elements of humanity. We talk of the battle of ideas, the arena of politics, and the war of words. The vitriol appears to continue ratcheting up, and to be perfectly clear, both “sides” fall into the trap. I think those leaders whom I have admired and respected the most over time – Ronald Reagan, Mother Theresa, John Kennedy, Pope John Paul II, Nelson Mandela – personified both the traits of



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humility and of servant leadership. I find it sad and telling that none of the individuals I listed are from the current day. Seeking out one requires me to go into the sports realm – Tony Dungy is, for me, the best example of humility in leadership in today’s world. It’s a shame that politics doesn’t do more to attract men and women like Tony Dungy into its realm.

For more than 30 years, JMI has articulated our belief in policy solutions for a more prosperous and free Florida. We have, as much as possible, been happy warriors in everything we do. We can always

improve and it’s my sincere hope that we can be part of the solution to our discourse, as opposed to a contributor to the problem. I have had the highest privilege of serving as JMI’s Policy VP for the past four years, and I want to work on making the next four the start of a better Florida for my daughters to inherit. I want them to see the efforts and initiatives we undertake to be honorable. They, and millions of the next generation of Floridians, will look back on this election and our response to it as a hallmark for Florida’s future.



Florida Elections — 2018 Among the Doozies!

Dr. Ed H. Moore **PRESIDENT, ICUF**

Florida politics have always been colorful. From yellow dogs to blue dogs, red waves to blue tides, we have always proven our state to be much more than meets the eye when it comes to both entertainment and unpredictability. The 2018 election is shaping up to be another in a long line of unpredictable events and the ballot, based on the inclusion of thirteen constitutional amendments, a fiery U.S.

Senate race, a hotly contested governor's race, as well as the three cabinet seats, all of the state House seats and more than half of the state Senate seats, plus all of the local elections which are often even more filled with exciting confrontations, will likely result in long lines and complaints of too few polling locations.

Remember that complaints of inadequate polling options are a common refrain every

election, even as Florida allows for fairly unconstrained absentee voting as well as an extended early voting period. Many states still only have a single day of voting and limited absentee options, so if there are long lines in Florida on election day, blame it on two factors: voters waiting until the last minute and a ballot that is just too long!

The history of Florida elections is one of consequential outcomes and even more so as Florida has become one of three or four dominant states in deciding national elections. We are now 18 years removed from the drama and the tension of the presidential election of 2000 which lasted well into December, with the U.S. Supreme Court finally bringing finality to the process but not ending the contention and disagreements that remain to this day. *Bush v. Gore*, the court case that emerged from one of the closest elections in history, was the end of a several-month process that easily could have sent the election to the U.S. House of Representatives. In the end, only 537 votes separated George W. Bush and Albert Gore. It is interesting to look at the actual vote count, with Bush getting 2,912,790 and Gore getting 2,912,253, to get a real sense of the divided Florida electorate in 2000 -- truly marking Florida as a purple state. Bush won 50 counties and Gore only 17, but Gore's strength was in the larger counties of Florida and it was mostly in those larger counties, with Democrat supervisors of election, where all of the drama unfolded. "Hanging chads" became a hot topic and the national news was filled with photo shots of officials examining ballots with magnifying glasses; discarding some and allowing others to stand as legal votes. That same year, a

majority of the members of the Florida House of Representatives were freshman members -- the first real effect of voter-adopted term limits. While Tallahassee was besieged by national news media, with the Capital Courtyard a tangled mess of cables and broadcasters, the Florida House stood poised under the leadership of Speaker Tom Feeney to use the Constitution to name a slate of electors, should the courts fail to rule in favor of Bush being elected by Florida. This was one election that could have taken much longer to resolve had the court not acted. In the end, Bush captured 48.847 percent of the vote to Gore's 48.838 percent. They do not get much closer than that!

But Florida had also played a major deciding role in an earlier, extremely close, presidential election. In 1876, Republican Rutherford B. Hayes and Democrat Samuel Tilden contested for the presidency. It remains the closest and most hotly-disputed election in U.S. history, with the end result of Hayes winning by an electoral vote of 185-184. Four states were in dispute, including Florida that had only four electoral votes at the time. Florida, South Carolina, and Louisiana were the only southern states to go to Hayes, with a total of 19 electoral votes among them. Early results had Tilden ahead 184-165, with Tilden also holding a majority of the popular vote (this was one of only five elections in U.S. history to have the loser have more popular votes). In addition to these three states, Oregon had one vote under dispute. These 20 votes all went to Hayes, although not without a major change in policy -- the end of Civil War Reconstruction being the bait that allowed for Democrats to accept

defeat yet bring about a significant major change in post-Civil War America. In the Compromise of 1877, the Republicans agreed to withdraw federal troops from the South, while the Democrats conceded the election. The withdrawal of troops ended Reconstruction and unfortunately ushered in an era of pervasive official discrimination that lasted until the 1960's, when passage of major reform legislation became possible. The removal of federal troops enabled the Democrat Redeemers to gain control at the state and local levels in states that had caused the Civil War by rebelling in 1860. Ten years of Reconstruction had left deep scars among these states and the policies by these states adopted quickly altered the South and left new scars that remain today.

But, fear not. Florida's elections have always been interesting, and the controversies have not just been limited to Florida's role in national elections. The ebb and flow of party loyalties and identifications have mattered a lot and mattered little depending upon the era in Florida. For decades, the politics of Florida were driven by what was referred to as "The Pork Chop Gang," a group of rural legislators that controlled Tallahassee and used what could only be referred to as redistricting in a very loosely-defined way. It took multiple court rulings, the adoption of the 1968 state constitution and a few efforts at semi-accurate map drawing to balance the power of Florida so that where you lived wasn't handicapped by how you were represented. Up until that change, a group of about 20 state legislators ruled Florida.

With new maps and political alignments came new candidates from the more urban areas of Florida. The 1968 Constitution

established a state cabinet of six members plus the Governor and many state agencies were under the control of the cabinet, not just the Governor. This created an election bounty, since there were now seven statewide cabinet offices, two U.S. Senate positions elected statewide and a three-member Public Service Commission, also elected statewide. Candidates emerged from every corner of Florida, so ballots included hotly-contested races. Defining what a Democrat or Republican was became an art form. In these early post-'68 years the Democrat party covered a broad philosophical spectrum. Democrats from the Panhandle, other rural counties and a few from Northeast Florida, were considered very conservative. Republicans won few elections and usually held roughly 30 seats in the Florida House of Representatives, truly a minority party. But now and then the Republican minority would join with conservative Democrats to elect Republicans statewide. This usually occurred because of the proclivity for Democrats to squabble and divide, with opposing philosophical views creating deep divisions within the party. In 1966, Claude Kirk was elected governor, the first Republican since Reconstruction in Florida to do so, in large part because of the Democrats' inability to unite after a highly-divisive primary.

In 1966, the Democrat primary was a hotly-contested race between sitting Governor of Florida Hayden Burns, former Jacksonville Mayor Scott Kelly from Orlando and Robert King High, a liberal reform mayor of Miami who was backed by the more liberal wing of the party. High trailed Burns in the primary election, but in those days, Florida had a run-off system. Kelly



backed High initially, but in a more tepid fashion. Burns accused High of “buying off” Kelly, which infuriated Kelly who then more actively campaigned for High, who won the nomination of the Democrats. However, the conservative wing of the party refused to back High, linking him to the liberal Washington elites, including the Kennedys, which resulted in the Kirk victory. An interesting footnote is that High died about ten months after the election. Had King won the race, the president of the senate at that time, Verle Pope from St. Augustine, would have become Governor since there was no Lt. Governor until after

the 1968 Constitution was adopted and Claude Kirk appointed Ray C. Osborne, a state House member, as Lt. Governor.

The modernization of Florida’s government started with the adoption of the 1968 Constitution, but it was the elections of 1972 and ‘74 that fully solidified that business as usual was no more. Oddly, it was a reform-minded Democrat from the Panhandle, Reuben Askew, who brought about changes in both ethics and structure to Florida when he defeated the always-colorful Kirk in 1970. Askew’s victory was secured in part because Kirk had not maintained the coalition he had used to

win in 1966 and because, in a rare instance, another key Republican candidate, Skip Bafalis, refused to endorse Kirk, creating a fissure usually reserved for Democrats. Askew was among the first of the “New South” governors, which included Jimmy Carter, Dale Bumpers, and later Bill Clinton. However, despite the clean image of Askew and his push for open government and strict ethics rules, there was plenty of scandal in Florida. At one point, there were three cabinet officers, a Supreme Court justice, and even Askew’s own Lt. Governor, Tom Adams, under investigation and embroiled in controversy. In 1974, a House committee held hearings concerning land dealings and involved Askew’s chief of staff in those hearings. However, Askew remained outside the scope of all the investigations and was the first Florida governor to serve two full eight-year terms. Since then, there have been only five: Askew, Graham, Chiles, Bush and Scott to do so, with Leroy Collins serving a two and then a four-year term.

The 1970’s in Florida were ripe with hotly-contested races and party divisions. Both parties suffered defeats in general elections because divisive primaries fractured each party at a time when close elections prevailed and each candidate needed full party support to succeed. While reforms were being enacted, and many would refer to the following period as Florida’s “Golden Era,” there was still plenty of tarnish to go around. A notable example – Gerald Lewis, a former Miami state senator, running against the incumbent Bud Dickinson, effectively targeted Dickinson who was under federal investigation for tax issues. He would do this by holding “empty chair debates” across Florida as

Dickinson stayed low and not very visible. Lewis won easily. Lewis had previously won a primary race for the U.S. Senate in 1972 against Public Service Commissioner Jess Yarbrough, but later lost in the general election to Paula Hawkins, the Republican nominee.

In 1974, there was a heated contest for the other Florida U.S. Senate seat. Eleven candidates ran in the Democrat primary including these sitting Democrat office holders: Secretary of State Dick Stone, former House Speaker Dick Pettigrew, former Senate President Mallory Horne, and Congressman Bill Gunter. The crowd forced a run-off between Gunter, who had been in first place, and Stone, who narrowly won the nomination 51-49 percent. However, the divisiveness of this primary was countered by an equally-contested race on the Republican side where incumbent Ed Gurney had chosen not to seek re-election after being indicted for taking bribes. The highly-successful businessman Jack Eckerd, of the drugstore fame, defeated Paula Hawkins for the Republican nomination. With American Party candidate John Grady earning over 15 percent of the vote, Stone defeated Eckerd. Again, acrimony within parties took its toll on election results. By the end of Stone’s term, in 1980, six Democrats sought to oppose him in the primary including Bill Gunter, who by now had been elected as State Treasurer. Again, Stone and Gunter were forced into a run-off but in the rematch, Gunter prevailed. Again, acrimony and divisive party politics prevailed and Paula Hawkins, running in the heated Reagan-Carter presidential election, defeated Gunter in the general election. Ronald Reagan took over 55 percent of the

Florida vote - his coattails assisted a great deal, and the lingering acrimony didn't help the Democrats in their cause.

Party disagreements have also occurred in several other elections, in part helping the opposing party to win. In 1986, sitting Attorney General Jim Smith, a Democrat, lost the gubernatorial primary to State Representative Steve Pajcic. Smith's supporters, generally more conservative than Pajcic's, then switched their allegiance to Tampa Mayor Bob Martinez, the Republican, who went on to become Florida's second Republican governor since reconstruction. Democrats regained the office with Lawton Chiles winning in 1980, defeating Bob Martinez's reelection effort. Chiles won re-election in 1994, narrowly defeating Jeb Bush, who then won the office in 1998. Republicans have now held the governor's office in Florida since 1998, with Bush, Charlie Crist (who was then a Republican before switching to independent before switching to democrat) and Rick Scott.

Politics does yield strange bedfellows, but it also reveals the underlying philosophical nature of a state. Florida has never leaned philosophically to either end of the spectrum for very long. There has been a conservative dominance over the past 20 years, but even within that dominance we have seen Democrat Bill Nelson easily win his U.S. Senate seat and Alex Sink win the office of State Chief Financial Officer, later losing to Rick Scott in a race for governor that had only a little more than a one percent difference in the final tally, with neither candidate earning a majority. Florida is colorful, but for now it would be correct to call it a deep purple. The 2018 elections should be no different than what history has illustrated. There will be closely-fought primaries for governor and all of the three cabinet offices. There will be a battle royal for the U.S. Senate seat held now by Bill Nelson, but with Rick Scott offering a tough challenge, and there will be many state and local races with victors not knowing until late at night, or perhaps morning, who actually wins. Florida politics is, and always has been, entertaining!



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Florida's Changing Electorate: More Racially/Ethnically and Age Diverse

Susan A. MacManus

USF DISTINGUISHED UNIVERSITY PROFESSOR EMERITA

It is often said that Florida's politics have largely been "imported." There is some truth to that statement. Two-thirds of Floridians were not born in the Sunshine State. One in five was born in a foreign country.

Florida is now the nation's third largest state. Its population growth in each decade

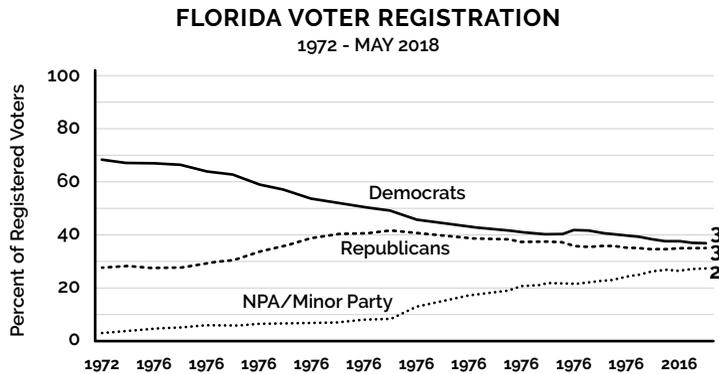
since 1970 has been largely driven by the influx of people from other states and countries.¹ This pattern has significantly changed the demographic composition of Florida, making it **one of the nation's most racially/ethnically and age diverse**. Over one-third (36 percent) of the state's registered voters are nonwhite; 46 percent

are under 50 years of age.

These two major demographic shifts have changed the state's politics to the point where it is now:

1. **The most competitive in the nation.** In the last four major statewide elections, the margin of victory for the winner has been one percent (2010 and 2014 gubernatorial, 2012 and 2016 presidential). The state's role as a bellwether swing state in presidential elections has made its changing electorate of great interest to politicians and scholars alike.
2. **Nearly evenly divided between registered Democrats and Republicans** (37 percent and 35 percent, respectively); the gap between the two major parties is the narrowest in the state's history. Democrats have always outnumbered Republicans but now neither is a majority of the state's 12.9 million active registered voters.
3. **A state where the sharpest increase in registration is with No Party Affiliation (NPA) or a minor party.** The share of voters registering with the two major parties is shrinking. Who is most likely to view themselves as independents? The incidence is highest among Hispanics and Asians and the youngest generations.

Fewer Floridians Registering as Democrats or Republicans



Source: Florida Division of Elections

Florida's Growing Racial/Ethnic Diversity

The influx of minorities from abroad and from other states over the past several decades has changed the state's racial/ethnic makeup considerably. Hispanic and black Floridians make up a larger share of Florida's populace (Asians slightly less) than of the nation at-large. But these broad labels mask country-of-origin-based cultural and political diversity. The group of Floridians who identify themselves as multi-racial is also on the upswing, challenging traditional race/ethnic-based micro-targeting strategies aimed at improving voter registration and turnout.

Hispanics (16 percent of Florida's registered voters). Among Hispanic Floridians, the top countries of origin in order are: Cuba, Puerto Rico, Mexico, Colombia, Dominican Republic, Venezuela, Honduras, and Nicaragua. At one time, Cubans were the majority of all Hispanic registered voters and were mostly Republicans. That is no longer true. Non-Cuban Hispanics are now the majority.

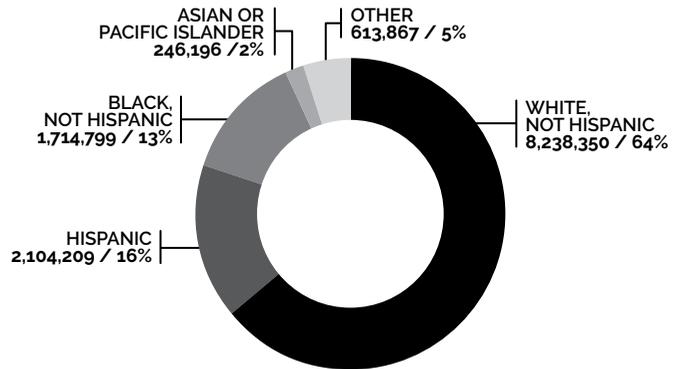
While it is true that Cubans are still the most Republican of all Hispanics, the younger generations are less so than their elders. Today, a majority of Hispanic voters are registered as Democrats or as NPAs.

Two-thirds of all migrants moving from Puerto Rico to Florida 2005-2016 moved to central Florida, where many Puerto Ricans already resided.² The same was true of the post-Hurricane Maria migrants. Of great interest in 2018 is whether the newly-arrived Puerto Ricans who have migrated to Florida after Hurricane Maria will register and vote Democratic or whether their real political impact will be felt more strongly in the 2020 presidential race when they will have had more time to put their lives back together. Historically, Puerto Ricans migrating straight from the island have tended to register as NPAs while those re-locating to Florida from other states like New York and New Jersey register as Democrats. In a one percent margin-of-victory state, both major parties are fighting hard for this new group of voters, fully aware that the future of their party is at stake.

Asians (2 percent of registered voters). The state's Asian population, while small, has been growing at a rapid pace. From 2000 to 2010, they were the fastest growing racial group in Florida and the U.S.³ They have moved to areas of the state with strong knowledge-based, STEM job growth⁴—near universities, high-tech industries, and military bases. Like Hispanics, Florida's Asians are quite diverse, with the largest

Over One-Third of Florida's Registered Voters are Nonwhite

FLORIDA VOTER REGISTRATION BY RACE
MAY 2018



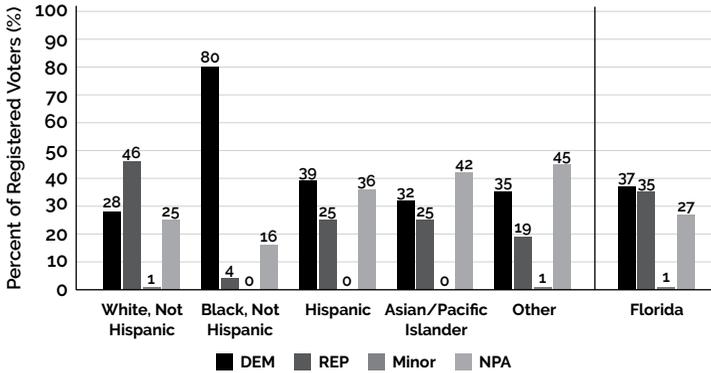
Source: Calculated by author from Florida Voter Registration System May 2018 data, Florida Division of Elections

countries of identity being (in order): India, the Philippines, China, Vietnam, Korea, Pakistan, and Japan. As has been the case for many years, a higher percentage of Asians register as NPAs than as Democrats or Republicans. Historically, the Asian vote has been up for grabs⁵ although, in recent years, they have leaned Democrat in their voting patterns.

