

# THE TEXAS MODEL



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# Who Are We?

- A 501(c)3 non-profit, non-partisan research institute
- Founded in 1989
- Mission: to promote and defend liberty, personal responsibility, and free enterprise in Texas and the U.S.
- Nine Policy Centers: ACEE, CEF, CEJ, CEP, CFP, CHE, CHCP, CTAS, & Laffer Center
- Thirty employees, \$5 million budget
- All funds come from voluntary donations: we do not accept government funds
- Provide non-partisan research and analysis to the Texas Legislature
- [www.TexasPolicy.com](http://www.TexasPolicy.com)

# Texas is in the News ...

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OCTOBER 15, 2010 12:00 A.M.

### The Texas Model

The Lone Star State speeds up its recovery with pro-business policies.

Texas already looms large in its own imagination. Its elevated self-image didn't need this: More than half of the net new jobs in the U.S. during the past 12 months were created in the Lone Star State.



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CROSS COUNTRY | SEPTEMBER 24, 2011

## Perry Is Right: There Is a Texas Model for Fixing Social Security

Public employees in three Texas counties have benefited from an 'Alternate Plan' for 30 years.

## cbn CASCADE BUSINESS NEWS

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News Pages > Editorial > Lessons from Texas Economy

- Building Central Oregon
- Business & Industry
- Business Spotlight
- Central Oregon Economic

### Lessons from Texas Economy

Jul 06, 2011  
By Pamela Hulse Andrews CEO/Founder

Despite some signs of growth in Oregon as

GET STARTED LIMITED TIME

# But Not Everybody is Saying Nice Things

## How to Create More Jobs By Lowering Wages: Texas

By Robert Reich | Sep 13, 2011, 8:24 PM | [Author's Website](#)

## TIME Magazine U.S.

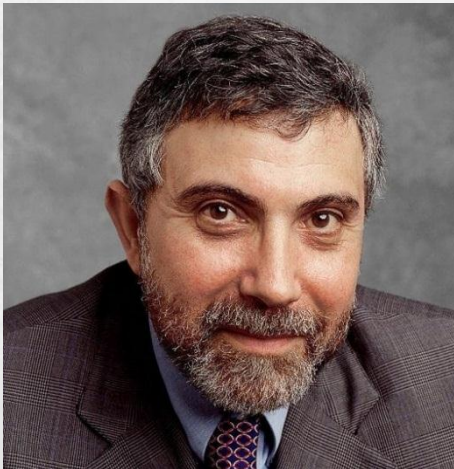
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[ime/magazine/article/0,9171,2090359,00.html](#)

## Debunking the 'Texas Miracle.'

By ROYA WOLVERSON | Monday, Sept. 05, 2011

*“So what you need to know is that the Texas miracle is a myth, and more broadly that Texan experience offers no useful lessons on how to restore national full employment.” – Paul Krugman, The New York Times, August 14, 2011*





# The **TEXAS Model**

A TEXAS PUBLIC POLICY FOUNDATION PUBLICATION

*So What's the Truth?*

# Claim

“Economists will tell you they have the same unemployment level down there [in Texas] you’ve had anywhere else.” – Richard Trimpka, president of the AFL-CIO



The  
**TEXAS Model**

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# Fact: Texas = Jobs

Year	Texas Employment	Change	U.S. Employment w/o Texas	Change
2001	9,423,300		121,009,700	
2008	10,439,700	1,016,400	125,400,300	4,390,600
2011	10,623,600	1,200,300	120,296,400	-713,300

1	<b>Austin-Round Rock-San Marcos, TX</b>	89.1	769.3
2	<b>New Orleans-Metairie-Kenner, LA</b>	88.9	522.6
3	<b>Houston-Sugar Land-Baytown, TX</b>	82.1	2552.3
4	<b>San Antonio-New Braunfels, TX</b>	80.7	841.3
5	<b>Dallas-Plano-Irving, TX Metropolitan Division</b>	80.6	2043.4



# Fact: Texas Keeping the U.S. Employed

- Texas' unemployment rate has been at or below the national average for 53 consecutive months

State	Unemployment Rate	Employment Change Jan. 2001 - June 2011*	% Change	Net Domestic Migration 2001-2010**
Texas	8.2%	1,200,300	12.74%	781,542
New York	8.0%	179,000	2.10%	-1,570,310
Massachusetts	7.6%	-34,400	-1.04%	-328,695





