



Why Texas Rocks, Economic-Freedom Style

by **Bill Peacock**
Director, and
Kathleen Hunker,
Policy Analyst

Texas is helping keep the anemic U.S. economy afloat. Its record of job creation has proven that there is still hope for greater prosperity in the future, despite the efforts of the Obama administration and others to force Americans to be satisfied with European-like living standards. One reason for Texas' success is its commitment to economic freedom, i.e., a respect of property rights that allows markets to operate efficiently and innovation to flourish. Below are some examples of Texas' commitment to freedom and prosperity in our public policies.

Key Points

- Texas has been a national leader in opening up its markets to competition.
- Economic freedom has resulted in Texas becoming the nation's top job creator and provider of economic opportunity at all income levels.
- Other states should look to Texas as a model for free market reforms.

Energy

Texans are paying less for electricity today in real dollars than they did in 2001, and since then Texans have also gone from paying more for electricity than the average U.S. consumer to paying less. How has this come about? The answer is Texas' world-class electricity market featuring competition, rather than regulatory oversight. Competition was introduced into the majority of the Texas retail market in 2002, a few years after wholesale competition started. Since then, even though more than \$50 billion has been invested in new generation to keep up with the rapid growth in Texas demand for electricity—almost double the national growth—Texas has managed to reduce prices. Additionally, consumer choice has blossomed, with consumers going from having to accept one plan from one provider to being able to choose from more than 200 plans from over 30 providers. In addition to electricity, Texas is the nation's oil and gas energy leader because it allows property owners to wisely develop the resources available under their property. Many states have significant energy resources available, but fail to allow their development. Texas' law allowing markets to function and property rights to be exercised elevates Texas above the rest.

Tort Reform

A market-friendly environment depends just as much on the quality of the courts as it does on well-reasoned, pro-market legislation. On that front, Texas has been on vanguard, reforming its civil courts system so that plaintiffs retain every opportunity to be made whole, but also ensuring that defendants remain protected from litigation abuse. The Texas Legislature, for example, passed an omnibus tort reform bill in 2003, which among other things expanded evidentiary rules, limited forum shopping, and capped non-economic damages in malpractice suits. Texas also adopted Proposition 12 that same year, which overturned a previous Texas Supreme Court opinion that would have otherwise kept the omnibus bill from going to effect. More to the point, the reforms were wildly successful. Department of Insurance data shows medical malpractice claims, including lawsuits, resolved in a year fell by nearly two-thirds between 2003 and 2011. Access to medical care also improved as a result of the law. By the end of 2013, number of licensed physicians in the state was doubled. The American Medical Association even went so far as to remove Texas from its list of states in crisis. In short, Texas went from “a judicial hellhole” to the oft-praised model by which other states are judged.

Telecommunications

Texas recognized in 1995 that advances in technology in the telecom industry warranted regulatory reforms. Whereas past regulation was solely structured to control government-created monopolies,

burgeoning competition rendered such regulation obsolete. The Texas Legislature that year passed major reforms to the system that served as the impetus for federal reforms a year later. Again, in 2005 Texas became the first major state to address the disparate treatment of different technologies and services when it passed SB 5. This legislation restructured Texas telecommunication laws in order to foster increased competition throughout the industry, bringing substantial benefits to Texas consumers, businesses, and the economy. One of the most significant aspects of this reform was that Texas became the first major state to allow new entrants to receive a state franchise in order to provide video service that competes with existing cable providers. Companies no longer were required to endure the slow, expensive and anti-competitive process of receiving franchises from local governments. SB 5 also greatly reduced price regulation for service to a majority of the state's telephone customers. Local telephone service for more than 15 million Texans was moved into competition as of January 1, 2006. Since that time, Texas has also greatly reduced, and in many cases eliminated, universal service subsidies. As a result of these 20 years of regulatory reform, no state has surpassed Texas when it comes to investment, the level of competition, and the benefits in services and prices experienced by consumers.

Property Rights

Texas has made strides in protecting private property over the last few years. Indeed, the improvement was such that since 2009 Texas has jumped from 26th to 8th place in the Mercatus Center's nationwide ranking system on eminent domain laws. Recent changes to the Texas Property Code banned the very controversial "public benefit doctrine." The same legislation, Senate Bill 18, also ensures that all property owners receive a comprehensive assessment regarding the value of their land, and it demands that condemnors make a bona fide offer before initiating the taking. A constitutional amendment passed overwhelming by voters in 2009, which banned any condemnation petition whose primary purpose was economic development. In addition, Texas provides its residents with reasonable protection against the more common regulatory takings. Government entities are obligated to reimburse Texans with adequate compensation if a public action depreciates the property's value by at least 25 percent. Although the law provides an exemption for municipalities, the provision offers an important defense against government overreach and helps separate Texas from her sister states.

Economic Development

Texas is a national leader in relying on the free market to increase prosperity within its borders. It has arrived at this point because it has relied on the Texas Model of economic development—low taxes, spending, and regulation and a sound civil justice system—more than the traditional, or technocratic, approach where government planners decide what is best for the economy. The results speak for themselves, with Texas leading the nation in just about every economic category. And Texas isn't alone. States that cut taxes and return surpluses to taxpayers have much stronger economic growth than states that use government spending to grow an economy. The government-led economic development approach does more harm than good. Not only does it fail to achieve its goal of increased economic growth, it often tramples the rights of citizens who don't share the vision of enlightened central planners. Building upon the successful Texas Model, Texas should reduce or and eliminate current government economic development programs, restrain growth in overall government spending and regulation, and reduce taxes. These are the types of real economic development measures that will continue Texas' leadership on the path toward expanding the prosperity of all Americans.

Consumer Finance

After a decade of regulatory "reform" at the national level, most consumers have been priced out of the lending market. It is becoming harder and harder for consumers to get access to capital, primarily in the short-term lending market. Unfortunately, most states are working to further restrict access in this area. Often known as payday lending and car title loans, these loan products are rapidly growing because access to traditional lending has been cut off for most consumers. Texas, however, has worked to provide consumers continued access to these products. Texas cities have not followed suit, and as a result, there is a patchwork quilt of regulations that has somewhat reduced access. Regarding another product, tax lien loans, Texas is the runaway national leader. Texas' high property tax rates (unfortunately, Texas is a leader here too) have led too often to owners being unable to pay their taxes on time. Fortunately, Texans have the option borrow money at reasonable rates and terms from lenders who then assume the tax lien once held by the local government. Banks have sought to eliminate this, but Texas has continued to allow this product to be offered to consumers. ★