Blacks (13 percent of registered voters). Florida's black population, while not growing as rapidly as the Hispanic and Asian populations, has become more diverse as well, driven by the influx of foreign-born blacks from Haiti, Jamaica, Trinidad and Tobago, and the Dominican Republic.⁶ Florida's American-born black population largely registers as Democrats. There is slightly more partisan diversity among some foreign-born blacks. As with other races/ethnicities, a small but growing share of younger blacks are choosing to be NPAs.

Fewer Floridians Registering as Democrats or Republicans

FLORIDA VOTER REGISTRATION BY RACE/ETHNICITY & PARTY
MAY 2018



Note: Due to rounding, zero as reported above does not mean a true zero.

Source: Calculated by author from Florida Voter Registration System May 2018 data, Florida Division of Elections.

Young vs. Old: Age Makeup of Florida's Registered Voters Changing

Florida's continued reputation as a bellwether state in national politics is "the product of growing generational and ideological tensions between the state's aging baby boomers and its more racially/ethnically diverse younger generations."⁷

Nationally, in 2016, Millennials and Generation Xers combined cast more votes than Boomers and older voters.⁸ The long-predicted "young vs. old" battle⁹ is now front and center in Florida politics.

Many Floridians are unaware that younger voters are a growing share of the electorate. The truth is that Florida's three youngest generations (#Generation,¹⁰ Millennials, Generation X)—those ages 18-53 in 2018—now make up 52 percent of Florida's registered

voters, while the Baby Boomers, Silent Generation, and Greatest Generation comprise 48 percent.

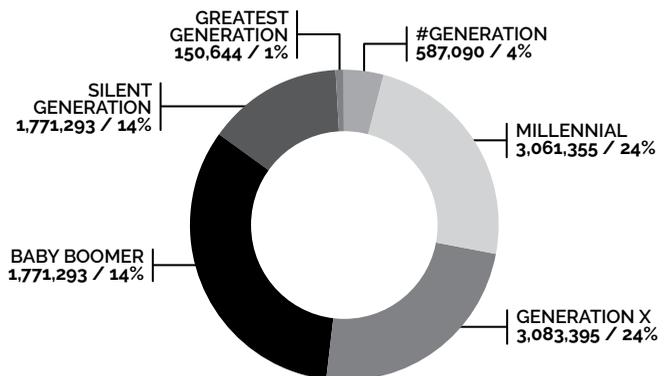
One explanation for this trend is that racial/ethnic minorities, particularly blacks, Hispanics, and multi-racial individuals, are younger than whites. Another is that Florida's reputation as a "job magnet" and fun place to live has attracted a lot of younger residents from other states.¹¹

The biggest impact this "generational changing of the guard" has had on

Florida politics is reflected in current party registration by generation figures. The younger the generation, the higher the share that is registering as No Party Affiliation. This pattern is very alarming to the two major parties, each of which

Three Youngest Generations Make Up 52% of Florida's Registered Voters

FLORIDA VOTER REGISTRATION BY GENERATION
MAY 2018



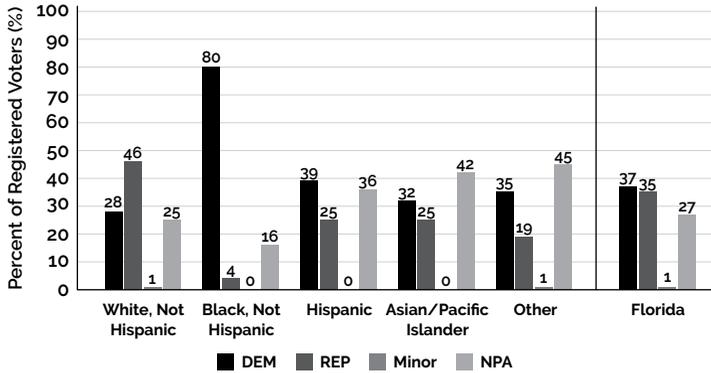
Note: #Generation (Age in 2018: 18-21); Millennials (22-37);

Generation X (38-53); Baby Boomer (54-72); Silent (73-90); Greatest (91+).

Source: Calculated by author from Florida Voter Registration System May 2018 data, Florida Division of Elections

Fewer Younger Floridians are Registering as Democrats or Republicans

FLORIDA VOTER REGISTRATION BY RACE/ETHNICITY & PARTY
MAY 2018



Source: Calculated by author from Florida Voter Registration System May 2018 data, Florida Division of Elections.

is having difficulty figuring out how to effectively target this growing portion of the electorate, which can be the difference between winning and losing in a closely contested state like Florida.

These NPAs cannot vote in a party primary yet we know that their turnout rate in a general election can be affected by a party’s nominee. That was evident in the 2016 presidential election when younger voter turnout greatly lagged that of older voters. The wider-than-usual turnout gap (56 percent among voters under 30; 82 percent among those 65 and older) was blamed, at least in part, on the dislike of both Hillary Clinton and Donald Trump by younger voters.

There are many questions about the likely participation rate of Florida’s younger voters in this year’s midterm election. To what degree will the shooting at Marjorie Stoneman Douglas High School, the #MeToo Movement, immigration, and criminal justice reform spark considerably higher-than-usual registration and turnout

rates among the state’s younger voters? Will top-of-the-ticket races, especially the gubernatorial race, feature major party candidates that excite and energize these young cohorts? Or will they be driven to participate more by some of the proposed constitutional amendments like automatic restoration of felon voting rights or the one outlawing off shore drilling and vaping in public places? (Millennials are often referred to as the state’s strongest environmental issue voters.)

Predictions for a Widening Generational Gap

Projections are that Florida’s population will continue to diversify. Racial/ethnic minorities will become an even larger share of the state’s residents and the generational divide will deepen. According to new studies of U.S. Census data, racial minorities have been identified as “the primary demographic engine of the nation’s future growth, countering an aging, slow-growing and soon to be declining white population.”¹²

Demographic changes on the horizon will surely prompt political change. The big question in Florida is which major political party will benefit most? Democrats are hopeful this young “rising diverse electorate” will turn Florida blue again soon. Republicans believe that as taxes disproportionately negatively impact younger voters of all races/ethnicities, they will capture a larger share of the younger

electorate—a longer-term view. In the meantime, among younger Floridians, the number registering as NPAs continues to

increase...and it is anybody's guess as to whether and how they will vote in the 2018 midterm election.

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2018 Abridged Florida Amendment Guide

JMI Policy Team

Introduction

On November 8, 2018, Floridians will march to the ballot box to cast their respective votes. Beyond determining the next crop of public officials, the ballot tasks Floridians with passing judgment on 13 proposed constitutional amendments. The 13 amendments found on the 2018 ballot represent the highest total in 20 years. Each

amendment requires an examination despite the intimidating number of proposed measures. Constitutional initiatives play a pivotal role in the governance of the State, and thus warrant a heightened level of scrutiny.

Proposed constitutional amendments on the November ballot hail from three unique sources: the Florida Legislature, the

citizens of Florida, and the Constitution Revision Commission (“CRC”). The Florida Legislature passed three Amendments (1, 2, and 5) to the ballot. Aside from legislative action, the Florida Constitution carves out an area for a citizen initiative petition. The citizens of Florida are able to place proposed amendments on the ballot by gaining more than 766,200 signatures from 14 of the State’s 27 congressional districts. Floridians met the requirements on two measures: Amendments 3 and 4. The final source of ballot initiatives comes courtesy of the CRC. The CRC meets every 20 years to examine the Constitution, and propose amendments. This year the CRC proposed eight ballot initiatives (Amendments 6 through 13). Regardless of how a measure made it to the ballot, all amendments require a 60 percent voting majority to pass.

As Floridians, it is our civic duty to responsibly educate ourselves on important alterations to the Florida Constitution. On the pages that follow, readers can find an analysis of each ballot initiative.

AMENDMENT 1

Increased Homestead Property Tax Exemption

BALLOT LANGUAGE: Proposing an amendment to the State Constitution to increase the homestead exemption by exempting the assessed valuation of homestead property greater than \$100,000 and up to \$125,000 for all levies other than school district levies. The amendment shall take effect January 1, 2019.

WHAT YOUR VOTE MEANS: A YES vote on this measure: exempts the home values between \$100,000 through \$125,000 from property taxes—other than school

taxes—which increases the maximum homestead exemption to \$75,000.

A NO vote on this measure: keeps the current homestead exemption structure, and retains the \$50,000 exemption rather than raising it to \$75,000.

PROS: Simply put, a YES vote on Amendment 1 lowers taxes and puts more money back in the pockets of Floridians. The average homeowner would see \$230 in annual property tax savings. Any act that returns wealth back to the pockets of the taxpayer puts that money back into the private market. The increase in the homestead property tax exemption also limits the role of local government by providing more restraint on their ability to generate additional revenue – local officials would have to raise millage rates. It should also be noted that public schools are exempt from the tax cut.

CONS: In order to give money back to the taxpayers, local government must adjust to a lower revenue stream. Opponents argue that property taxes act as the main source of revenue for local governments, and they need the funds in order to address public issues.

AMENDMENT 2

Limitations on Property Tax Exemptions

BALLOT LANGUAGE: Proposing an amendment to the State Constitution to permanently retain provisions currently in effect, which limit property tax assessment increases on specified non-homestead real property, except for school district taxes, to 10 percent each year. If approved, the amendment removes the scheduled repeal of such provisions in 2019 and shall take effect January 1, 2019.

WHAT YOUR VOTE MEANS: A YES vote on this measure: removes the January 1, 2019 sunset provision on the property tax assessment limitation of 10 percent each year for real property.

A **NO** vote on this measure: maintains the January 1, 2019 expiration date for the 10 percent property tax limitation.

PROS: The non-homestead real property limitation caps the year-to-year increase at 10 percent. This means that, regardless of the market value increase, the 10 percent cap is in effect. The failure to pass the measure would put jobs and small business development at risk. With this vote, Floridians have an opportunity to avoid a major property tax increase—an increase that could cost the state dearly. Studies show that the failure to pass this amendment would disproportionately affect renters, seniors on a fixed income, businesses, owners of undeveloped land, and part-time residents.

CONS: Currently, the measure does not claim any vocal opponents. However, opponents of the amendment could argue that the funds stemming from property taxes are crucial to the well-being of the state. Ultimately, this would serve as a shortsighted view of the Florida economy.

AMENDMENT 3

Voter Control of Gambling in Florida

BALLOT LANGUAGE: This amendment ensures that Florida voters shall have the exclusive right to decide whether to authorize casino gambling by requiring that, in order for casino gambling to be authorized under Florida law, it must be approved by Florida voters pursuant

to Article XI, Section 3 of the Florida Constitution. Affects articles X and XI. Defines casino gambling and clarifies that this amendment does not conflict with federal law regarding state/tribal compacts.

WHAT YOUR VOTE MEANS: A YES vote on this measure: gives Floridians the exclusive right to authorize casino gambling within the state.

A **NO** vote on this measure: keeps the right to authorize casino gambling with the Legislature.

PROS: This amendment gives Florida voters the ability to authorize any expansion of casino gambling. In order to pass any form of expansion, a 60 percent majority vote must exist. This measure shifts the policy decision to the voters directly, as opposed to elected politicians. The measure adds language to the Florida Constitution that limits “casino gambling” to: card games, casino games, slot machines, and other similar games. The measure does not apply to dog racing, horse racing, jai alai, etc.

CONS: Citizens elect representatives to serve on their behalf. If elected officials do not adequately execute the core functions of the job description, citizens have avenues to replace them. Holding a vote for any expansion of casino gambling leads to unnecessary referendums. The lawmaking function has already been delegated to our legislative branch of government. Furthermore, this amendment severely regulates the gaming industry, which could stunt its growth.

AMENDMENT 4

Voting Restoration Amendment

BALLOT LANGUAGE: This amendment restores the voting rights of Floridians with felony convictions after they complete all terms of their sentence including parole or probation. The amendment would not apply to those convicted of murder or sexual offenses, who would continue to be permanently barred from voting unless the Governor and Cabinet vote to restore their voting rights on a case by case basis.

WHAT YOUR VOTE MEANS: A YES vote on this measure: restores the right to vote for people who have committed felony crimes. There are some exceptions for individuals who have committed murder or a felony sexual offense.

A NO vote on this measure: continues the practice of denying felons full voting rights upon release.

PROS: Amendment 4 re-enfranchises individuals who paid their debt to society. The current system poorly ushers felons back into the voting environment. Felons must wait 5-10 years before fully regaining their voting rights. In February, the United States District Court declared the current voter restoration process unconstitutional. This measure would mean an estimated 1.5 million Floridians regain their right to vote. Moreover, this step would properly reintegrate these individuals back into both the Florida society and economy.

CONS: A process to award felons their voting rights already exists in Florida. Prior to the court ruling the voter restoration process unconstitutional, the State was able to strip felons of their voting rights.

The system approved by the State in 2011 created an avenue for felons who committed nonviolent crimes to restore their rights. In order to apply, these individuals must wait for a minimum of five years before the restoration process takes place. The restoration process points to a policy of having felons earn their rights back.

AMENDMENT 5

Supermajority Vote Required to Impose, Authorize, or Raise State Taxes or Fees

BALLOT LANGUAGE: Prohibits the legislature from imposing, authorizing, or raising a state tax or fee except through legislation approved by a two-thirds vote of each house of the legislature in a bill containing no other subject. This proposal does not authorize a state tax or fee otherwise prohibited by the Constitution and does not apply to fees or taxes imposed or authorized to be imposed by a county, municipality, school board, or special district.

WHAT YOUR VOTE MEANS: A YES vote on this measure: mandates a two-thirds vote by each chamber of the legislature in order to enact new taxes or raise an existing tax/fee.

A NO vote on this measure: retains the current simple majority required to enact new taxes or raise existing ones.

PROS: Florida's prosperity is largely attributed to our low-tax environment. Taxes imposed on the citizens of Florida should be handled with the utmost discernment; thus, requiring more than a simple majority affords this decision a greater consensus. A YES vote helps ensure that our elected officials hold tax dollars in the highest regard. This measure makes

it more difficult to raise taxes than to cut taxes, which is sound policy.

CONS: While making it more difficult to raise taxes may initially seem like a prudent move, it could restrict the government's ability to raise funds. In that sense, it could be argued that this is a shortsighted initiative. In the future, this could hamper the government's functionality, and cause trouble for certain areas of the budget.

AMENDMENT 6

Rights of Crime Victims and Judges

BALLOT LANGUAGE: Creates constitutional rights for victims of crime; requires courts to facilitate victims' rights; authorizes victims to enforce their rights throughout criminal and juvenile justice processes. Requires judges and hearing officers to independently interpret statutes and rules rather than deferring to government agency's interpretation. Raises mandatory retirement age of state justices and judges from seventy to seventy-five years; deletes authorization to complete judicial term if one-half of term has been served by retirement age.

WHAT YOUR VOTE MEANS: A YES vote on this measure: (1) adds rights for crime victims, collectively known as Marsy's Law, to the Florida Constitution; (2) requires that state courts independently interpret statutes rather than deferring to administrative agencies; and (3) raises the retirement age for judges from 70 to 75.

A NO vote on this measure: (1) refuses to add Marsy's Law to the Florida Constitution; (2) allows judges to continue the pattern of deference shown towards agencies; and (3) maintains the current

mandatory retirement age for judges.

PROS: Marsy's Law supplies crime victims—and their families—with a variety of rights. Crime victims would benefit from: the right to due process and fairness; the right to be free from intimidation; and the right to be reasonably protected from the accused. A YES vote respects the importance of victim's rights throughout a criminal proceeding. Aside from Marsy's Law, the measure urges judges to independently interpret statutes. The Florida Supreme Court often substantially defers to agency interpretations, and a YES vote would thwart this trend.

CONS: Florida's Constitution already offers a subsection that briefly enumerates victim's rights. Furthermore, the Legislature guarantees a certain set of rights and safeguards for crime victims. Instead of adding additional (and potentially excessive) language to the Constitution, the issues present in Amendment 6 could be handled through the Legislative and Judiciary branches of government.

AMENDMENT 7

First Responder and Military Member Survivor Benefits; Public Colleges and Universities

BALLOT LANGUAGE: Grants mandatory payment of death benefits and waiver of certain educational expenses to qualifying survivors of certain first responders and military members who die performing official duties. Requires supermajority votes by university trustees and state university system board of governors to raise or impose all legislatively authorized fees if law requires approval

by those bodies. Establishes existing state college system as constitutional entity; provides governance structure.

WHAT YOUR VOTE MEANS: A YES vote on this measure: (1) provides mandatory death benefits to the surviving spouses of qualifying first responders and military personnel who die in the course of duty; (2) requires an affirmative supermajority vote in order to raise university fees; and (3) cements the current governance structure of Florida’s higher education system into the Constitution.

A NO vote on this measure: (1) does not establish mandatory death benefits to first responders and other military personnel; (2) retains the simple majority that is necessary to raise college fees; and (3) does not add language regarding the structure of state universities to the Constitution.

PROS: The measure serves to increase financial transparency in educational institutions across the state. Universities often cloak hikes in tuition prices through various fees. Amendment 7 would require a supermajority vote by the board of trustees in order to raise the cost of tuition and other fees. Finally, the amendment assists the families of first responders and military members in a time of need. The death benefits would be provided from the general revenue fund and support the qualifying survivors.

CONS: Opponents of the measure might claim that the language inserted into the Florida Constitution is too vague. The language does not define what specific death benefits would be conferred. The measure also makes it very difficult for universities to raise tuition if it were to become necessary.

AMENDMENT 8

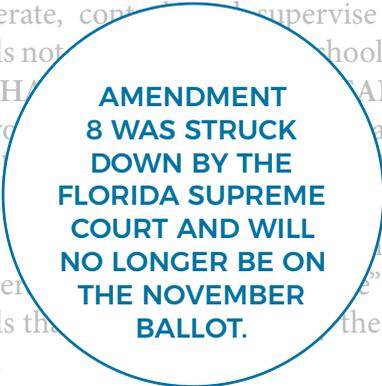
School Board Term Limits and Duties; Public Schools

BALLOT LANGUAGE: Creates a term limit of eight consecutive years for school board members and requires the legislature to provide for the promotion of civic literacy in public schools. Currently, district school boards have a constitutional duty to operate, control, and supervise all public schools. The amendment also maintains a school board’s duties to public schools it establishes, but permits the state to operate, control, and supervise public schools not created by the school board.

WHAT YOUR VOTE MEANS: A YES vote on this measure: Establishes an eight-year term limit for school board members and requires the State to “operate, control, and supervise” public schools that are not created by the school board.