# Claim

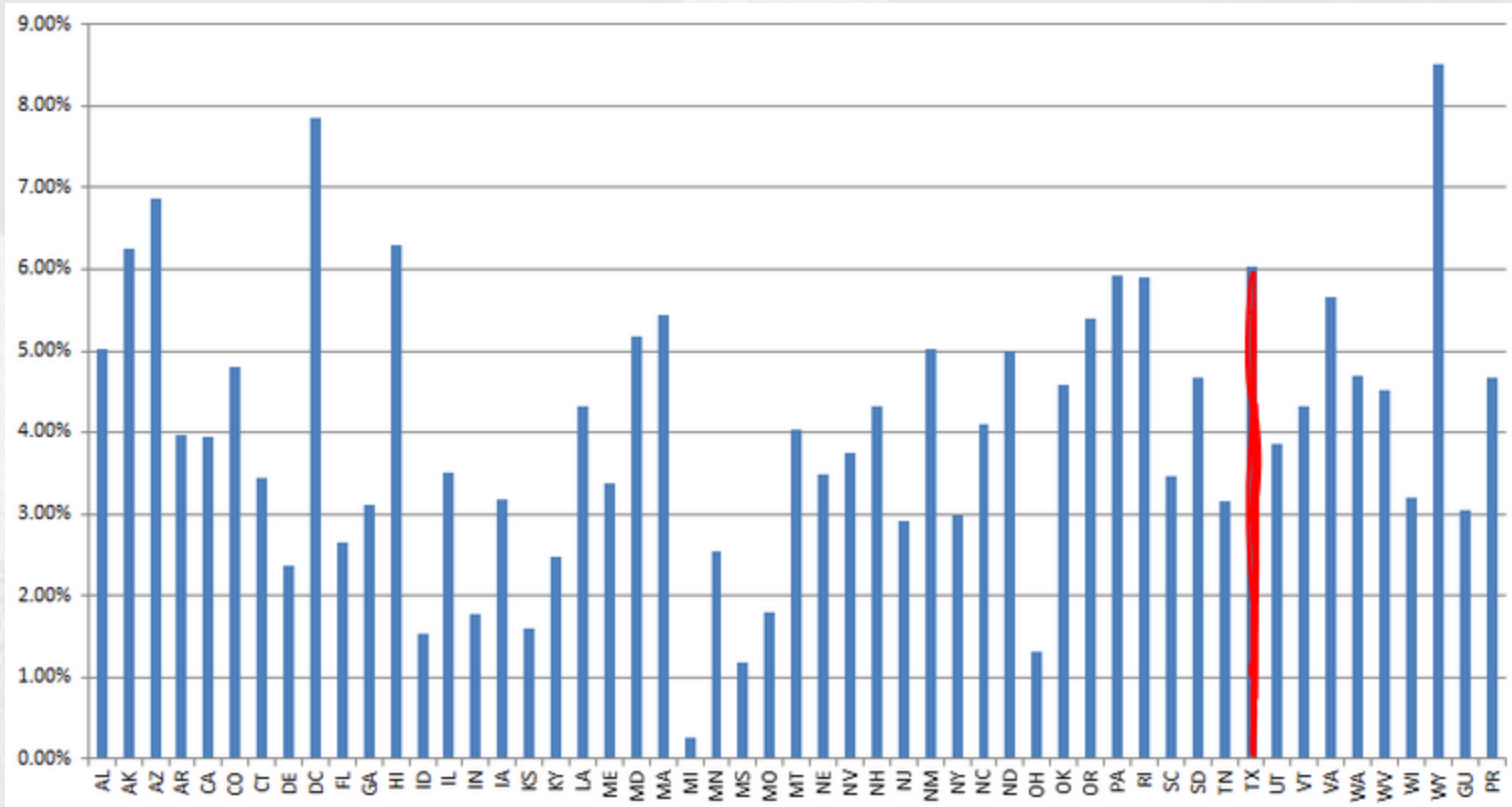
“This is the Texas where ... a growing low-wage economy means having a job is not enough to provide the basics of life.” – Paul Harris, in the Guardian UK