A NO vote on this measure: preserves the status quo. A NO vote allows school board members to run for reelection in perpetuity, maintains the current civic literacy education in public schools, and rejects alternative methods of control over public schools not created by the school board.

PROS: The amendment would restrict school board members to two consecutive four-year terms. This allows new perspectives to enter the school board arena on a more regular basis. Additionally, the measure recognizes the particular importance of enhancing civic literacy in public schools. This prepares students to recognize their rights and responsibilities as



citizens. Finally, Amendment 8 provides for an additional channel of authority, limiting a school board's ability to stifle competition in schooling. Other forms of schools such as charter schools and collegiate high schools would potentially be free from the authority of the school board, should the legislature establish new approval methods.

CONS: Those opposed to the amendment would claim that, although the measure admirably attempts to increase the civic literacy of Florida's youth, this goal could be pursued via different avenues. Critics of this amendment may argue that the Florida Constitution does not need additional language regarding term limits or education; this could be achieved legislatively. Furthermore, the measure could potentially give more power to the State at the expense of the local school board.

AMENDMENT 9

Prohibits Offshore Oil and Gas Drilling; Prohibits Vaping in Enclosed Indoor Workplaces

BALLOT LANGUAGE: Prohibits drilling for the exploration or extraction of oil and natural gas beneath all state-owned waters between the mean high water line and the state's outermost territorial boundaries. Adds use of vapor-generating electronic devices to current prohibition of tobacco smoking in enclosed indoor workplaces with exceptions; permits more restrictive local vapor ordinances.

WHAT YOUR VOTE MEANS: A YES vote on this measure: (1) forbids offshore drilling for oil and natural gas in Florida waters and (2) bans the use of vapor-

generating electronic devices in indoor workplaces.

A **NO** vote on this measure: (1) does not actively forbid offshore drilling and (2) does not add language to the Florida Constitution that prohibits vaping in the workplace.

PROS: In the aftermath of the BP oil spill, Floridians seeking to protect one of our most marketable resources – our beaches – could be in favor of this portion of the measure. It does not restrict the movement of oil and gas across coastal waters; rather, it solely restricts drilling. The amendment also addresses the updates in smoking technology, and revises the Constitution to reflect these changes.

CONS: Those opposed to this measure would make the argument that this is perhaps the most egregious example of the bundling of issues on the ballot. Florida's Constitution Revision Commission, which authored the measure, claims that the policy of oil drilling and vaping are connected by a "clean air; clean water" theme. This assertion is tenuous at best. Neither those in favor of oil-drilling nor vaping seem pleased with this pairing. In addition, both issues present within this measure can be addressed legislatively and do not arise to the level of constitutionality.

AMENDMENT 10

State and Local Government Structure and Operation

BALLOT LANGUAGE: Requires legislature to retain department of veterans' affairs. Ensures election of sheriffs, property appraisers, supervisors of elections, tax collectors, and clerks of court in all

counties; removes county charters' ability to abolish, change term, transfer duties, or eliminate election of these offices. Changes annual legislative session commencement date in even numbered years from March to January; removes legislature's authorization to fix another date. Creates office of domestic security and counterterrorism within department of law enforcement.

WHAT YOUR VOTE MEANS: A YES vote on this measure: (1) requires that the Legislature provide for a Department of Veteran Affairs; (2) creates an Office of Domestic Security and Counter-Terrorism; (3) holds that the Legislature meet on the second Tuesday of January in even-numbered years; and (4) prevents counties from abolishing certain offices—and require elections for those offices.

A **NO** vote on this measure: (1) simply authorizes the Legislature to provide for a Department of Veteran Affairs; (2) does not create an Office of Domestic Security and Counter-Terrorism; (3) keeps the current meeting dates of the Legislature; and (4) refrains from adding language that prevents the abolition of certain offices.

PROS: This amendment addresses an issue that clearly relates to governance, and rises to the level of being in the Florida Constitution. The Legislature already regularly meets from January to March in even-numbered years, so the amendment codifies the custom. Rather than merely allowing for a Department of Veteran Affairs, this measure would ensure its existence to meet the needs of veterans in the state – a growing constituency. Lastly, Amendment 10 creates some necessary uniformity among the posts and elections

of the state's 67 counties.

CONS: Those opposed would claim that, although this measure clearly relates to the governmental matters that have a place in the Constitution, Amendment 10 overrides local governments who would otherwise determine their own constitutional offices. If the measure were to pass, counties would yet again be further beholden to the dictates of Tallahassee. This mandate would require that counties hold certain offices and elections for those offices – those not already doing so would incur additional costs.

AMENDMENT 11

Property Rights; Removal of Obsolete Provision; Criminal Statutes

BALLOT LANGUAGE: Removes discriminatory language related to real property rights. Removes obsolete language repealed by voters. Deletes provision that amendment of a criminal statute will not affect prosecution or penalties for a crime committed before the amendment; retains current provision allowing prosecution of a crime committed before the repeal of a criminal statute.

WHAT YOUR VOTE MEANS: A YES vote on this measure: (1) repeals a provision that prohibits foreign-born people who are not eligible for citizenship from owning, disposing, or inheriting real property; (2) removes obsolete language regarding high-speed transportation in Florida and; (3) clarifies language regarding the repeal of a criminal statute and its prosecution.

A **NO** vote on this measure: (1) keeps the language that prevents foreign-born people who are not eligible for citizenship

from owning, disposing, or inheriting real property; (2) retains the high-speed transportation language in the Constitution; and (3) maintains the current language regarding criminal statutes.

PROS: This amendment organizes some outdated sections of the Florida Constitution in need of cleaning up. The obsolete language that authorizes a high-speed rail in the state unnecessarily clutters the document. Additionally, the measure removes language that restricts the property rights of certain individuals. Finally, Amendment 11 deletes the language of what is known as the Savings Clause. The clause states that a repeal of a criminal statute does not affect the prosecution of a crime committed before the repeal. Proponents of the repeal claim that the measure would correct some of the costs of legislative overreach found in the criminal justice system.

CONS: Those opposing the amendment would argue that there is a need for consistency in criminal sentences and in the legal system. Once a verdict applies to a criminal, it should not be subject to changes in the law over time.

AMENDMENT 12

Lobbying and Abuse of Office By Public Officers

BALLOT LANGUAGE: Expands current restrictions on lobbying for compensation by former public officers; creates restrictions on lobbying for compensation by serving public officers and former justices and judges; provides exceptions; prohibits abuse of a public position by public officers and employees to

obtain a personal benefit.

WHAT YOUR VOTE MEANS: A YES vote on this measure: prevents public officers from lobbying for compensation during their term and for six years thereafter.

A NO vote on this measure: does not create additional lobbying restrictions for public officers.

PROS: This amendment establishes some of the most expansive ethical standards for public servants across the country. Those in favor of this measure would claim that public officers should fulfill their role as servants to the people and not be allowed to then capitalize on their elected office. The measure holds public officers to a standard befitting the duty they take on. Officials owe an obligation to their constituents to refrain from reaping a disproportional benefit because of their post.

CONS: Those opposed to this measure would make a few claims in their opposition. First – that there are a handful of current and recent lawmakers who also serve as attorneys tied to lobbying firms or lobbyists themselves; this measure restricts an individual's ability to find gainful employment. If the measure were passed, the Florida Commission on Ethics would potentially experience an unwarranted increase in power. Additionally, this is a measure that could be accomplished legislatively.

AMENDMENT 13

Ends Dog Racing

BALLOT LANGUAGE: Phases out commercial dog racing in connection with wagering by 2020. Other gaming activities are not affected.

WHAT YOUR VOTE MEANS: A YES vote on this measure: establishes a constitutional prohibition on the racing of and gambling on greyhounds or other dogs.

A NO vote on this measure: maintains the status quo regarding commercial dog racing in Florida.

PROS: Those in favor of this measure highlight the numerous concerns regarding the ethical treatment of dogs within the racing industry. The living conditions of these animals create a toxic environment that leads to serious harm. Furthermore,

the animals are subjected to damaging drugs such as cocaine and opiates (over 400 documented cases in the last decade). The amendment phases out dog racing by 2020, but still allows people to bet on races simulcast from other states.

CONS: There are currently 12 greyhound tracks in Florida which employ roughly 3,000 Floridians. Those opposed to this measure would cite the economic consequence – that an approval of the measure would spell dire consequences for individuals associated with the industry. In addition, opponents would argue that the measure is something that does not belong in the constitution – this measure can be enacted legislatively, or the industry could be further regulated by the legislature.



Why Expanding Education Choice Should Be Florida Voters' Top K-12 Priority

William Mattox

DIRECTOR OF THE J. STANLEY MARSHALL CENTER FOR
EDUCATIONAL OPTIONS, THE JAMES MADISON INSTITUTE

*Sitting on a sofa on a Sunday afternoon
Going to the candidates' debate
Laugh about it, shout about it
When you've got to choose
Every way you look at this, you lose.*

From "Mrs. Robinson," lyrics by Paul Simon

When Floridians go to the candidates' debates this fall – or sit at home and watch them from their sofa – they'll no doubt find plenty to laugh and shout about. But they'll also very likely find they have a lot to lose in this year's election.

No, Florida's political situation isn't nearly as dire or as hopeless as the situation Simon and Garfunkel sang about. In fact, in many respects, the greatest challenge our state faces is complacency.

After years and years of good governance – not perfect governance, certainly, but better-than-most-states governance – Florida could very easily take a wrong turn this fall. To the detriment of us all. And perhaps nowhere is this more apparent than in education policy.

Two Innovative Leaps Forward, One Myopic Push Back

Over the last two decades, a remarkable transformation has taken place in the way Florida approaches K-12 education. Increasingly, we are moving away from a one-size-fits-all "macro" system that is focused on funneling masses of children through state-run educational factories. And we are moving towards a highly-personalized "micro" system that is allowing parents to choose, from an array of educational

options, the learning program(s) best suited to their particular child.

As a result, Florida now boasts more charter school students and more private school scholarship recipients than any other state. In addition, the Sunshine State is now home to the largest K-12 virtual school in the country and to the largest annual homeschooling convention in the world.

So, more Florida students are learning in non-traditional environments than ever before. And thanks in part to this educational diversity – and to the healthy competition it provokes – a rising tide has been lifting all student boats.

Consider, for example, the results of the latest National Assessment of Educational Progress (NAEP), commonly referred to as "our nation's report card," which were released this spring. Only one state – Florida – showed significant learning gains in all four categories measured (4th and 8th grade math, 4th and 8th grade reading). And this was hardly the first time Florida had distinguished itself on the national stage. In fact, a 2012 study by a research team comprised of scholars from Stanford and Harvard found that Florida produced greater learning gains than any other state (except Massachusetts) over the two-decade span dating back to 1991.

Now, in the wake of this impressive record, one would think that all of Florida's current – and aspiring – leaders would be committed to continuing the positive direction in K-12 education. Sadly, however, many of the people aspiring for leadership positions in Florida government remain strongly committed to the myopic public-school regime that routinely opposes the continued expansion of student learning options.

Two scenes from this past legislative session illustrate the often-absurd lengths to which this existing establishment – and its legislative defenders – will go.

Seven days before the Parkland school massacre, a parade of lobbyists from the Florida Education Association, the Southern Poverty Law Center, and other organizations lambasted a Hope Scholarship proposal to aid student victims of bullying, sexual harassment, and violent assault.

Championed by Rep. Byron Donalds (R-Naples), the Hope Scholarship (which Gov. Rick Scott signed into law in March) gives student victims the option of transferring to a different school – public or private – with the financial resources needed to make this happen. This last provision, offering a scholarship that parents could take to a private school they consider safer for their child, elicited the education establishment's ire.

Now, in fairness, no one at that time could have possibly imagined the horror that was about to befall Marjory Stoneman Douglas High. And I'm sure there's now plenty of post-massacre regret from the numskull who said that the proposed Hope Scholarship teaches student victims to "run away and hide" rather than remaining in a

potentially-dangerous situation.

Still, the opposition to this student safety scholarship was surprising – especially when it did not subside after the Parkland massacre. In fact, less than a month after the shooting at Stoneman Douglas High School, a pair of Florida senators – from Broward County no less – tried to strip the Hope Scholarship proposal from an omnibus education package.

Like the FEA, the senators objected to the scholarship program partly because it allowed faith-based schools to be among the options available to bullying victims looking for a new learning environment. This opposition seemed unusually ironic, given that one of these Broward senators had led a very noble (and successful) fight earlier in the session to have legendary educator Mary McLeod Bethune represent Florida in the U.S. Capitol's Statuary Hall.

Bethune, it should be recalled, founded the private, faith-based school for African-American girls that grew into what is today Bethune-Cookman University. So, apparently, the good senator wants Florida schoolchildren to learn all about Ms. Bethune – so long as they are denied the opportunity to attend a K-12 school like the one she founded.

Sadly, leaders of the public-school establishment not only want to squelch all market-based reforms in K-12 education, but they also want to perpetuate the myth that virtually every problem in education can be fixed by spending more public money, especially on teachers.

Obviously, some money is needed to provide a high-quality education. And, certainly, teachers ought to be compensated much like other professionals.

Yet, ironically, the public education unions actually stand in the way of teachers being paid like professionals. Consider this little thought experiment:

1. Have you (or your children) ever had a teacher about whom you would say, “Whatever they’re paying that teacher, it isn’t enough?” Virtually every person I’ve ever asked has known such a teacher.
2. Have you (or your children) ever had a teacher about whom you would say, “Whatever they’re paying that teacher, it is way too much?” Again, virtually every person I’ve ever asked has known such a teacher.
3. Do you think the first teacher that came to your mind should earn more than the second teacher that came to your mind? Virtually every person I’ve ever asked has said, “Of course.” Yet, the teachers unions, bizarrely, object to the notion of merit-based pay. They don’t believe that teachers should be treated like other professionals who are paid according to performance. Indeed, if other professional unions adopted the unfair labor practices that the teachers unions promote, LeBron James would earn no more money than any of the four “non-LeBrons” that take the court each night with him. (In fact, LeBron wouldn’t even make more than the last man on the bench if he had to play by the FEA’s rules.)

This little thought experiment helps to illustrate that when it comes to K-12 education, how much a state spends isn’t nearly as important as how well a state spends. Accordingly, states that operate according to market principles – by fostering competition between various schooling options and rewarding excellence and success – tend to produce better student outcomes, all things being equal, than states that offer one-size-fits-all government schooling.

Indeed, interestingly, when it comes to delivering bang-for-buck in education, Florida – surprise, surprise – ranks #1 in the country. And it isn’t even close.

That 2012 Stanford-Harvard study referenced earlier found that Florida achieved its astounding student learning gains during the 1990s and early 2000s while increasing per-pupil spending less than any other state. In other words, Florida did a better job than any other state in avoiding the “law of diminishing returns,” where increases in spending do not translate into better student outcomes (and, in fact, often hinder progress by exacerbating the problems associated with one-size-fits-all schooling).

Moreover, a soon-to-be-released state-by-state study of K-12 education by scholars at the University of Texas at Dallas shows that Florida remains among the nation’s leaders – not just in delivering steady growth in student NAEP scores, but also in delivering bang-for-buck in K-12 education. More than any other state, Florida comes closest to providing what we all seek whenever we go shopping for any product or service – the highest possible quality at the lowest possible price.

The Most Important Question

The single most important education-related question, then, that Floridians should ask candidates for public office is not whether they support greater K-12 spending and across-the-board pay increases for teachers. The single most important question is this: Do you support or oppose the continued expansion of education choice in our state so that all Florida parents soon will have the opportunity to enroll their child in the school that best suits his or her learning needs?

Lest there be any doubt, many Florida families do not enjoy such choice today. Despite all the progress that has been made

over the last two decades, many "forgotten Floridians" have yet to taste school choice because they earn too much to qualify for low-income scholarships yet earn too little to afford private school tuition or the cost of housing in "good" school zones.

It's time to remember these "forgotten Floridians" by expanding the eligibility of scholarship programs to include more K-12 students. This should be the #1 education priority of the next Florida governor and Florida legislature. And it should be the #1 education-related item Floridians look for when they attend this year's candidates debates – or when they sit at home and watch them from their sofas.



Florida's Future: Protecting Private Property Rights or Growing the Regulatory State?

Daniel Peterson

SENIOR FELLOW, THE JAMES MADISON INSTITUTE

The 2018 elections will decide...

“Life, Liberty, and the Pursuit of Happiness.” Every American should recognize these words penned by Thomas Jefferson in the Declaration of Independence. What many Americans do not know is that he borrowed these words from the

15th century English philosopher John Locke who had authored the phrase, “Life, liberty, and property.” Jefferson and our Founding Fathers recognized that freedom to use and enjoy property was the gateway to maintain individual independence and grow prosperity. They understood that, as

these rights were protected and granted to each and every person, a nation's common good and security would be advanced.

Florida's 2018 election will be pivotal in determining whether private property rights are protected and strengthened or the police and regulatory powers of government over property are expanded.

Over the past 35-40 years, private property rights have both gained protections and suffered policies that have served to weaken them. The rights of a property owner are often called a handful of rights, like something that can be grasped by the five appendages of one's hand. They include the right to possess, to enjoy, to use, to exclude from, and to dispossess.

A Most Recent Example of Property Rights Protection

One of these rights, the right to exclude persons from one's property, was strongly contested during Florida's 2018 Legislative Session. In 2016, the Walton County Board of County Commissioners passed an ordinance giving tourists the right to enjoy privately-owned beaches. The basis for its new ordinance was the common law, "Doctrine of Customary Use." This doctrine says that use must be based upon customary use that is: (1) ancient; (2) reasonable; (3) without interruption and (4) free from dispute. In other words, it is based on past precedence. It is not something to be legislated by a governing body, but decided on a legal basis by a court of law. The new 2018 law (CS/HB 631) does not permit, nor does it prohibit the use of private property based on customary use. But it does prohibit a government entity from passing such ordinances. And it also recognizes the

right of anyone claiming customary use to make their claim in a court of law where proper due process can be exercised. This is a just and right law protecting property rights and the right of exclusion.

Imagine you own a home with beautiful landscaping located near a football stadium. You try to keep masses of people from walking across your property on game day, only to have your local government pass an ordinance giving them permission based on customary use. No property owner would stand for that. However, suppose enough people were elected to office who did not value the property right of exclusion. Imagine them passing a law giving anyone and everyone the right to transverse your property. You would have no ability or right to protect your property from damage or its diminished value. Electing people with a strong understanding of and adherence to property rights protects you and the value of your home.

Florida Protects Property from Improper Condemnation Via Its Eminent Domain Law

Florida's eminent domain law is a strong one protecting property owners. The Fifth Amendment to the Constitution permits government to exercise its police power to take private property for a public purpose, provided just compensation is paid to the owner. However, in 1995, elected officials of the city of New London, Connecticut, who were weak on protecting property rights, voted to condemn private property for privately-funded facilities. Despite the protests of property owners and a lawsuit brought by Suzette Kelo, liberal-minded judges on the Supreme Court failed to

protect property rights, and the properties were taken. In response to this shocking outcome, in 2016, the Florida Legislature (led by then-Speaker of the House Marco Rubio), returned eminent domain to its original and limited use by making clear its purposes and limits.

Had elected officials with a weaker stance regarding private property rights been in charge, the security of property would be subject to the threat of eminent domain by any attractive-sounding development project. Fortunately, the right of property prevailed because candidates with strong property rights values and an understanding of the U.S. Constitution had been elected by the voters of Florida.

Florida Protects Property from Regulatory Condemnation Via the Bert J. Harris Act

The election of candidates that value strong property rights was important in the passage of the Bert J. Harris Private Property Protection Act in 2014. They recognized that new laws, regulations, ordinances, or rules can unfairly and negatively affect the use or value of private property. Imagine you invest your money in beachfront property and are permitted by local government to construct an eight-story condo. After the purchase, but before construction begins, the local government passes an ordinance limiting construction to four stories. As the owner, you just lost half of your investment-backed expectation because your property has just been inordinately burdened.

Thanks to property rights advocates and elected officials with a strong commitment to property rights, property owners now have recourse when local government

actions negatively affect their right to use their property. An owner now has the right to sue the government when an unfair or disproportionate burden is placed on one's property.

A potentially explosive situation is building in Florida. Radical environmentalists and some governments are accusing property owners of polluting ground water through the use of septic systems. These systems have been permitted through the Florida Department of Health. They have not been individually tested. Rather, water samples have been taken from well and water bodies. The water qualities of these wells and water bodies are subject to pollution from storm and hurricane run-off, failing waste water treatment and delivery systems that pump millions of gallons of raw sewage into the environment. Should regulations be enacted to force property owners to bear the cost of replacing their permitted and functioning septic systems with expensive electricity-dependent "high-performance" systems, property owners would have a just cause for suing the government based on the Bert J Harris Act.

Florida Protects Private Property Owners from Extortion When Using Their Property

In December 2013, the Supreme Court of the United States (SCOTUS) settled a case which had been ongoing for 19 years. Coy Koontz, Sr. owned approximately 15 acres of wetlands in Orange County, Florida. In seeking a permit to position his property for development, Koontz offered to place 11 acres into a conservation easement, leaving 3.7 acres to development.

Instead, the District said he would need to pay for improvements to a District-owned property located several miles away that was completely unrelated to the property he was seeking to develop. Koontz refused to pay what, in effect, was extortion. Multiple court cases ensued until the SCOTUS ruled in favor of Koontz.

Elected state officials with strong property rights values took the initiative to protect property owners in Florida from this type of extortion. In 2015, a law was passed that made such exactions (extortions) unlawful. It required that any exactions on a property have a “nexus” to the subject property and be proportionate.

Had candidates with a weaker perspective on property rights been in office, government agencies might still be forcing unreasonable exactions on property owners wishing to exercise their right to use their property.

Threats to Private Property Rights Exist Today

Despite the great work of elected leaders in Florida, the battle for the protection of private property rights continues today. Threats and restrictions to property rights, at times, seem legion. Overreaching environmental regulations, complicated comprehensive plans, expensive impact fees, disproportionate taxes, and time/money-consuming paperwork and permitting are just a few of the obstacles to overcome.

In some areas, the field is simply not level. For example, if you have property and want to use it, you must comply with your local comprehensive plan. Florida’s Growth Management law (163.3177) requires nine mandated elements to be considered by

local governments when addressing growth management. They are:

1. Capital improvements
2. Future land use conservation
3. Transportation
4. General facilities element including sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge
5. Conservation
6. Recreation and open space
7. Housing
8. Coastal management (for coastal local governments)
9. Intergovernmental coordination

Notice that not one of these elements expresses the Legislative intent (163.3161(10)) of this law to protect private property rights. Because of this omission, private property rights are often burdened or abused at local levels or denied.

Measuring a Candidate’s Commitment to Protecting Private Property Rights

The 2018 election will define the next generation of property ownership in Florida. With that in mind, this presents a great opportunity to measure candidates’ commitment to property rights. Ask if he or she will support a 10th mandated element to the local comprehensive plan that would require private property rights to be considered in land use decisions.

Another threat that clouds property rights is the growing government estate. This is more of a threat to the existence of private property. Government owns approximately one-third of the land mass of Florida. More than 30 percent of our state

is already in conservation. Nevertheless, radical environmentalists continue to push for the acquisition of land. Billions of dollars are scheduled to flow into the Florida Forever program to acquire more conservation lands. Meanwhile, currently-owned lands go improperly maintained due to a lack of funding. Unmaintained public lands become breeding grounds of plant and animal invasive species, insects, and fire. This devalues adjacent private property. Additional public land means less property tax revenue needed by local governments to provide for the needs of their citizens. The cycle continues as money for services such as roads, infrastructure improvements, fire and safety are siphoned off in the name of conservation.

Will future elected officials continue to grow the government estate or scale back the growth and land ownership of government? Will they promote stewardship of already-owned property or irresponsibly pursue increased accumulation? How candidates answer these questions will speak volumes about their commitment to stabilizing and even growing the amount of private property or growing government.

A Bright Future for Florida?

The question each of us must answer is will the right of property be nurtured and protected? Or, will those rights continue to be eroded or destroyed in the name of conservation or environmental protection or reducing our state's carbon footprint? No one expects or proposes that all regulations be eliminated. It is good stewardship to protect our state and its resources from careless or thoughtless abuse or neglect. In a free-market society, reasonable people

can be elected who can discuss such issues, protect property rights and protect the beauty and resources of our state. And, it must be remembered, ultimately private property owners are the best stewards of the land they own.

In recent years, great strides have been made. Innovative means of protecting both the environment and property rights have been developed. Affordable, passive conventional septic systems and drainfield mediums, which filter out harmful nutrients, are available if our Department of Health will approve their testing. The current administration under Governor Rick Scott's leadership has aggressively pursued several environmental improvement projects. Accelerating restoration of the Everglades through funding the raising of the Tamiami Trail to advance water flow, funding faster repairs to the Herbert Hoover Dike, and seeking to accelerate federal funding for the same in conversations with President Trump are just a few examples.

Florida's future is promising because we have elected policymakers who have balanced environmental and other concerns with protecting property rights. Nevertheless, it will remain so only if we continue to elect people who understand the need for and benefits of strengthening private property rights. Not to do so limits our state's future. And, perhaps most importantly, it diminishes every Floridian's unalienable right to "Life, Liberty, and the Pursuit of Happiness."

As this watershed election approaches, take time to know the candidates, ask them hard questions, see where they stand on property rights issues, and work hard to elect the best. Florida deserves no less.



The Stakes for the Court

Jason Gonzalez **MANAGING PARTNER, SHUTTS & BOWEN**

Ask 100 Floridians to identify a major upcoming event that will have the most significant impact on our state for the next generation. You will get dozens of different answers. All of them will probably be wrong.

Change is coming to Florida in 2019, and it is not a change to be feared. This change will be profoundly good for our state. While

its significance may not be immediately appreciated by all, it will dwarf anything we could expect from the Legislature or even the Governor's Mansion. Over time, it will impact almost every aspect of the lives of Floridians for decades. It will happen on January 8, 2019 when three new Florida Supreme Court Justices take the bench on the same day.

Those who have had the good fortune of avoiding the Florida judicial system may believe the new justices will not affect them. Nothing could be further from reality. Every Floridian will be directly or indirectly impacted by the decisions made by the seven justices of Florida's highest court. Take, for example, two Florida Supreme Court cases in the last decade deciding the fate of Florida's workers' compensation system. In both cases, the current majority on the Court, which is widely considered by court analysts to be one of the most left-leaning in America, invalidated legislative reforms designed to reduce insurance premiums. The predictable result of these decisions was a dramatic increase in workers compensation insurance premiums paid by almost all businesses. Who ended up paying the increased costs that resulted from the Court's decisions? The answer: Florida consumers. Businesses pass on those costs in the form of higher prices for goods and services. There is no escaping the negative impact. Rich or poor, young or old, healthy or sick, every Floridian pays the cost for bad decisions that fail to faithfully adhere to the written law.

The same scenario has played out repeatedly. The current majority on the Court has invalidated legislative reforms governing school choice, streamlining the criminal justice system, reducing healthcare costs caused by lawsuit abuse, and the list goes on. These and other decisions led a national trade association to name the Florida Supreme Court the "#1 Judicial Hellhole in America" in 2017.

So how do we know that the three upcoming vacancies on the Court will bring positive change? While we don't

know with certainty what the new majority on the Court will look like, there are some encouraging indicators.

The majority on the Court responsible for the most criticized past decisions is comprised of only four of the seven justices currently serving. The other three justices, who typically write dissenting opinions on the losing side of the most important cases, include Justices Charles Canady and Ricky Polston, appointed by Governor Charlie Crist; and Justice Alan Lawson, appointed by Governor Rick Scott. Most court analysts compare the judicial philosophy of the three justices in the court's minority to the Textualist jurisprudence of the late U.S. Supreme Court Justice Antonin Scalia and the newest member, Justice Neil Gorsuch. If at least one of the three justices appointed in January 2019 follows a similar jurisprudence to that of Justices Canady, Polston and Lawson, Florida will for the first time in its history have a Textualist majority on its highest court. Those are good odds for Florida.

In 2008, the Wisconsin Supreme Court underwent a very similar transformation. A prominent Wisconsin lawyer was asked what he thought had changed in his state after the Court tipped. His response: "Everything." He recalled that nobody had foreseen all the positive impacts that resulted after the new majority was seated. In Wisconsin there was a renewed fidelity to the original meaning of the Constitution and the separation of powers, and that in turn led to predictability in the Court's decisions. Trial judges followed the lead of the high court and improved in many aspects of their decision-making. Some Wisconsin legislators had a newfound

reverence for Constitutionalism and, in some instances, that changed the debate over pending legislation for the better. Even local governments all the way down to school boards and special districts approached their responsibilities with a new appreciation for consistency in the application of the written law.

A shift toward Textualism at Florida's highest court may have its most immediate impact in the realm of job creation and economic development. An executive with payroll processing giant ADP recently explained the real-world consequences of the Court's past decisions. The economic development consulting division of ADP advises businesses on where they should open new operations or relocate existing facilities. When a company looks for the optimal location to start a new project, Florida starts with several advantages over other states. We benefit from fairly low regulatory barriers, low business taxes, no personal income taxes, and a relatively low cost of living for the work force. But in one recent example from ADP's work, another state beat Florida, and new jobs went elsewhere. Anecdotally speaking, when Florida loses one of these projects, the most common contributing factor is our Supreme Court. Businesses need economic certainty and predictability. Florida's civil justice system has a national reputation for unpredictability and judicial expansion of liability. When businesses have budgeted a specific amount for insurance premium payments and the premiums are unexpectedly increased by more than 20 percent because the Florida Supreme Court invalidated a workers' compensation law that has been on the books for several years,

Florida becomes significantly less attractive to job creators.

So how will the three new justices be appointed, and where will they come from? At the stroke of midnight on the morning of Tuesday, January 8, 2019 the terms of Florida Supreme Court Justices Fred Lewis, Barbara Pariente and Peggy Quince will expire. Under the Florida Constitution, these three justices are ineligible to serve an additional term because they have all attained the age of 70. The three new justices will be judges and lawyers, the names of whom the public will have likely never heard. Later this year, they will quietly submit applications to a nine-member judicial nominating commission. All nine commissioners were appointed by Governor Rick Scott, although the governor was required to select four of the nine from lists of nominees submitted by the Florida Bar.

If you are worried about who has been entrusted with the awesome responsibility of serving on the Supreme Court Judicial Nominating Commission, don't. The nine members are some of the most competent and ethical lawyers and leaders our State has to offer. They represent all parts of Florida and bring a diversity of experience in many areas of the law and government.

The Commission will have 60 days to accept applications, conduct background checks, speak with references, and finally conduct interviews. All meetings of the Commission are open to the public, except for final deliberations and selection of nominees. They will be charged with nominating at least three, but no more than six, individuals for each of the three vacancies. That means there may be as many as 18 nominees for the three vacancies.

Once the new governor receives the list of nominees from the Commission, he or she will have 60 days to make the appointments. The governor may not appoint individuals not nominated by the Commission, and he or she is prohibited from rejecting the nominee list and asking for a new list. Once the governor selects the three appointees, they will be given an official certificate of commission by the Secretary of State and immediately join the Court. No Senate confirmation is required.

Some have debated whether Governor Rick Scott or his successor will have authority to make the appointments. A lawsuit was filed last year by a left-wing special interest group over this question and the Supreme Court dismissed the case as premature. It is unclear whether the issue will ever end up back in court. When a similar issue occurred in the past, the outgoing and incoming governors reached agreement on the process, and they didn't need lawsuits from outside special interest groups in order to work it out.

Regardless of which governor makes the appointments, we can get a good sense of what to expect by looking back to the Judicial Nominating Commission's nominations in 2016 to replace retiring Justice Jim Perry. That year the Commission nominated Judges Wendy Berger and Alan Lawson from the Fifth District Court of Appeal, and attorney Dan Gerber. Governor

Scott ultimately chose Judge Lawson for the appointment, but all three were imminently qualified and shared a common Textualist judicial philosophy. All of this is to say that things are looking very good for Florida as we approach the 2019 appointments.

As we look forward to great improvements on the horizon in the composition of Florida's Supreme Court, we should not lose sight of the significance of the 2018 gubernatorial election in shaping the Florida judiciary for years to come. Even if the three appointments are made by outgoing Governor Rick Scott, the 2018 gubernatorial election will still have a major impact. In an average year, a governor appoints 37 judges to our county, circuit and district courts of appeal. A governor is likely to appoint 300 judges over the course of two terms. Those 300 judges will make up nearly a third of the entire Florida judiciary. It has taken three Republican governors nearly 20 years to bring the Florida judiciary to the present tipping point. Florida's next governor will have the opportunity to continue the positive progress of the past two decades or continue along the path of what others have mocked as a Judicial Hellhole. The 2018 gubernatorial election is not merely about the trajectory of the executive branch of Florida government. The future of the Florida judiciary will also be on the ballot.



Florida Poised to Be Pacesetter in Workplace Democracy Reform

F. Vincent Vernuccio **SENIOR FELLOW, MACKINAC CENTER FOR PUBLIC POLICY AND SENIOR POLICY ADVISER, STATE POLICY NETWORK**

Chantal Lovell **DIRECTOR OF STRATEGIC COMMUNICATIONS, STATE POLICY NETWORK**

Over half the country has laws on the books protecting workers from being fired for not paying union dues, and now a handful of states including Florida are stepping up to usher in the next wave of labor reform.

In March, the Sunshine State took a bold step forward when Gov. Rick Scott signed an education reform package that included a provision granting public educators a greater voice in the workplace. Teachers at unionized schools will automatically be

given the opportunity to vote on whether the current union should remain in place, or if another should step in to represent educators in the event membership falls below 50 percent of eligible employees.

For teachers who may want to belong to a union but, for example, disagree with the current union's quality of representation or stances taken on issues outside the collective bargaining agreement, this will be a method by which they may voice this opinion. For many, it will be the first time they've been given such a voice in their careers.

Yes, they have periodically had the opportunity to vote on the officers who lead their union, but that's little more than a consolation prize compared with having the right to elect the organization that represents them. The limitation Florida educators – and most members of government unions – have faced would be akin to allowing a person to only choose his or her cable television package but withholding the ability to choose the cable or satellite company or the option to cut the cord entirely.

Florida has long prevented unions from having workers fired for not paying them through its right-to-work law, but the state has otherwise allowed government unions to operate without the consent of its current members. Once in place, a government union can reasonably expect to represent a workplace without challenge, as is the case in most states. Short of dropping membership altogether – likely giving up the ability to vote in union elections, losing services a member may want, risking alienation from colleagues, or surrendering something else – teachers have had virtually no ability to challenge a union's customer service, value,

or direction.

By establishing worker voting rights, Florida has given educators a way to signal dissatisfaction in the organization that represents them and perhaps choose one that will be more responsive to their needs and wants.

Florida's embrace of union recertification, as this reform is called, places it among only a couple of other states, including Wisconsin and Iowa, that have become pioneers in bringing democracy to the workplace. In states like these where workers already have a choice in union membership, legislators are beginning to find ways to give them a voice.

Wisconsin started the trend back in 2011 when Gov. Scott Walker signed Act 10 into law, reforming the state's collective bargaining laws, addressing pension debt, ending automatic union dues deductions, and other policy reforms. The law included what is currently the gold standard of workplace democracy: a requirement for annual recertification, meaning unions must frequently and regularly show value to their members or be shown the door.

The Wisconsin victory sparked renewed interest in workplace freedom reform, leading a handful of other states – notably union-strong Midwest states including Michigan and Indiana – to successfully enact right-to-work laws. The momentum continued after the 2016 elections, when voters in multiple states elected policymakers who went on to pass right to work and other related reforms.

While states without right-to-work protections were understandably focused on establishing this fundamental legislation, states that already respect their workers'



right to choose whether to pay a union have worked to replicate the democratic elements of Wisconsin's Act 10. Several states attempted to pass such reforms and, at the federal level, Florida Congressman Francis Rooney tried to enact similar reform through the Current Employee Representation Act, of which he was the chief sponsor. Had it passed Congress, this would have given workers the opportunity to vote on which union represents them if membership falls below 50 percent; management would have been allowed to call for a decertification vote under such circumstances, as well.

These attempts were largely unsuccessful but brought awareness and acceptance to the idea that unions should

be more transparent and democratic to the employees they purport to represent.

In February 2017, Iowa logged the first major win in years on the workplace democracy effort, approving what is possibly the most sweeping government union reform since Wisconsin's Act 10. House File 291 places limits on government collective bargaining and prohibits using taxpayer dollars to collect union dues. Additionally, the law includes a provision establishing worker voting rights, allowing public employees to vote on whether a union should represent them before a new contract is negotiated. A year later, Florida followed suit by affording teachers workplace voting rights but basing the right on union membership rates instead of time

or linking elections to the contract alone.

What comes of the workplace democracy debate – as well as the broader labor reform efforts – largely depends on a pending U.S. Supreme Court decision. The justices are expected to issue a decision by the end of June in the case of *Janus v. AFSCME* – a lawsuit challenging whether forced unionism of public employees is a violation of their First Amendment rights to free speech and association. If their decision is in favor of plaintiff Mark Janus, as many expect it to be, all government workers in the country will enjoy right-to-work protections, freeing up more states to explore a new frontier of labor reforms, as Florida has.

Beyond giving workers the opportunity to vote regularly on the union that represents them, lawmakers in Florida and elsewhere should consider implementing Worker's Choice. This policy solution solves the "free/forced rider" issue that exists in right-to-work states, whereby unions must represent all employees in a workplace, even non-members, and where all employees must accept that representation, regardless of whether they want it. Worker's Choice

allows people who've chosen to leave a union to negotiate with an employer on their own and frees unions from having to provide representation to people who don't pay for that service.