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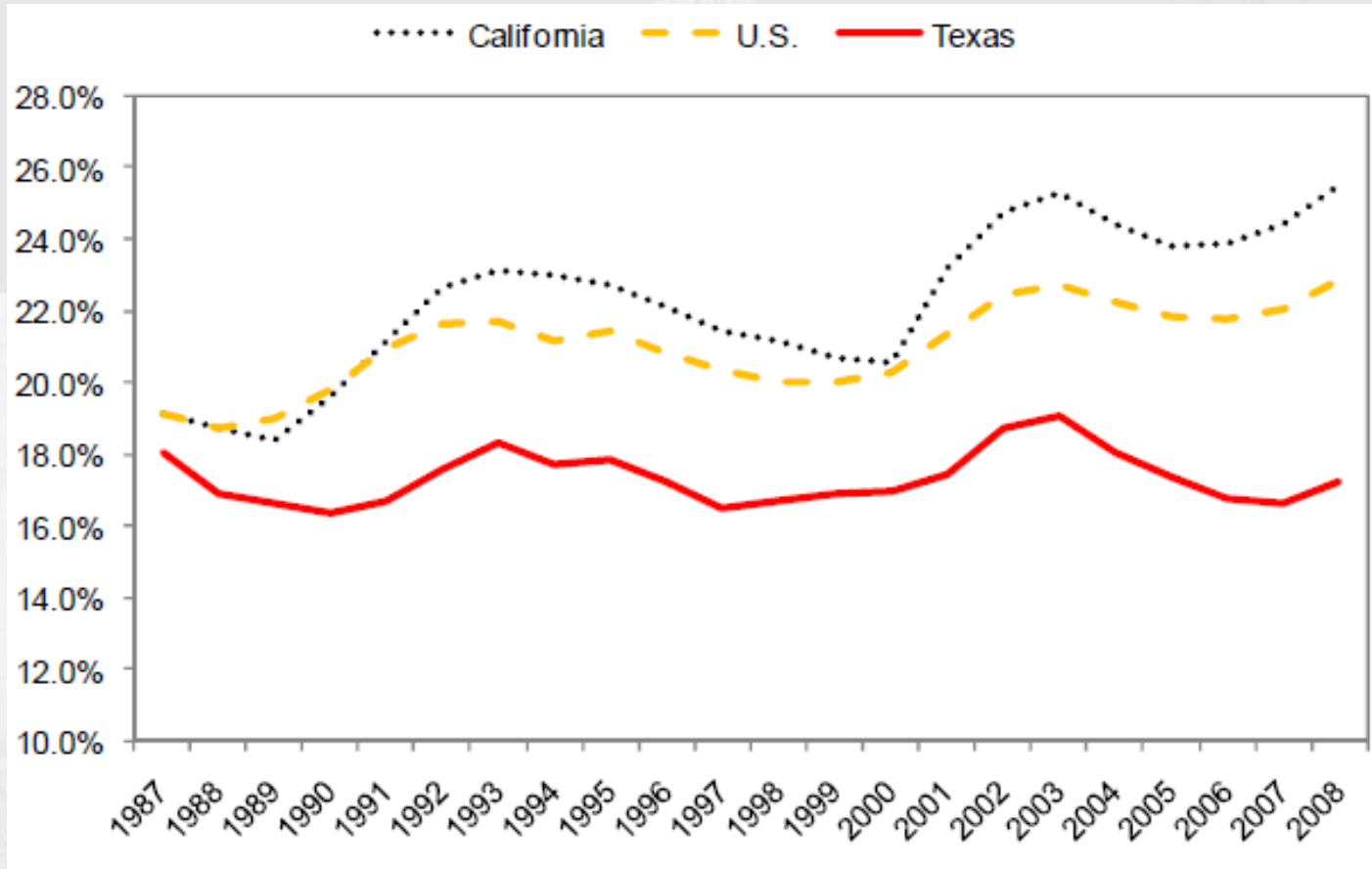
# Fact: U.S.' 6<sup>th</sup> Fastest Wage Growth





- The Texas Model is:
  - Low spending and taxes
  - A predictable, low level of regulation and strong property rights protection
  - A sound civil justice system
  - Minimal dependence on/interference from the federal government.

# Spending



# Spending

Table 2: Impact of State's Fiscal Policy on Economic Growth

State Economic Policy		Economic Growth 2003-2007		
		Job Growth	Income Growth	Population Growth
State Economic Development Spending	Lowest States per capita	10.7%	36.6%	7.9%
	Highest States per capita	7.0%	30.0%	3.2%
State & Local Tax Burdens	Lowest States per capita	11.0%	38.0%	7.4%
	Highest States per capita	4.3%	28.3%	1.9%
Change in Tax Policy	Tax Cutting States	12.6%	39.1%	9.4%
	Tax Raising States	5.0%	29.4%	4.0%