States should also consider various reforms to expand on the freedom afforded to employees, such as requiring workers to opt in to union membership, rather than opt out; requiring unions to collect their own dues instead of using taxpayer resources to collect dues on unions' behalf, as is commonly the practice; and codifying regular union elections for all public-sector unions, rather than those triggered only when membership falls below a certain percentage. Regardless of how the Court rules, Florida has great opportunity to continue expanding workers' rights to have a voice in their unions, and in making them transparent. Decades of dedication to establish school choice policies have made Florida the stand-out state when it comes to 21st century education, and now is its opportunity to build on its own momentum and become the nation's leader in workplace rights.



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A Next Wave of Welfare Reform

Logan Elizabeth Padgett **DIRECTOR OF COMMUNICATIONS AND PUBLIC AFFAIRS, THE JAMES MADISON INSTITUTE**

Earlier this year, President Trump signed Executive Order 13828, which directs federal agencies to reform welfare programs with key goals to move more able-bodied adults from welfare to work, crack down on welfare fraud, and preserve resources for the truly needy.¹ But this executive order is just one vehicle for reform.

In April, the House Committee on Agriculture released the 2018 Farm Bill.² While the U.S. Farm Bill is popularly associated with policies like environmental conservation, forestry, water quality,

agricultural subsidies and usually invokes images of tractors and hay bails, a large portion of the bill deals with reforms to one of America's largest welfare programs, the Supplemental Nutritional Assistance Program (SNAP) commonly known as food stamps.

The 2018 Farm Bill calls for an expansion of work requirements for most able-bodied middle-aged adults and commonsense reforms that build on successful state-led reforms. It marks a next step in a national discussion of welfare reform.

A Short History of Welfare Reform

In 1996, a Republican-led Congress passed significant welfare reform that President Bill Clinton signed into law. These reforms made it possible for states to fix their broken welfare systems and help more people out of poverty.

Most consider the 1996 reform a success. The combination of work requirements and time limits helped to move millions of able-bodied adults from dependency to self-sufficiency, and preserve resources for the truly needy. While the 1996 law made major changes to cash welfare, the changes to the food stamp program were less robust.

When the food stamp program was first implemented nationally in the 1970s, just one in 50 Americans participated.³ Today, according to the Congressional Budget Office, one in seven Americans receives SNAP benefits, with a total number of 44 million enrolled in assistance.⁴ Much of this growth is being driven not by individuals with disabilities, children, or seniors, but by able-bodied adults.

Work requirements have been part of the SNAP program at various times since its inception, recognizing the mental and financial health benefits of holding a job.

However, one of the biggest problems with SNAP and the reason it grew so quickly during the recent recession is the lack of any requirement that recipients actively seek employment. Before 2009, recipients were required to work or participate in a work-training program in order to receive long-term benefits, but many states waived those requirements between 2009 and 2010, including the state of Florida. In January 2016, Florida reinstated work requirements for able-bodied adults. The 2018 Farm Bill

would limit the 33 other states still waiving work requirements for snap enrollees.

Ordinarily, low-income able-bodied adults between the ages of 18 to 50, who do not have children, are limited to receiving food stamps for only three months in a three-year period, unless they fulfill work requirements, which entail employment or participating in a training or workfare program for at least 20 hours a week. In the past, states have used loopholes in the way of waivers and weaker eligibility requirements to keep as many able-bodied adults on the program. More than a third of the nation lives in an area where work requirements are waived by their state legislatures, despite record-low un-employment. Nevertheless, an estimated 13 million able-bodied adults on food stamps do not work at all.⁵ The 2018 Farm Bill would limit waivers to areas with unemployment rates above seven percent.

When then-President Clinton signed the 1996 “Personal Responsibility and Work Opportunity Reconciliation Act” (PRWORA) into law, he and Congress vowed to “end welfare as we know it.” Today’s program has strayed from the original design of welfare being a program to help the neediest among us.

The State of Florida is facing one of the most pivotal elections in history. With a new governor, new cabinet, three new Florida Supreme Court justices, and new members of the state’s legislature, Florida can continue to lead the nation in welfare reform. With the passage of the 2018 Farm Bill, Florida needs to prioritize the provision of assistance for the truly needy and move more able-bodied adults from government dependency to self-sufficiency. However, without specific policies protecting work

requirements and waiver limits within the Farm Bill, policymakers would be able to revert to prior policy paths that trapped Floridians in generational poverty.

The Importance of Work

Many of us know from personal experience in our youth that a first job is an effective starting point where the “soft skills” are learned: punctual attendance, taking direction, getting along with co-workers. Not only does work develop family well-being economically by providing a stable source of income and the opportunity to acquire assets, but it also builds self-esteem, develops social relationships, cultivates role models for children, and encourages relationships of respect among adults and between adults and children. It creates a path to higher wages and is a key to a productive and prosperous life.

States facing a poverty challenge are learning that work has the power to change lives.

Successful States are Leading the Discussion

At the time when Maine Governor Paul LePage assumed office in 2011, one in three people living in the state of Maine were enrolled in some sort of welfare program.⁶ To address this crisis, in October 2014 Maine started requiring about 16,000 able-bodied childless adults to work, train, or volunteer on at least a part-time basis in order to continue receiving food stamps. Adults who refused to comply with the new state requirements would cycle off the state’s welfare rolls after three months of receiving benefits.

After implementing these reforms,

Maine quickly moved thousands of adults out of government dependency. By January 2015, the number of able-bodied adults on food stamps had dropped to 4,500 and has continued to decline.⁷ Maine ranked first in the nation in 2014 for its decline in food-stamp dependency, according to the U.S. Department of Agriculture’s Federal Nutrition Service. Today, only 1,500 able-bodied childless adults rely on food stamps in Maine –a tremendous accomplishment. Not only has Maine reduced the number of welfare enrollees, but the recent welfare reforms have led to greater employment, higher earnings, and less dependency, according to a report published by the Maine Department of Health and Human Services and the Maine Office of Policy and Management.⁸

As additional states begin to implement similar reforms, more and more success stories will rise to the surface and millions of Americans across the country will be better off for it.

The Time for Welfare Reform is Now

There has never been a better time for welfare reform than today. The current unemployment rate is a full percentage point lower than when Clinton signed the 1996 reforms into law and employers are eager to fill open positions with workers. According to the Bureau of Labor and Statistics, nearly three-quarters of the job openings that will occur over the next decade require a high-school education or less.⁹ Nearly four out of five job openings require no training or less than a month’s training on-the-job, while 87 percent require no prior experience.

Built on state-led successes to move more people out of poverty and into self-

sufficiency, the reforms included in the 2018 Farm Bill refocus the system on the truly needy by prioritizing work for able-bodied adults. The bill calls for an expansion of work requirements for most able-bodied adults. If passed, the new work requirements for SNAP recipients would require that adults between the ages of 18 and 59 work or enroll in a training program at least 20 hours per week. People who are disabled, pregnant or caring for a child under the age of 6 would be exempt.

The 2018 Farm Bill aims to help work-capable adults receiving SNAP gain employment to improve their quality of life. The intent of government assistance should

aim to temporarily support Americans living in poverty and help them move into the mainstream economy. State waivers to SNAP work requirements were meant to be used during tough economic times, not during a booming economy.

Americans anywhere on the political spectrum want to help lift people out of poverty, but some allow their ideological commitments to stand in the way of proven solutions and progress. Only when people of all political persuasions look past their predetermined notions, and toward the well-supported facts about which policies work, will our nation make lasting advancements in the war against poverty.

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Structural Reform for Next Generation Prosperity

John Towey AVE MARIA UNIVERSITY CAMPUS REPRESENTATIVE,
THE JAMES MADISON INSTITUTE

It was about 20 years ago, just as Florida and the rest of the world prepared to enter the next millennium, that Floridians from all corners of the state took to the ballot box to redirect the course of the state's government and public policy. Legislators, intent on remedying many of the structural ills contributing to a stagnating economy, made fiscal accountability and

economic freedom their points of focus for the future policies of the Sunshine State.

Thanks to a series of legislative successes throughout the late 1990's and early 2000's, Florida now boasts one of the healthiest business and tax environments in the United States, as well as a government committed to responsible spending. Big moves in the realm of public policy came

when Floridians said "no" to a state income tax and "yes" to constitutional provisions mandating a balanced state budget every fiscal year. Two decades of a fiscally-conservative philosophy on the state level has resulted in a new identity for Florida as a haven for businesses and a beacon of opportunity for all.

The decisions made by Florida lawmakers to embrace the principles of limited government and free enterprise have propelled the state to unprecedented levels of growth and economic prosperity. While our reliance on construction and real estate resulted in Florida being hit harder than most by the "Great Recession," we bounced back faster than any predictions and projections made.

Election day this November will mark a new chapter in the saga of our nation's enviable democratic tradition. The last 20 years of fiscally-conservative governance and prudent statesmanship has provided opportunities for the people of Florida to live lives of independence and prosperity. While we have made tremendous headway in crafting sound public policy, there is always room for improvement. It will be the decisions that Floridians make on November 6th of this year that will chart the next twenty years of freedom and economic opportunity for our state.

Early in 2018, The James Madison Institute published the policy brief, "Structural Reform for a More Prosperous Florida: Common Sense Solutions for a Better Government." Jointly authored by scholars at JMI and the Goldwater Institute, the brief outlines two new policy proposals Florida lawmakers should consider to keep the avenues of free enterprise and limited

government open for the future. With both of these issues weighing heavily on the minds of lawmakers and citizens alike, Florida has an unprecedented opportunity to lead the nation by example.

The Right to Earn a Living Act

While Florida's economic freedom has widened considerably over the last decades, lawmakers have consistently failed to address the barrier that occupational licensing poses to job entry. As it exists presently, approximately one in four jobs require a state-issued license to be certified to work in that profession. By way of contrast, in the 1950s that number was one in 20. This impediment is compounded when state regulatory boards add on extensive licensing requirements which often lack any significant public health or safety justification. A structural solution to the problems occupational licensing is creating comes in the form of a Right to Earn a Living Act.

Championed by the Goldwater Institute and later enacted in Arizona, this policy reform requires regulators to prove the necessity of new agency rules by showing that they specifically fulfill a public health, safety, or welfare concern. For years, administrative rules have only had to meet a "rational basis" standard of review when such rules are called into question. The leniency implicit in this degree of scrutiny has effectively permitted virtually all agency rules to pass into law unhindered, even if they cause adverse economic effects. The Right to Earn a Living Act reverses this standard by subjecting agency rules to a strict scrutiny standard. Under the provisions of the new legislation, regulators

must assume the burden of proof in justifying specific rules and restrictions. If an agency rule fails this standard, it can no longer stand in the way of people seeking to pursue an occupation of their choice.

The REINS Act

Another concern for Florida business owners is the financial and time costs associated with federal and state regulatory compliance. In addition to the enormity of the Code of Federal Regulations, Florida businesses must also maneuver approximately 174,000 restrictions present in the Florida Administrative Code. To give some reprieve to business owners, the REINS Act (Regulations from the Executive in Need of Scrutiny) has been proposed by fiscally-conservative lawmakers in Washington and several state houses. The aim of REINS is to return congressional oversight to its proper role within the legislative process.

Currently, the Florida Legislature has the authority to override existing agency rules and regulations through joint resolution. While sound in theory, the sheer scope of the administrative code, paired with

the short time frame to override existing rules, leaves the problem largely unsolved. REINS is a step in the right direction. The REINS Act grants legislatures the authority to review new agency rules before they become law. This common-sense solution returns much-needed oversight to where it belongs – in the legislative process. The REINS Act presents a the promise that Florida's businesses will no longer be at the mercy of onerous rules and restrictions imposed by unelected, and ultimately unaccountable, bureaucrats. Florida can look to a state like Wisconsin, which has already adopted REINS, and take a stand for economic freedom.

Florida is a modern-day archetype of the American dream. The growth of economic freedom and opportunity over the last 20 years has made for an incredibly dynamic and diverse state where all are free to pursue prosperity and happiness, unimpeded by excessive government intervention. Much of this credit is due to our state's elected officials who have served their constituents well over the years. With much to build from, let us continue to choose economic freedom and fiscally-astute government.



It's Time for Real Occupational Licensing Reform in Florida

Adam A. Millsap ASSISTANT DIRECTOR OF THE L. CHARLES HILTON JR. CENTER AT FLORIDA STATE UNIVERSITY.

Occupational licensing is under fire in states across the country. Both the Obama and Trump administrations have pushed the case for reform, and the Federal Trade Commission recently created a taskforce to study licensing and educate state officials about

its effects. At the state level, politicians in Nebraska and Virginia have already passed bills that reduce or eliminate some licensing requirements. In fact, some Nebraska lawmakers are proposing wholesale reform, and the Wall Street Journal touted their plan as a potential national model¹. But

while progress is being made in some states, much more needs to be done, especially here in Florida.

Occupational licensing is a process by which governments establish qualifications for an occupation and legally restrict people who don't meet the qualifications from engaging in the occupation for pay. Supporters of occupational licensing argue that it improves consumer safety and welfare by establishing minimum skill requirements for workers. However, the amount and type of occupations that are licensed varies widely across states, and researchers have found little evidence that consumers are safer in states with more licensing. This calls into question the notion that licensing is primarily about consumer safety.

For example, one study finds that licensed opticians earn almost 17 percent more annually than similar unlicensed opticians, but that the higher earnings aren't associated with higher-quality service². Another study finds that restricting the ability of physician's assistants to prescribe controlled substances increases outpatient care costs by 12 percent while having no effect on the actual level of care³. Other studies have shown that licensing increases the wages—and thus the costs to consumers—of barbers, massage therapists, and radiologic technologists⁴. According to one estimate, licensing increases the overall costs to American consumers by \$203 billion, and these higher costs aren't accompanied by better quality or more consumer safety⁵.

In addition to increasing costs for consumers, the entry restrictions created by licensing slow employment growth.

One estimate is that the restrictions from occupational licensing reduce the number of jobs nationwide by almost three million⁶. Other research finds that employment growth in an occupation tends to be slower in states that require a license for that occupation relative to those that don't require a license⁷.

Occupational licensing is especially burdensome to people from lower-income households. First, as was previously mentioned, it increases the prices paid for many goods and services by restricting competition. Second, there are the upfront costs of paying for training, license application fees, and license examination fees. These costs can total thousands of dollars, a significant financial hurdle for many people⁸.

Finally, there are the opportunity costs. People who are training or going to school full time in order to get a license have fewer hours available for earning money at a job. Some of the training or schooling may involve internships, but these training wages are typically far less than what people can earn at other jobs. This foregone work and associated income can be a greater obstacle than the upfront costs, especially for single parents and others without a reliable secondary source of income.

There's also evidence that the upfront and opportunity costs of licensing are larger than the financial burden they impose. A recent study links occupational licensing to less economic mobility—which is measured by how likely it is that people move up the income ladder—and greater income inequality⁹. Thus, by making it harder to get jobs in occupations such as truck drivers, HVAC contractors, and dental assistants,

licensing prevents some people from climbing the income ladder.

The empirical evidence clearly shows that occupational licensing increases costs for consumers, slows employment growth, and has little to no effect on product/service quality or consumer safety. There’s also evidence that it reduces economic mobility and increases income inequality. Yet despite these negative effects, Florida’s lawmakers have created one of the most licensed workforces in the country. The figure below displays the percentage of southeastern states’ workforces that require a government license to do their job.

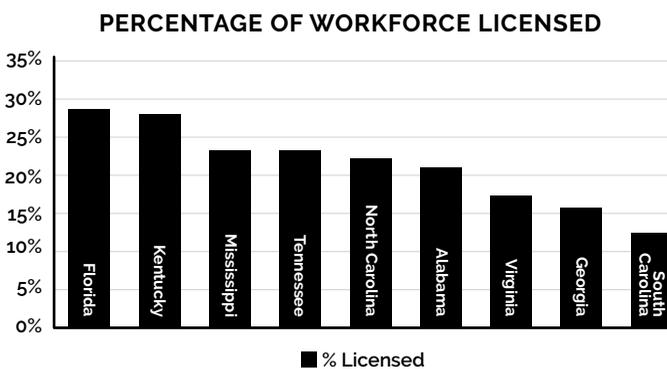
The percentage of the workforce in Florida that requires a license—nearly 30 percent—is higher than any other state in the southeast and is the 4th highest in the country, behind only Iowa, Nevada, and Washington. Kentucky is the only other state in the southeast where more than 25 percent of the workforce requires a license. Meanwhile, South Carolina’s workforce is licensed at less than half the rate of Florida’s workforce. Unless South Carolina is full of exceptionally risky people, it’s unlikely that

most occupational licensing in Florida is mainly about consumer safety.

In the past, Florida policymakers have acknowledged the negative effects of occupational licensing. In response to the damage caused by hurricanes Frances and Katrina, Florida temporarily lifted licensing requirements for roofers¹⁰. The executive orders allowed non-Florida roofers and other in-state and out-of-state contractors not licensed as roofers to repair or replace roofs damaged by the storms. The language of the executive orders and newspaper stories at the time show that the orders were issued to increase the supply of roofers available to Floridians impacted by the storms, an explicit acknowledgement that licensing reduces supply.

Such reductions in licensing standards after storms are also at odds with the safety argument of occupational licensing. It’s reasonable to assume that the high-demand period immediately after storms is also when consumers are most likely to receive low-quality work due to over-worked or unscrupulous contractors. Yet in the hurricane cases, government officials rightly decided that access to service was more important than trying to enforce quality or safety standards through licensing.

Reducing licensing requirements after storms is also an implicit recognition that consumers are capable of making their own decisions about quality, even under stressful conditions. Not allowing consumers to make the same decisions during normal, less stressful times doesn’t make much sense. Florida



Data from Kleiner, Morris M., and Evgeny Vorotnikov. “Analyzing occupational licensing among the states.” *Journal of Regulatory Economics* 52.2 (2017): 132-158.

lawmakers should formally acknowledge this discrepancy by reducing occupational licensing requirements during normal times.

Over the years, Florida lawmakers have introduced some bills that would modestly improve the state's occupational licensing system. Two bills introduced but not passed during the 2018 Legislative Session, HB 1041 and SB 1114, made it easier for incarcerated persons to apply for licenses for some occupations—such as barbers, cosmetologists, and many construction professions—prior to release¹¹. They also required the appropriate licensing departments to clearly identify the crimes that would disqualify a person from receiving a license to alleviate uncertainty. Under the current system, convicted criminals and incarcerated people may pay for training and application fees only to be rejected after they've done so due to their convictions, which is an unfair waste of both their time and money.

Florida has also taken some small steps towards more licensing reciprocity with other states, which is important since studies show that occupational licensing hinders mobility between states¹². State laws typically require new residents to obtain a license in their new state before they can begin working, even if they were licensed in their previous state. Since getting a new license is expensive and time consuming, it adds to the cost of moving and makes it less likely.

To address this, in 2017 Florida passed a bill that eliminates some licensing fees and training requirements for military spouses—who are often transferred across state lines due to their spouse's military

service—as long as they had a license in their previous state¹³. While this bill makes it easier for military spouses to get a new occupational license when they move to Florida, it does nothing for the thousands of workers in non-military households who are in a similar position. There's no compelling reason why this reciprocity policy shouldn't be extended to everyone.

While these bills show that some lawmakers are trying to improve Florida's occupational licensing system, they also reveal that the state isn't doing nearly enough to reduce the substantial barriers occupational licensing imposes on Floridians who just want to earn a living. In fact, the state often takes one step forward and two steps back. Just over the last 25 years, Florida licensed dozens of occupations, including manicurists, security guards, travel agents, child care workers, gaming dealers, security alarm installers, and makeup artists¹⁴. And as indicated earlier, these actions have created one of the most licensed workforces in the entire country. Florida needs more than piecemeal changes to its licensing system if it wants to remain a great place to live and work.

Fortunately for Florida, states around the country are also dealing with occupational licensing and there have already been some broad reforms that Florida lawmakers can use as guides. Nebraska's Occupational Board Reform Act would make it state policy to use the least restrictive regulation necessary to protect consumers, including market competition¹⁵. If market competition isn't enough, other options that are less burdensome than licensing include periodic state inspections or state-required bonding or insurance. The

act also requires mandatory review of all occupational licensing laws and regulations every five years to make sure they are working as intended.

Virginia is also taking steps to reduce the burdens of occupational licensing. Virginia's House Bill 883 requires the state's Department of Professional and Occupational Regulation to count and track the regulations it issues and then cut them by 25 percent over three years¹⁶. This bill is similar to a successful reform implemented in British Columbia, Canada in 2001 that reduced regulation and boosted economic growth, and Virginia is expecting similar results¹⁷.

Florida performs well on rankings of economic freedom, fiscal responsibility, and tax policy, and it's generally recognized as a good place to live, work, and do business¹⁸. Contrary to these positive measures is the state's onerous system of occupational licensing, which has created one of the most heavily-licensed workforces in America. The results of all this licensing are higher prices for Floridians, slower job growth, and less economic mobility. Luckily, states like Nebraska and Virginia are showing Florida lawmakers a way forward. Reform won't be easy, but if Florida doesn't follow their lead it risks falling behind.

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The 2018 Election and the Prospects for Healthcare Policy

Naomi Lopez Bauman

DIRECTOR OF HEALTHCARE POLICY, THE GOLDWATER INSTITUTE

The Maldonado family is the kind of Florida family we might imagine when we think about achieving the American dream. As small business owners, the family founded and runs a small but stable computer repair and IT support company.

Unfortunately, they are also part of a

small and growing slice of small business owners and families struggling to maintain health insurance coverage for their own family and the families of their loyal employees.

The uncertainty around the future of healthcare for the Maldonados and countless others is about to become even

more uncertain. While there isn't enough voter discontent currently to force any grand, comprehensive reform, there may be enough voter pressure to bring about targeted, strategic reforms.

Florida finds itself at a precipice in 2018 with regard to healthcare policy. The path forged by policymakers since 2010 (which included a refusal to embrace the Affordable Care Act, commonly known as "Obamacare," and expand Medicaid to able-bodied working-age adults, a desire to move in the direction of expanding market access to services, and an embrace of innovative concepts like Direct Primary Care) is at stake. With the office of the governor, the entire Florida House of Representatives, and more than one-third of the Florida Senate up for election, Floridians will make decisive choices with their votes.

Unmet promises

According to the annual Milliman Medical Index, which measures the total average medical care costs nationally, annual coverage costs now exceed \$28,000 per year per family.¹ This total includes an average employer contribution of \$15,788, an average employee contribution of \$7,674, and an average out-of-pocket contribution of \$4,704 for a typical family of four (two adults and two children) in an employer-provided PPO insurance plan.²

While the rate of increase for this coverage has slowed in the past couple of years, more of these cost increases are borne directly by employees and still represent average monthly cost increases of \$100 per month. That these premium increases are outpacing increases in wages is attributed, in part, to a predicted decline in the number

of Americans with employer-based health insurance coverage over the next decade according to the Congressional Budget Office (CBO).³

For small business owners like the Maldanados and their employees, Obamacare has not delivered on the promises of healthcare access and affordability. The same holds true for those individuals purchasing individual coverage but who do not qualify for significant income-based subsidies.

According to federal documentation, "The average exchange premium in the 39 States that are using www.healthcare.gov in 2017 is more than double the average overall individual market premium recorded in 2013. The Patient Protection and Affordable Care Act (PPACA) has also largely failed to provide meaningful choice or competition between insurers, resulting in one-third of America's counties having only one insurer offering coverage on their applicable government-run exchange in 2017."⁴

What comes next?

While there has been little political will from the White House or Congress to move forward on additional legislative reform attempts, lawmakers may ultimately have little choice in the matter. After campaigning against the ACA for eight years, Congressional Republicans failed to deliver on the almost decade-long promise to either fully repeal or repeal & replace the ACA. With the most recent partial repeal and replace failure in Congress, many state lawmakers, members of the media, and the public are left wondering if the healthcare reform effort is over.

The answer may depend on whether Republicans, who are going into the mid-term elections with few legislative wins on healthcare, begin feeling pressure from their constituents to act. Despite voter enthusiasm from some segments of the population, healthcare remains a second-tier issue for voters on both sides of the aisle.

In other words, voters care about healthcare, but they aren't calling for an overhaul of the healthcare system. According to a recent Kaiser Health Tracking Poll, Republican voters are not currently identifying healthcare as a top election issue:

“Health care is among the top issues that voters want to hear candidates talk about during their congressional campaigns but ranks much lower among Republican voters, including those living in areas where there are competitive House, Senate, and Governor’s races.”⁵

Looking across the aisle, Democrat voters are highly motivated, but healthcare is not currently driving their enthusiasm:

“Democrats have a clear edge when it comes to voter enthusiasm six months out from the 2018 midterm elections. Similar to 2014, no issue – including health care – seems to be a driving force among enthusiastic voters.”⁶

But there may be growing recognition that voters across the political spectrum remain very concerned about healthcare costs.⁷ Those lingering worries may be re-ignited in the run-up to the mid-term elections later this year (see Figure 2). That is because the same dramatic, double-digit insurance rate hikes that are revealed every October – about one month before Election Day -- are expected again this year.⁸

More uncertainty to come

Another recent development may further increase voter attention on healthcare – and may create upward pressure on premium rates. In June 2018, the Trump administration announced that it would not defend the ACA against a lawsuit brought by a group of state attorneys general. At issue is the constitutionality of the parts of the law tied to the individual mandate.

In a 2012 Supreme Court ruling, the ACA’s individual mandate (the penalty for not having coverage) was ruled as a tax. But late last year, Congress zeroed out the tax beginning in 2019, making the penalty for not having coverage \$0.

In the legal challenge filed in the United States District Court, Northern District of Texas earlier this year, the plaintiffs representing 20 states maintain that, because there will no longer be a tax, the ACA (or part of the law tethered to the individual mandate) is unconstitutional.⁹ While the outcome of this challenge may take months or years to determine, the more immediate effect may be in how insurance premiums are affected.

While many states did have some of the same insurance market rules contained in the ACA that did not allow insurers to charge more for pre-existing conditions or charge higher rates based on age (subject to age rating band limits) or gender, some experts believe that this additional uncertainty going into the 2019 plan year will further destabilize the market.¹⁰ More uncertainty could mean that insurers will re-price their rates (higher).

A new path forward?

Even though there has been little appetite among policymakers for revisiting the ACA, they may have little choice in the matter. Sen. Bill Cassidy recently quipped that the GOP shouldn't be a 'Don Quixote' on ACA repeal.¹¹

His strategy, which is outlined in his recently-released blueprint, will be to pursue smaller, impactful reforms that aim to address healthcare affordability for health insurance and prescription drugs.¹²

The "new approach" to healthcare reform, which is more strategic and incremental than the wholesale ACA repeal, may not appeal to some of the die-hard ACA opponents but it will be required if a proposal has any chance of getting Senate approval and making it to the president's desk.

The Kaiser Health Tracking Poll (Figure 2) shows a plurality of support among Republicans, Democrats, and Independents for candidates who promote bringing down prescription drug costs and reducing the costs of health insurance coverage.¹³ While the devil is always in the details, these are goals that can be supported by Senate moderates, as well as conservatives.

In addition to the anticipated rising premiums that will be unveiled in the midst of campaign season, a targeted reform effort may also get a boost from a bottom-up initiative to create a consensus reform plan. A group of more than 30 conservative and free-market policy leaders (including this author and Sal Nuzzo, Vice President of Policy at The James Madison Institute and publisher of this journal) are signatories to an open letter to the American public highlighting shared goals that allow for a

path forward on healthcare reform.¹⁴

The plan recognizes the need for providing relief to Americans struggling to access and pay for healthcare and coverage, as well as the recognition that states will need far more flexibility in delivering what works for their unique geographies and demographics. More important, this is an effort that builds on broad coalition support from across the country that aims to engage members in continuing the work to deliver on the still unmet promises of healthcare access and affordability.

Regardless of whether health insurance cost increases are significant enough to rattle voters into elevating healthcare when they go to cast their vote, who voters see as most responsible for the state of the healthcare system come November, and what changes, if any, Congress has enacted by the time the midterms arrive, the issue of healthcare access and affordability will return. That is because there are no simple solutions to the problems that affect the system.

No silver bullets

Florida families like the Maldanados cannot wait on Washington to cure the ills of the healthcare system. State lawmakers in Florida and across the country are already striving for meaningful health care reforms to impact the cost of care in their states. Reforms such as expanding state scope of practice laws, allowing for Direct Primary Care (DPC) arrangements, rescinding Certificate of Need (CON) laws, allowing for telemedicine, and protecting charity care efforts can impact healthcare access and cost of services. Articulated below are several policy concepts that policymakers in Florida will have at their disposal. The question

remains as to whether Floridians will send legislators who embrace market-based solutions to the Capitol to represent them.

Scope of practice: Healthcare practitioners should be allowed to practice at the top of their education and training. For example, pharmacists are not allowed to administer vaccinations in some states even though pharmacists are well qualified to undertake this task with minimal risks to the patient. Furthermore, rolling back scope-of-practice laws can help alleviate the shortage of healthcare providers, especially in rural areas.

Certificate of Need: Facilities and services should be available on the basis of able and willing providers, not on government-sanctioned boards deciding who should be allowed to serve patients. Rather than restraining costs, Certificate-of-Need laws consistently restrict healthcare access and competition.

Charity care: States can also enact Good Samaritan laws that provide legal protection for those offering healthcare services. These protections can be particularly helpful for allowing charity groups to provide large-scale charity operations and for medical personnel wishing to assist in response to natural disasters.

Direct Primary Care: Direct Primary Care, or DPC, is an innovative healthcare arrangement that allows patients or their employers to contract with a provider for primary care medical services directly. This allows patients to directly and more immediately access non-emergency care and, under many arrangements, allows them to do so as many times as needed at no additional cost.

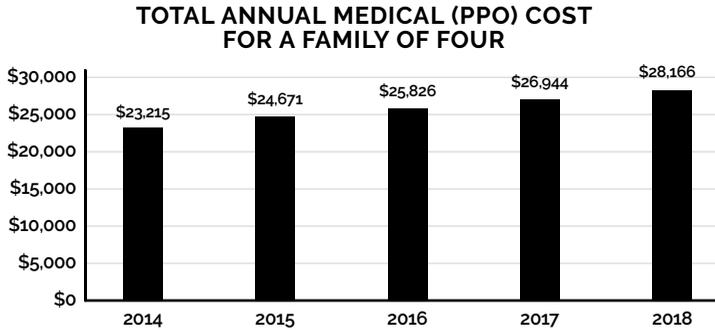
Unlike a typical healthcare arrangement,

DPC operates independently of traditional health insurance. But in some states, decades-old regulations originally designed to govern the health insurance market are being imposed on these arrangements, stifling the potential growth of this new healthcare option. This reform was signed into law by the governor this year and goes into effect on July 1.¹⁵ Expansion of these networks and experimenting with DPC arrangements for specialized populations can further drive both health outcomes and healthcare costs in better directions.

Telemedicine: In many states, it is legal for doctors to prescribe treatments through the Internet without ever meeting a patient in person. Unfortunately, there is an increasing push in some states to impose new regulatory burdens on practitioners that have no significant bearing on patient safety. For example, some states have adopted distinct clinical practice rules for these new services that are more onerous than those imposed on traditional providers.

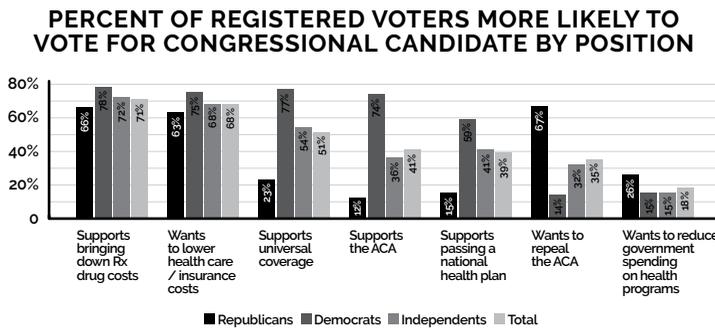
While there is no silver bullet for the challenges facing the American health care system, we do know that the answer to our healthcare woes is not bigger bureaucracies and less accountability to the American people. The answer to our healthcare problems lies in market-based reforms that encourage competition and expand the access to and affordability of care for all consumers in a way that allows families like the Maldanados to best meet their own healthcare needs and preferences – free from top-down Washington rules and edicts. State action alone won't be sufficient, but it provides an important start on the hard work ahead.

Figure 1



Source: Christopher S. Girod, Susan K. Hart, Scott A. Weltz, “2018 Milliman Medical Index (MMI),” May 21, 2018, p. 3 at <http://www.milliman.com/uploadedFiles/insight/Periodicals/mmi/2018-milliman-medical-index.pdf>.

Figure 2



Source: Ashley Kirzinger, Bryan Wu, Cailey Muñana, and Mollyann Brodie, “Kaiser Health Tracking Poll: Preview of the Role of Health Care in the 2018 Midterm Campaigns,” Henry J. Kaiser Family Foundation, May 10, 2018 (conducted April 20-30, 2018) at <https://www.kff.org/health-costs/poll-finding/kaiser-health-tracking-poll-preview-role-of-health-care-2018-midterm-campaigns/>.

- 1 Christopher S. Girod, Susan K. Hart, Scott A. Weltz, “2018 Milliman Medical Index (MMI),” May 21, 2018 at <http://www.milliman.com/uploadedFiles/insight/Periodicals/mmi/2018-milliman-medical-index.pdf>.
- 2 In 2018, out-of-pocket expenses are capped at \$14,700. If a family were to hit their annual deductible, the total annual cost would be more than \$38,000 for the year.
- 3 Congressional Budget Office, “Federal Subsidies for Health Insurance Coverage for People Under Age 65: 2018 to 2018,” May 2018, pp. 3-4 at <https://www.cbo.gov/system/files/115th-congress-2017-2018/reports/53826-healthinsurancecoverage.pdf>.
- 4 Executive Office of the President, Executive Order 13813 on October 12, 2017 at <https://www.federalregister.gov/documents/2017/10/17/2017-22677/promoting-healthcare-choice-and-competition-across-the-united-states>.
- 5 Ashley Kirzinger, Bryan Wu, Cailey Muñana, and Mollyann Brodie, “Kaiser Health Tracking Poll: Preview of the Role of Health Care in the 2018 Midterm Campaigns,” Henry J. Kaiser Family Foundation, May 10, 2018 (conducted April 20-30, 2018) at <https://www.kff.org/health-costs/poll-finding/kaiser-health-tracking-poll-preview-role-of-health-care-2018-midterm-campaigns/>.
- 6 Ibid.
- 7 Ibid.
- 8 According to the CBO and JCT, the benchmark ACA plan premiums are expected to increase by 15 percent for plan year 2019. Congressional Budget Office, p. 2.
- 9 [https://www.texasattorneygeneral.gov/files/epress/Texas_Wisconsin_et_al_v._U.S._et_al_-_ACA_Complaint_\(02-26-18\).pdf](https://www.texasattorneygeneral.gov/files/epress/Texas_Wisconsin_et_al_v._U.S._et_al_-_ACA_Complaint_(02-26-18).pdf).
- 10 Stephanie Armour, “Justice Department Won’t Defend Affordable Care Act in Lawsuit Brought by States,” Wall Street Journal, June 7, 2018 at <https://www.wsj.com/articles/justice-department-wont-defend-affordable-care-act-in-lawsuit-brought-by-states-1528419363>.
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- 12 Sen. Bill Cassidy, M.D. (R-LA), “Ideas to Make Healthcare Affordable Again,” May 29, 2018 at <https://www.cassidy.senate.gov/imo/media/doc/Dr%20Bill%20Cassidy%20-%20Make%20Health%20Care%20Affordable%20Again.pdf>.
- 13 Kirzinger, Wu, Muñana, and Brodie, Figure 11.
- 14 Grace-Marie Turner and Marie Fishpaw, “Here’s the Path Forward for Health Reform in 2018,” The Daily Signal, April 18, 2018 at <http://galen.org/2018/the-path-forward-for-health-reform-in-2018/>.
- 15 HB 37: Direct Primary Care Agreements at <https://www.flsenate.gov/Session/Bill/2018/37>.



Florida is Well-Positioned to Compete for Federal and Private Infrastructure Financing

Dr. Joe Saviak

ASSOCIATE PROFESSOR IN THE PUBLIC ADMINISTRATION
PROGRAM AT FLAGLER COLLEGE

Lawrence Martin

PROFESSOR IN THE DOCTORAL PROGRAM IN PUBLIC AFFAIRS
AT THE UNIVERSITY OF CENTRAL FLORIDA

The American Society of Civil Engineers (2017) grades our nation's infrastructure at a D+ and estimates that some \$4.5 trillion is needed to bring it up to minimally-acceptable levels (Delaney, 2017). All types of infrastructure are at risk

and in need. Some \$170 billion annually is needed to address transportation (e.g., roads, bridges, transit, etc.) infrastructure needs, while some \$400 billion is required over the next 20 years to insure the nation's drinking water (USDOT, 2010; USEPA,

2013). The failure to address the nation's infrastructure needs could cost 2.5 million jobs and a loss of \$4 trillion in GDP (Schoen, 2018). The question is where will the money come from? The possible sources are the Trump Administration's "White House Infrastructure Plan," private investment in the form of public private partnerships (P3s), or some combination of the two. Regardless of the source, Florida is well-positioned to benefit.