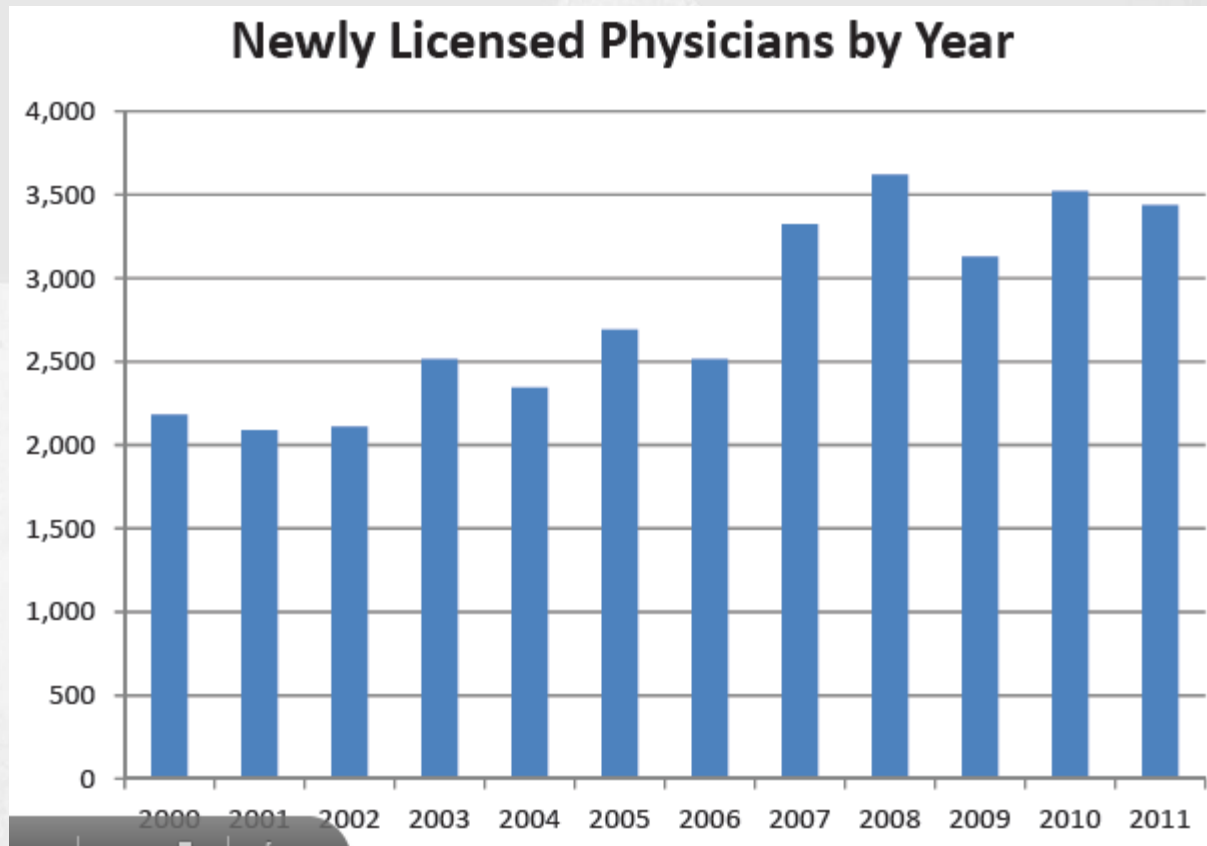


# Regulation

- Texas benefits from its abundant energy reserves because it avoids overly burdensome regulatory costs and delays in the energy industry.
- The same is not true for California. California's regulations make it more difficult for its people to harness the abundant natural resources available to its residents.
- Other examples
  - Telecommunications
  - Electricity
  - Air quality regulations on manufacturing



# Tort Reform



# Property Rights in Texas

- Texas' strength in property rights is in its relatively limited land use controls
- The Texas Supreme Court has recently been at the forefront of protecting property rights
- Recent statutory changes have also improved property rights: SB 18





# Don't Mess with Texas

## or depend on the Feds

- Despite conventional wisdom, federal funds are not “free” and, in fact, contribute a great deal to the unsustainable growth of state government and a resulting decline in economic growth
- Greater reliance on federal funds by states also means greater control of state programs by federal authorities
- Relying on larger federal contributions to state programs lead to higher state spending



# Focus on Property Rights: More than Real Property Ownership

- Eminent Domain
  - Takings
  - Public Use v. Public Necessity
  - Compensation
- Regulatory Takings
  - Zoning
  - Regulations
- Taxes and Spending
- Civil Justice

# Property Rights Strength: Land Use

- Unlike all other large U.S. cities, Houston lacks zoning laws restricting industrial, commercial and residential construction to specific neighborhoods.
- Houston, Dallas, and other Texas metros with relatively more permissive development policies have lower housing prices.
- To halt suburban growth and reduce people's dependence on the automobile, Portland's uses an urban–growth boundary to greatly increase the area's population density.
- This limits the supply of land available for new construction. In 1990, an acre suitable for residential use in the Portland area cost \$25,000. By 1997, the cost was \$150,000 to \$200,000. The National Association of Home Builders ranked Portland the second-least affordable housing market in the country.