The White House Infrastructure Plan

Restoring the quality and capacity of the nation's infrastructure was a major message in President Trump's 2016 campaign. The "White House Infrastructure Plan" (White House, 2018) addresses that campaign pledge. The plan is notable for both what it says as well as what it does not say. For example, the plan states that, "States and localities are best equipped to understand the infrastructure investments needs of their communities" (p. 3). What is implied, but not stated, is that the nation's infrastructure needs are the problem of state and local governments. The federal government will help, but there will be no revival of the Eisenhower Administration's interstate highway program of the 1950s or anything similar. Instead, over the next ten years the plan proposes to use \$200 billion in federal funds as "carrots" to leverage \$1.5 trillion in new non-federal infrastructure spending. Under the plan, the historic federal/state 80/20 funding ratio for infrastructure reverses to 20/80 (Carter, 2018). The purpose of federal funding according to the plan is to achieve a net increase in overall infrastructure spending and not simply to supplant existing state and local

funds (Feigenbaum, 2018). Incentivizing innovative approaches and aiding rural communities are also key components of the plan.

A diverse range of infrastructure projects including transportation (e.g., roads, bridges, tunnels, transit), environmental (e.g., water/wastewater, sanitation) and social (health care facilities, schools, parks, libraries, sport complexes) are potential candidates under the plan. Some \$100 billion is set aside for competitive grants to state and local governments. An additional \$50 billion in the form of both block grants and competitive grants target rural areas (Feigenbaum, 2018). The remaining \$50 billion is targeted to finance four other federal programs including an innovation fund for "transformative projects." The plan also envisions increasing federal credit assistance programs such as the Transportation Infrastructure Finance and Innovation Act (TIFIA), the Water Infrastructure Financing & Innovation Act (WIFIA) and the Railroad Rehabilitation & Improvement Financing Act (RRIF) that will expand access to loans for state and local governments (Chapman et al., 2018).

To entice private investment in infrastructure, the plan proposes greater access to tax-exempt private activity bonds (PABs), thus lowering the costs to private-sector partners in borrowing, financing, and constructing infrastructure (Goldsmith, 2018). Due to the tax-exempt status of municipal bonds (e.g. lenders are not taxed on income earned from these bonds), government entities have always been able to borrow at a lower cost. The plan proposes further equalizing this tax advantage between municipal bonds and

PABs through expanded access to PABs (Scribner, 2018).

Lastly, the plan stresses the need for state and local governments to attract private financing to win the competitive infrastructure grants (Bliss, 2018).

Public-Private Partnerships (P3s)

The White House Infrastructure Plan mentions public-private partnerships (P3s) once, and then only in the context of eliminating constraints on their use for transit (p. 24). Nevertheless, many experts (e.g., Castenada, 2018; Campbell, 2018; Carey, 2018) believe that P3s represent an important source of the private financing that state and local governments will need to compete for the plan's grants. An important question then is, how competitive is Florida in terms of attracting private financing using P3s?

Florida's P3s competitiveness compared to other states can be measured in four ways. (1) the existence of state enabling legislation authorizing the use of P3s, (2) the type of P3 state enabling legislation, (3) the inclusion of local governments in state P3 enabling legislation and (4) prior state and local government experience with P3 projects.

State P3 Enabling Legislation

State P3 enabling legislation is essential because it establishes the legal authority for their use by state agencies and local governments (GFOA, 2015). State P3 enabling legislation is considered necessary to: establish the policy and regulatory framework for P3s, protect the interests of governments and citizens and promote private-sector interest and participation (World Bank, 2017; Hodge & Greve, 2016;

Geddes & Wagner, 2013).

According to the National Conference of State Legislatures (NCSL, 2016), 33 states had some form of P3 enabling legislation in place by the end of 2015. Since the NCSL study, two additional states, Kentucky and New Hampshire, have passed P3 enabling legislation to bring the total to 35 (USDOT, 2017). Table 1 identifies the 35 states with P3 enabling legislation. Florida obviously has an advantage over the 15 states that lack P3 enabling legislation.

Type of State P3 Enabling Legislation

State P3 enabling legislation is either broad or restrictive. Restrictive means that a state's P3 enabling legislation applies only to transportation-related projects. Other P3 types (environmental and social) are not covered.

As Table 1 illustrates, 27 of the 35 states (77 percent) with P3 enabling legislation restrict their use to transportation (e.g., roads, highways, bridges, tunnels, transit) projects only. Only eight states have P3 enabling legislation covering all three P3 types: transportation, environmental and social. Florida's P3 enabling legislation is broad, giving it an advantage over the 27 states with restrictive state legislation

State P3 Enabling Legislation Covers Local Governments

Some state P3 enabling legislation includes local governments. As Table 1 points out, the P3 enabling legislation of 18 states includes local governments. Florida is among this group of 18 states. Thus, Florida has an advantage over the 17 states that do not include their local governments in their P3 enabling legislation.

Table 1: States with P3 Enabling Legislation

State	State P3 Legislation Restricted to Transportation Projects Only	State P3 Legislation Includes Local Governments
Alabama	YES	NO
Alaska	YES	NO
Arizona	YES	YES
Arkansas	YES	YES
California	NO	YES
Colorado	YES	YES
Connecticut	NO	NO
Delaware	YES	NO
Florida	NO	YES
Georgia	NO	YES
Illinois	YES	YES
Indiana	NO	YES
Kentucky	NO	YES
Louisiana	YES	YES
Maine	YES	NO
Maryland	NO	NO
Massachusetts	YES	NO
Minnesota	YES	YES
Mississippi	YES	YES
Missouri	YES	YES
Nevada	YES	YES
N. Carolina	YES	YES
N. Dakota	NO	YES
N. Hampshire	YES	NO
Ohio	YES	NO
Oregon	YES	NO
Pennsylvania	YES	NO
S. Carolina	YES	NO
Tennessee	YES	NO
Texas	YES	YES
Utah	YES	NO
Virginia	YES	YES
Washington	YES	NO
W. Virginia	YES	NO
Wisconsin	YES	NO
TOTALS	27	18

Sources: NSCL, 2016; USDOT, 2017

State & Local Government P3 Experience

Using the P3 taxonomy developed by the Institute for Public Procurement (NIGP, 2016) and data on state and local government P3 closures from Public Works Financing (PWF, 2017), Florida's P3 experience can be compared to other states. The PWF database covers the years 1996 to 2016 and is arguably the most comprehensive listing of P3 projects in the U.S. Included in the PWF database are P3s achieving closure (implemented) by state departments and agencies as well as regional and local governments. "Project closure" means that a P3 project was started but may not be completed. The count of P3s achieving closure between 1996 and 2016 is 221 (Table 2).

In reviewing the data in Table 2, several features stand out. State and local governments in 12 states (Alaska, Arkansas, Connecticut, Kentucky, Louisiana, Maine, Mississippi, New Hampshire, Nevada, North Dakota, Tennessee and Wisconsin) have no P3 experience. Kentucky and New Hampshire, having only recently passed P3 enabling legislation, also have no P3 experience. Thus, 14 states have never implemented a P3 project.

Only 35 of the 50 states have P3 enabling legislation. A total of 12 of these have never implemented a single P3. Combining these two observations, state and local governments in 27 of 50 states (54 percent) have no P3 experience. Just four states: California, Florida, Texas and Virginia account for 137 (62 percent) of all P3 project closures over the last 20 years.

In summary, Florida is well-positioned to compete for private investment in infrastructure using P3s. Florida has P3

enabling legislation. Florida's P3 legislation is broad and includes local governments. Florida is one of only four states with significant P3 experience.

Questions and Controversy

As with any major new and complex public policy proposal altering a traditional federal role, there are hosts of questions and criticisms from different policy stakeholders.

Some P3 projects may have proceeded regardless of new plan incentives such as a change in the tax status of private activity bonds or receipt of new grant dollars (Leibenluft, 2018; JECUSC, 2018). Projects attractive to investors as P3s might not meet all the nation's infrastructure needs (Leibenluft, 2018; Bivens & Blair, 2016; Widmann, 2017; JECUSC, 2018). The plan may incentivize new projects while neglecting operations and maintenance needs of existing infrastructure (DeGood, 2016; Scribner, 2018).

States and localities may lack the fiscal ability to cost share on new infrastructure projects (Kettl, 2017). They may also be tempted to substitute federal funds, thus undermining the policy goal of increasing net infrastructure investment (Bivens & Blair, 2016; Crain, 2018; Penn Wharton, 2018). The lack of a major net increase in infrastructure spending would make positive economic effects negligible (Penn Wharton, 2018).

State and local officials may not take advantage of it for reasons involving politics, financing, or inexperience and lack of expertise with P3s (Van Slyke, 2017; Eckhouse, Albright, Braun, & Niquette, 2017). Critics point to failed P3

Table 2: P3 Project Closures

State	P3 Project Closures
Alabama	2
Alaska	0
Arizona	4
Arkansas	0
California	56
Colorado	9
Connecticut	0
Delaware	1
Florida	28
Georgia	4
Illinois	3
Indiana	6
Kentucky	0
Louisiana	0
Maine	0
Maryland	2
Massachusetts	3
Minnesota	7
Mississippi	0
Missouri	2
N. Hampshire	0
Nevada	0
N. Carolina	12
N. Dakota	0
Ohio	6
Oregon	4
Pennsylvania	1
S. Carolina	6
Tennessee	0
Texas	33
Utah	5
Virginia	20
Washington	5
West Virginia	2
Wisconsin	0
TOTAL	221

Sources: NCSL, 2016; NIGP, 2016; PWF, 2017.

infrastructure projects here and abroad to question the plan's reliance on this policy tool (Rodd, 2016). Voters may be resistant to paying new tolls (JECUSC, 2018). Expanded use of P3s at the state and local level will require institutional capacity and the ability to convince citizens of the merits of new projects (Martin and Saviak, 2014).

Given the fiscal reality of a federal government already beset by a \$21 trillion national debt and massive unfunded liabilities associated with entitlement programs and the lack of a dedicated funding source for this plan, the obvious question as to the source of \$200 billion in new federal spending arises (Adelmann, 2018; Galston, 2018; Collins & Cohen, 2018; Scribner, 2018). The uncertainty of congressional support for all elements of this plan always remains a variable.

Florida Can Go Forward Either Way

What happens if the White House Infrastructure Plan fails to materialize? What is Florida's Plan B? It may well be that Florida is so well-positioned to attract private investment compared to most other states that the failure of the White House plan to launch may be of little consequence. Florida has multiple advantages such as the scope of P3 enabling legislation, significant experience and success with P3s, the recent retreat of two major state competitors, the confidence of capital markets, and attractive and needed projects to pitch in the fast growing 3rd-largest state in the country.

The private sector prefers states with the right statutory setting, and experienced governments are more likely to embark on new P3 projects. Florida is one of the 35 of 50 states who have enabling legislation. Florida is one of only eight states where state and local governmental entities have broad legislative authority for a diverse range of potential P3 projects. A total of 27 states have zero experience with P3s while Florida is one of four states responsible for 62 percent of the P3s in the country (NSCL, 2016; USDOT, 2017; LegiScan, 2017; NCSL, 2016; NIGP, 2016, and Public Works Financing, 2017.)

Recent P3 events in other states are making Florida even more attractive to private infrastructure investment. Two of the four states which account for 62 percent of the nation's P3s are reducing their reliance on P3s. In California and Texas, recent legislative actions have curtailed the use of P3s. In California, statutory authority for the use of P3s by the California Department of Transportation (CALTRANS) has lapsed. In Texas, the House of Representatives recently declined to approve a package of 18 P3s (CALTRANS, 2017; Niquette, 2017).

While the White House Infrastructure Plan is dependent upon private financing, private financing is not dependent upon the White House Infrastructure Plan. Private equity firms as well as pension systems

are showing increasing interest in direct infrastructure investments at the state and local government levels. The number of U.S. pension funds investing in infrastructure totaled 164 in 2016. The California Public Employee Retirement System (CalPERS) has invested over \$3 billion in U.S. infrastructure (Daniels, 2016). Capital markets have consistently demonstrated an appetite for Florida P3 projects. Florida state and local general and special-purpose governments will continue to have attractive projects to offer to interested investors. Whether this new proposed national plan passes or not, Florida will likely maintain its role and position as a national leader in the use of P3s.

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Florida: The Best State For Military Retirees

Robert Sanchez

SENIOR FELLOW, THE JAMES MADISON INSTITUTE

As Florida's millions of veterans observed Memorial Day 2018, they had one more reason to stand tall and proud: A newly released report ranks the Sunshine State as the best place in the United States for military personnel to retire.

The report, released online by the

consumer financial advice service WalletHub, explained its rationale for issuing the report and the criteria that were used to reach its findings.

“To help our troops plan their years after service, WalletHub compared the 50 states and the District of Columbia across 27 key indicators of retirement-friendliness

toward veterans. The data set ranges from job opportunities for veterans to housing affordability to the quality of VA hospitals.”

The scores in these categories were averaged, with some categories more heavily weighted than others because they were considered more significant. On a scale where 1= the best and 25= the worst, Florida fared well enough to produce a composite score that ranked it number one, slightly ahead of Virginia, New Hampshire, Alabama, and South Carolina.

In a sampling of the factors that were taken into account, the state ranked 11th in the number of veterans per capita, although that is arguably more a measure of quantity than quality.

Florida, with no personal income tax, ranked ninth in “tax friendliness” and 12th in job opportunities for veterans.

The job factor is important because even those veterans who spend an entire career in the military are relatively young when they retire and, thus, have much more to contribute as employees, as employers, as entrepreneurs, and as citizens active as volunteers in their chosen communities.

Florida ranked sixth in the number of Veterans Administration (VA) health facilities per number of veterans. That’s an especially important factor nowadays as the cohort of veterans from the wars in Korea, Vietnam, and even Iraq and Afghanistan ages.

Moreover, as noted in The James Madison Institute’s prescient 2011 Backgrounder titled *Collateral Damage: Floridians Coping with the Aftermath of*

War, “There has been a growing realization of the collateral damage on the home front as military personnel and their families cope with the aftermath of war.”

The study, a joint project of JMI and the Gulf Coast Community Foundation, was co-authored by University of South Florida political science professor Dr. Susan MacManus and Dr. Susan C. Schuler,



President of Susan Schuler & Associates, with the assistance of USF honors students Mary L. Moss and Brian d. McPhee. A key finding:

“The counterinsurgency efforts in Iraq and Afghanistan resulted in an unprecedented use of improvised bombs, devices that struck with terrible force but little precision. Two-thirds of all injuries in Operation Iraqi Freedom are blast related.

“Coalition forces, though, had access to medical skills, and time and again saved the lives of soldiers who just a decade ago would not have survived. Thousands of servicemen and servicewomen returned home with grievous injuries recognizable in an instant: missing limbs, burn scarring, and paralysis.



“But thousands more suffered damage that is usually invisible but no less devastating, a class of wound becoming known as invisible injuries: traumatic brain injury, post-traumatic stress disorder, and depression.”

As the Backgrounder highlighted, those kinds of injuries often take a toll on the veterans’ families, sometimes leading to domestic abuse and violence, child abuse, homelessness, drug and alcohol addiction, divorce, and the dissolution of families.

Yet it would be a disservice to Florida’s veterans to assume that all or even most of those who served in the military are deeply troubled. Most move on with their lives,

and many have made the choice to do so in Florida.

The fact that so many veterans choose to come to Florida after completing their military service, whether it be a two-year hitch or a 30-year career, is nothing new.

Indeed, as University of South Florida historian Dr. Gary Mormino noted in his 2005 book *Land of Sunshine, State of Dreams: A Social History of Modern Florida*, the state’s population boom after World War II could be attributed, at least in part, to the desire of many ex-GIs to return to Florida, where they had undergone training during the war.

Nowadays, on almost any day of the year, veterans sporting any item of clothing that suggests that they once served in the military are accustomed to hearing a cheery “Thank you for your service,” often accompanied by a salute or the proffer of a handshake.

For most veterans, such gestures are well received – and a welcome change from the hostile reception that too often greeted returning veterans during the era of the Vietnam War as it became increasingly unpopular.

Meanwhile, at least twice a year – on Memorial Day and Veterans Day – those who served in the military are at the epicenter of public attention and appreciation.

Celebrated annually on the last Monday in May, Memorial Day began as Decoration Day because of the custom of placing flowers and flags on the graves of those who had died in service to their country.

The practice became common, north and south, after the end of the Civil War. In 1868, at the urging of General John A. Logan of the Grand Army of the Republic,

Decoration Day was formally recognized as a time to decorate the graves of Union soldiers.

During the 20th Century, more and more locales began to refer to the observance as Memorial Day, a change that Congress finally enacted into law in 1967. The following year, Congress also passed the Uniform Monday Holiday Act consigning four federal holidays, including Memorial Day, to Mondays, thereby creating three-day weekends.

Memorial Day honors all Americans who died who died in service to their country or as a result of injuries incurred during battle. Deceased veterans are also remembered on Veterans Day, but Veterans Day also honors living veterans who served honorably in the military.

Veterans Day is also a recognition that even those who served during peacetime – whether as volunteers or draftees – sacrificed many months or years of precious time that could have been spent with their families and on advancing in their civilian careers.

That Veterans Day is linked to November 11th recognizes the 1918 armistice that finally ended the bloody fighting in World War I “on the eleventh hour of the eleventh day of the eleventh month.”

In 2018, November 11 falls on a Sunday. For the most part, the formal observances will be held on that date. However, when November 11 falls on a Saturday or Sunday, the preceding Friday or following Monday



is observed as a federal holiday, with banks, post offices, and most other federal, state, and local government offices closed.

By the way, the November 11 observance was still known as Armistice Day until 1954, when Congress enacted legislation change the name to Veterans Day. The bill was signed into law, appropriately enough, by President Dwight D. Eisenhower.

Eisenhower’s political success – as was John F. Kennedy’s – owed at least in part to the public’s admiration of their respective experiences in the military. Indeed, in the decades immediately after World War II, virtually everyone holding public office – still a male dominated cohort – had served in the military.

As of 2018, however, even though the United States, in the years since World War II, has been involved in wars and other military actions in Korea, Vietnam, Iraq, Afghanistan, Grenada, and Panama, as well as Cold War skirmishes elsewhere, only 102

of the 538 members of the current Congress have ever served in the military.

President Trump, who will turn 72 on June 14, 2018, never served in the military, having received four student deferments during his college years at the height of the Vietnam War. Later he was classified as physically unfit to serve, reportedly because of heel spurs.

Nonetheless, as of Memorial Day 2018, veterans nationwide are counting on President Trump to sign a bill that, as of this writing, was awaiting final congressional action.

The pending legislation would reform the Veterans Administration and its massive health care system. One extremely welcome change: Veterans who have serious medical problems but reside where they lack convenient access to VA facilities would be allowed to obtain care elsewhere, including from non-VA hospitals and from physicians in private practice.

With broad bipartisan support, both the U.S. House of Representatives and the U.S. Senate have passed similar bills, and President Trump has indicated that he will sign such a bill when it reaches his desk.

The billion-dollar question now on many veterans' minds as Memorial Day 2018 came and went was whether a Congress whose members are embroiled in contentious mid-term elections and really want to be back home on the campaign trail will manage to find the time to work out their differences before, say, Veterans Day 2018.

Meanwhile, needy veterans in Florida have yet another reason to be glad they chose to retire in the Sunshine State. The

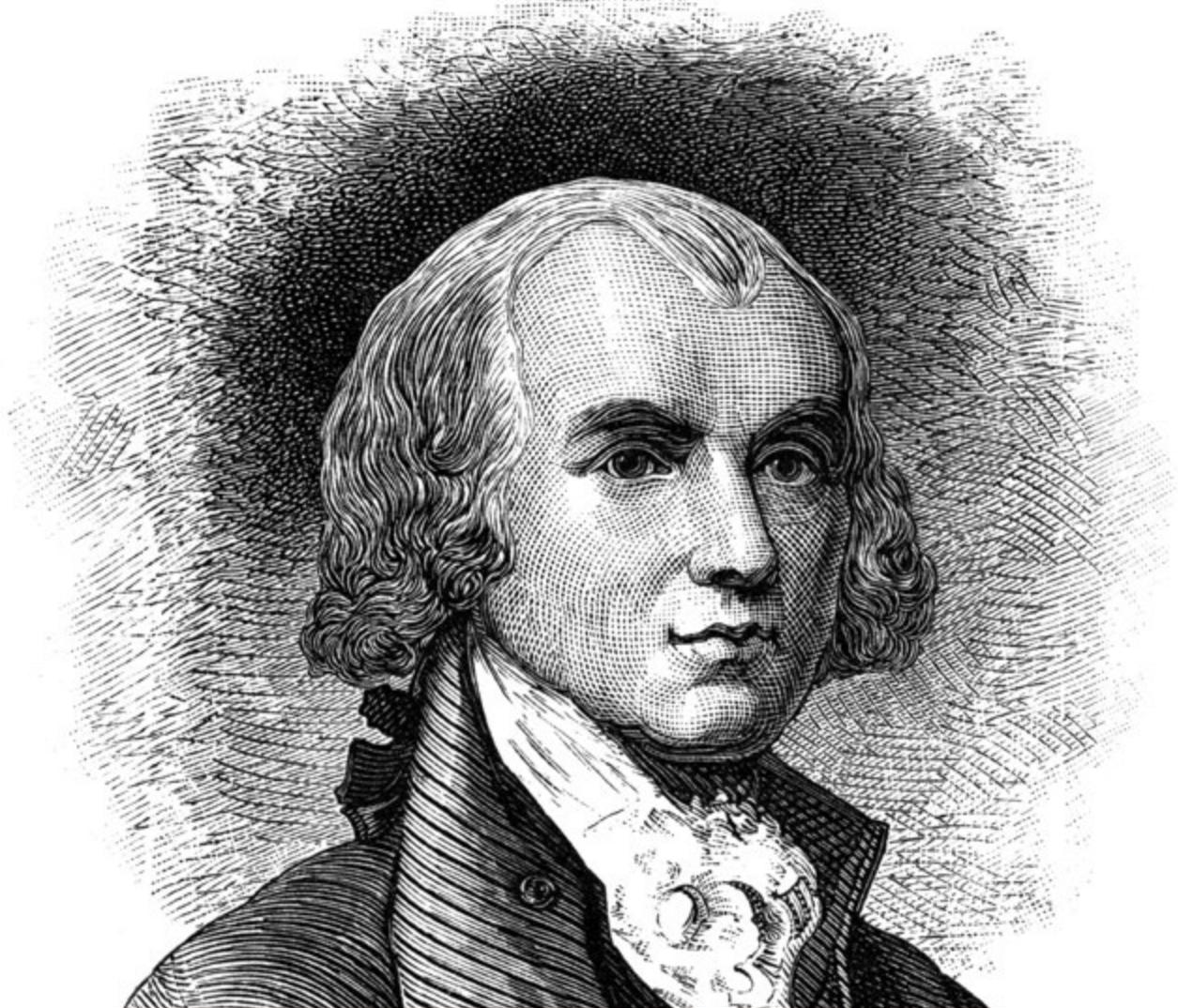


Florida Veterans Foundation (FVF), a non-profit organization, raises money to fill some of the gaps that government programs do not cover.

The Foundation has staff and volunteers in eight regions of the state. They help veterans navigate the complicated processes involved in signing up for the VA benefits to which they're entitled, but some needs are not covered by government programs. Among them: transportation to medical appointments at distant VA hospitals, a need that FVF volunteers regularly fill.

The Foundation has also stepped in with financial aid to help veterans and their families keep the lights on and catch up on mortgage payments so they don't lose their homes. They also match veterans with job opportunities and counsel those who are suffering from PTSD and other problems.

The work of the FVF, described in great detail on the organization's website, www.FloridaVeteransFoundation.org, is but one more reason to believe that veterans who chose to reside in Florida after leaving the military made the right choice.



The Top Sixteen Things That Most Americans Probably Don't Know About James Madison

The Florida Verve

On March 16, 2018, JMI celebrated the 267th birthday of the institute's namesake, James Madison. This Founding Father is well-known far and wide, and rightfully so. After all, he was the principal architect of the U.S. Constitution and its Bill of Rights, he co-authored the Federalist Papers, and he served as the fourth President of the United States. But what about Madison's personality, daily life,

characteristics, habits, and quirks? From captivating to unconventional, here are 16 facts about James Madison that most Americans probably do not know.

James Madison wasn't born at his family's ancestral home, Montpelier. Instead, on March 16, 1751, he was born in Port Conway, VA, at Belle Grove Plantation, the childhood home of his mother, Nelly Conway Madison. The original home where

Virginia Historical Marker is located near the site.

James Madison liked throwing barbecues. Archaeologists at Montpelier have discovered barbecue pits and other related items that date back to Madison's lifetime. Virginians loved their barbecue parties and the festive flair that came with them: good food, good drink, and good or bad dancing. Indeed, the months of spring, summer, and fall were referred to as "barbecue season" by Virginians during the 19th century.

Hand me down my walking cane. Per Thomas Jefferson's will, he bequeathed his favorite walking staff with a handle made of animal horn to James Madison. Of the gift Madison wrote "a token of the place I held in the friendship of one whom I so much revered and loved when living, and whose memory can never cease to be dear to me."

Madison was a bibliophile. His library at Montpelier consisted of over 4,000 books and various ephemera.

Madison was a great storyteller. Despite being an introvert, he was well known for giving entertaining accounts of the Founding Era. Indeed, while enjoying the privacy and comfort of his Montpelier home in his post-Presidency years, Madison captivated visitors with his stories about the most important moments in the formative stages of U.S. history. Visitors often described the flash in his blue eyes as he regaled them with an insider's account of this important period.

He was "The Man in Black" long before that label became attached to other celebrities. Evidently Madison liked to keep it fairly simple in terms of style. In

Paul Jennings' memoir *A Colored Man's Reminiscences of James Madison*, he describes Madison as dressing "wholly in black." Jennings was born into slavery at Montpelier and accompanied the Madisons to the White House as a young child.

We tend to think of James Madison as the dignified persona we see in artists' depictions of the era, but he had a folksy nickname: "Jemmy." Indeed, among his contemporaries Madison was frequently referred to as "Jemmy" throughout his life. His parents originated the nickname. Apparently, it's an old Scottish moniker that signifies endearment.

The common historical narrative concerning Madison's personality is that he lacked a sense of humor. This is false. According to close friends and family, Madison's humor was brilliant. Indeed, he loved the ludicrous and didn't take himself too seriously at all. One visitor at Montpelier remarked that James and Dolley Madison "...tease each other like two children."

Madison, whose presidency was harshly criticized during the War of 1812, received rare praise from no less than an important contemporary. Although some historians still discount the importance of Madison's presidency, the independent-minded John Adams did not. In a letter to Thomas Jefferson, he wrote that James Madison "...acquired more glory, and established more Union, than all his three Predecessors, Washington, Adams, and Jefferson put together."

Apparently Madison was a huge fan of hats. In fact, he rarely went outside without wearing one. In Lynne Cheney's excellent biography *James Madison, A Life Reconsidered*, she notes that on one

occasion, “Someone took his hat, his only hat, forcing him to stay indoors for two days until at last he managed to buy another one.”

At Montpelier James and Dolley surrounded with themselves with their famous friends in a figurative sense. According to historian and biographer Ralph Ketcham an area inside their home “was sometimes called the ‘hall of notables,’ for the many portraits and busts of the Madisons’ friends, including Washington, Franklin, Jefferson, John Adams, Monroe, Lafayette, Baron von Humboldt, and others.”

The Madisons loved to exercise. Their preferred method was taking long walks on the grounds of the Montpelier estate. However, if the weather was inclement, they would chase each other around the porch of their home.

Madison failed to win a 1777 election to the Virginia House of Delegates because he refused to go along with the Old Dominion’s tradition at the time of giving alcohol to

voters on Election Day.

He might have suffered from epilepsy. Lynne Cheney states that Madison frequently had “sudden attacks, somewhat resembling epilepsy.”

Alexander Hamilton’s infamous rival and dueling slayer introduced Madison to his future wife, Dolley. Indeed, it was none other than Aaron Burr who set up one of the most famous couples in American history.

Madison departed life on his own terms. His last words, “Nothing more than a change of mind, my dear,” are often quoted, but there’s more to the story. While on his deathbed, Madison was advised by his doctor to take some stimulants to keep him alive to see the Fourth of July, the same historical date when his fellow Founding Fathers, Thomas Jefferson and John Adams, died. Madison, however, declined. Instead, he died on the 60th anniversary of the adoption of the Constitution of his beloved home state, Virginia.

NEW YORK TIMES BESTSELLER

SUICIDE OF THE WEST



BOOK REVIEW

Suicide of the West: How the Rebirth of Tribalism, Populism, Nationalism, and Identity Politics is Destroying American Democracy by **Jonah Goldberg**

2018 CROWN FORUM PENGUIN RANDOM HOUSE, 464 PAGES

Reviewed by John Towey

Jonah Goldberg's latest book, "Suicide of the West," is regarded by many familiar with his work as his best to date. It is a harrowing and cautionary tale of Western civilization, and the breadth of Goldberg's

research is commensurate with the scope of his book's subject: the entire development of Western society and the prospects for its continuation along a modern trajectory. For Goldberg, the task of reconciling the

pitfalls of modernity must first begin by recognizing the core principle of political life. In Goldberg's examination, this focuses on the fundamentality of human nature and the political order that grows out of it.

Man, in his nature, comprehends the world in terms of the tribe and individual status. This has been the irreconcilable truth of our existence from the Paleolithic Era through today. From the time of our birth up until the latest stages of our life, we are programmed with an inherent skepticism towards strangers and deference to those with status and power. This immutable part of our nature manifested politically in several hundred centuries of aristocracies and disproportionate power structures, comprising what is now commonly understood as the pre-modern political tradition. Goldberg contends that the break from the pre-modern paradigm was nearly inconceivable when considered in a historical context replete with regimes structured by human nature. The achievement of the liberal democratic revolution in the face of its seeming impossibility is why Goldberg ascribes it the moniker, "the Miracle." In a blink, aristocratic rule, economic stagnation, and the arbitrary application of laws ceded to liberal democratic rule, aided by a free market order, sufficiently codified in constitutions guaranteeing man's rights and liberties.

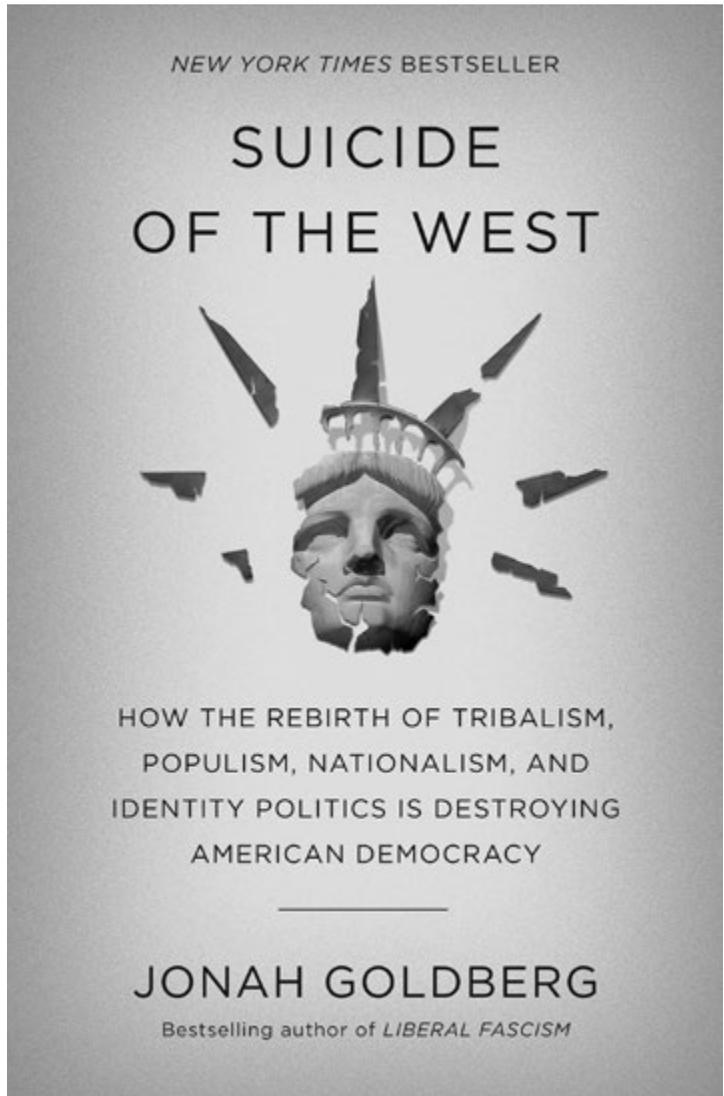
The Miracle was born out of what Goldberg likes to label the "weirdness" of 18th Century Great Britain. The Enlightenment, and the new political order it authored, was primed to take off on the island because of the nation's uncommon tradition of written law and political pluralism. The

British proved to be exemplars of modern governance because their political tradition stemmed from the Magna Carta and its emphasis on the rights of the individual and just taxation. Moreover, the post-Westphalian creation of the secular nation state dispersed power within British society, creating the pluralistic structure required for democratic rule. Proceeding this revolution, there blossomed a consequent economic revolution larger than anything seen since the hunting/gathering culture gave way to agriculture. Unchained from the economic taboos and superstitions of medieval rulers, industry grew, and new markets emerged.

The United States universalized the British ideal. The American ethos, as it existed at the founding, consisted of a reverence for the creative energy of the entrepreneur and a due respect for the autonomy of the individual. In Great Britain, these principles faced obstacles to application in the form of rigid and stratified British political traditions, which constrained individual liberty and economic enterprise to specific aristocratic classes. The ideals of the Miracle, although born of British political thought, found their full adaptation in the American model. This socio-political order is the high-water mark of civilization. For Goldberg, progress properly understood has to proceed from this baseline liberality. When we steer away from the tenets of the Miracle, we quicken our dissolution. When we fail to recognize the brilliance of the Miracle and instead choose to deride its contributions to the world, our conversation about Western society is reduced to an elegy.

The corruption of the Miracle was

prompted, in part, by the prominence of the progressives. Goldberg's handling of the progressives is fair and circumspect, never admonishing them needlessly. Nonetheless, Goldberg's primary contention is that the progressive model is the revival of a pre-modern aristocratic structure of governance. At the heart of this model is the notion that government can be best administered by a class of apolitical, scientific experts capable of rising above the dog-eat-dog environment of politics. However, the principle of the disinterested expert wrongly idealized human nature. The disinterested experts were, in fact, not disinterested at all. In fact, Goldberg would contend that they were very interested. The giants of the progressive movement would not settle for just being the visionaries of the new government. Their horizon stretched well beyond the realm of academia and think tanks into the highest echelons of government, where they themselves would enact the reform. The intelligentsia of administration has been, and still is, a tribe. Within the tribe of this new form of government, ambition no longer counteracts ambition; instead, ambition begets ambition in a continual effort to expand government.



The Administrative State

The administrative state is the legacy of the progressives. Conceived in the spirit of progress, the administrative state has been anything but progressive. Disconcertingly reminiscent of our tribal past, the modern administrative state bears a resemblance to medieval guild economies where special interests controlled entry into the marketplace. Free enterprise and open market competition, which have been

hallmarks of the Western Miracle, are now being suppressed by civil servants who impede market entry through complex regulations and occupational licensing. Goldberg's description, which is far better than my own, brilliantly summarizes this point, lamenting, "Guild economics is a sign of entropy and decay for the body politic. Such sclerosis has helped hasten the demise of empires from ancient Rome to the Soviet Union."

While this book is an insightful analysis of surface-level political developments, the true mark of Goldberg's brilliance, and the point of intrigue in "Suicide of the West," is his ability to look inward and examine the philosophical roots of cultural and social movements in the West. The problem that we are left to wrestle with is a systemic ingratitude towards liberal democracy in political discourse animated by a Nietzschean spirit of resentment. Instead of focusing on the profound economic and political achievements of liberal democracy, we direct our focus to the inequities and inadequacies of the system, creating the impression that liberal democracy has failed us. Common now is a romantic longing for the pre-modern era where man's existence and political life were more natural, a sentiment Goldberg attributes in full to Rousseau.

Goldberg observes that our society's disrespect for the democratic and capitalistic order has placed us in the impossible dilemma of picking between two

forms of statism: progressivism on the left and nationalism on the right. Of the many maxims Goldberg drives home in his work, few resonate as sharply as this: When we fail to civilize our world in the framework of the Miracle, the vices of human nature will rush in. The allure of populism and nationalism is no less surprising than the popularity of progressivism. All of these systems function as a retort to modernity by fostering authoritarian power structures and tribal impulses aimed at romanticizing a pre-modern past.

Jonah Goldberg's "Suicide of the West" is a prolific piece of political commentary for the sole reason that it offers not only a sobering exposition of the current state of our system of politics but also an invitation to reverse its course. Inherent in the word "suicide" is a choice. Decline is not inevitable; rather, it involves an ongoing series of decisions that confront us daily. The remedy to the tribalism and nationalism, which underscore the book's title, is a renewal of gratitude to the principles of the Miracle. Keeping with the Goldberg theory, the shape of society is a result of the story we tell about it. If we can renew the Western saga of freedom and prosperity, we can prove ourselves worthy of our inheritance.

Reviewer John Towey is an Ave Maria University senior majoring in Politics and Economics in the Honors Program. He is currently an intern at The James Madison Institute.

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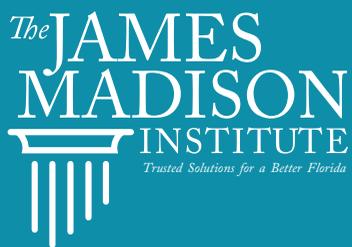
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100 North Duval Street
Tallahassee, FL 32301
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