# Challenge: Applewhite Reservoir



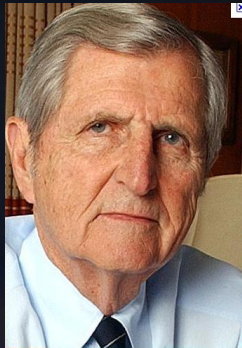
# The Real Applewhite Reservoir



# Issue: The Buyback Provision

- In most cases, Texas' buyback provision allows a condemnor to keep condemned property even if it does not use the property for the use specified in the condemnation proceedings.
- Government may keep property if only **two** of the **seven** have been accomplished within 10 years: 1) a significant amount of labor; 2) a significant amount of materials; 3) significant amount of work of an architect, etc.; 4) application for funds; 5) application for permit; 6) acquisition of adjacent tract; 7) **adoption of a development plan stating that only one of 1-6 will be accomplished.**

# Challenge: Harry Whittington



# Issue: Judicial Deference

- “Texas courts traditionally afford great weight to legislative declarations that a given use of property is a public use.”
- – Texas 3<sup>rd</sup> Court of Appeals



# Challenge: Woodard Paint & Body



# Issue: No Vested Right in Property Uses

- “Property owners do not acquire a constitutionally protected vested right in property uses.”
- –Texas Supreme Court, *City of University Park v. Benners*

# Property Rights: Recent Improvements

- HJR 14 (2009)
  - Required that taking property for the elimination of urban blight be based on the characteristics of a particular parcel of property
- SB 18 (2011)
  - Banned takings not for a public use
  - Changed some instances of “public purpose” for “public use”
- The Texas Supreme Court (2011)
  - *Texas Rice Land Partners, Ltd. And Mike Latta v. Denbury Green Pipeline-Texas, LLC.*
  - *In Re State Of Texas v. Laws*
  - *City Of Dallas v. Heather Stewart*
  - *Barbara Robinson v. Crown Cork & Seal Company, Inc.*

# Recent Improvements: SB 18

- Prohibits ED takings that are not for a public use.
- Changes “public purpose” to “public use” in some cases
- Grants more leeway to roads crossing easements
- Requires entities to report that they have ED authority
- Requires payment for relocation expenses
- Material impairment of direct access to remaining property can be considered in compensation
- Poorly crafted buyback provision
- Procedural safeguards
  - Requires bonafide offer equal to or greater than the appraised value by a certified appraiser
  - Requires vote by governing body
  - Requires access to all appraisals by condemnor

# Recent Improvements: Supreme Court *Texas Rice Land Partners v. Denbury*

- “Merely registering as a common carrier does not conclusively convey the extraordinary power of eminent domain or bar landowners from contesting in court whether a planned pipeline meets statutory common-carrier requirements. Nothing in Texas law leaves landowners so vulnerable to unconstitutional private takings.”

# Recent Improvements: Supreme Court *In Re State Of Texas v. Laws*

“Though the State has a right to define the property being taken, it does not have the power to constrain the owners’ evidence of competing conceptions of the best economic unit by which the taken property should be valued.”

# Recent Improvements: Supreme Court *City Of Dallas v. Heather Stewart*

“The protection of property rights, central to the functioning of our society, should not—indeed, cannot—be charged to the same people who seek to take those rights away. ... [W]e believe that unelected municipal agencies cannot be effective bulwarks against constitutional violations.”

# Recent Improvements: Supreme Court *Robinson v. Crown Cork & Seal Company, Inc.*

“Judges are properly deferential to legislative judgments in most matters, but at some epochal point, when police power becomes a convenient talisman waved to short-circuit our constitutional design, deference devolves into dereliction.”



# Texas Model: 82<sup>nd</sup> Texas Legislature

- Balanced the budget w/o major tax increases and reduced GR/GRD spending by \$1.6
- Didn't spend all of the Rainy Day Fund ... yet
- Left about \$4 billion in Medicaid costs unfunded
- Used budget tricks to hide \$2 billion in costs
- Passed Loser Pays & related tort reforms
- Protected Groundwater Rights
- Passed Interstate Health Compact
- Controlled Education Spending Growth
- Reduced Health Care Costs



# Texas Model: 83<sup>rd</sup> Texas Legislature

- Rainy Day spending: \$4 - \$8 billion
- Increased Medicaid Costs: \$12 - \$16 billion
- Education spending: four lawsuits filed
- Desires to “fix” margin tax
- The need to closely examine state spending?
- More property rights reform?
  - Buyback provision
  - Public purpose to public use
  - Better compensation
  - Regulatory takings



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