



Digging Ourselves a Deeper Hole

By Patrick J. Wright

George Santayana, a poet and philosopher, produced the often paraphrased quotation: “Those who cannot remember the past are condemned to repeat it.” If correct, his aphorism foreshadows future troubles for Michigan due to its newly enacted renewable energy laws.

Summary

Michigan has a long history of failed central planning and a legal precedent against public financing of private projects, which policymakers should keep in mind as they push renewable energy plans.

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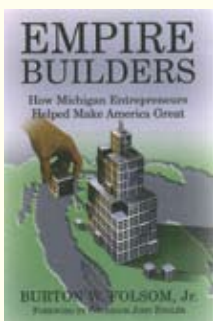
By now, it is clear that Gov. Jennifer Granholm’s administration passionately believes in the potential of renewable energy. Consider, for example, two aggressive administrative attempts to promote renewables that have been successfully challenged. First, the administration sought to create a tax to fund renewable energy: in 2005, the Michigan Court of Appeals held this was improper. More recently, through Executive Directive 2009-2, the Granholm administration sought to prevent any new coal plants from being constructed if the Department of Environmental Quality, not the Michigan Public Service Commission, determined there was a “feasible and prudent alternative” to provide the needed energy. Attorney General Mike Cox has issued an opinion that this was improper.

Another measure that was implemented correctly was 2008 legislation mandating a 10 percent renewable energy portfolio by 2015. The wisdom of this was the subject of a fierce debate. The attorney general indicated that the bills could cost more than \$2 billion annually and noted it would limit competition in the electricity market. The administration claimed that the legislation’s enactment would lead to capital investment and green jobs.

Students of Michigan’s history should recognize a portion of this debate: the market vs. government question surrounded arguments on “internal improvements” in the early decades of Michigan’s statehood.

Michigan’s first constitution was passed in 1835, two years before Michigan became a state. Michigan, like many states, envied the success that New York had with the Erie Canal. Our first constitution called for governmental financing of internal improvements. Plans were soon made for various railroads and for a canal from Mt. Clemens to the mouth of the Kalamazoo River. More than \$5 million was bonded for these projects.

The results were abysmal. The recession of 1837 and what Michigan Supreme Court Justice Thomas Cooley in his book “History of Michigan” described as “wild and chimeral” projects led to the realization that the state should not finance these plans. The canal was abandoned and the railroads sold at a significant loss to private interests that completed them at appreciably lower costs.



“Empire Builders,” written by Mackinaw Center senior fellow in economic education Dr. Burton Folsom, details the failure of central planning in 19th century Michigan, including plans to build a canal from the Detroit area to Kalamazoo.

As a consequence, provisions in the 1850 constitution prohibited state financing of internal improvements or extension of state credit to private interests. Justice Cooley in “History of Michigan” said, “These were very positive provisions, and by adopting them the people believed they had rendered it impossible that projects of doubtful wisdom and utility should be engaged in at the public cost.” But, he added, “diseases in the body politic, like those in the human system, are likely to take on new forms from time to time.”

Railroad mania returned when some noted that while state action was prohibited there was no express prohibition on local aid to railroads or other private interests. According to Justice Cooley, the Legislature soon succumbed to arguments that “Michigan was falling behind” and that localities could see enhanced property values and job creation by facilitating railroads.

Justice Cooley’s opinion holding that the local railroad subsidies were unconstitutional delved into the whether state taxes should be used to assist private interests. In an 1870 state Supreme Court opinion striking down those subsidies, he wrote:

The State can have no favorites. Its business is to protect the industry of all, and to give all the benefit of equal laws. It cannot compel an unwilling minority to submit to taxation in order that it may keep upon its feet any business that cannot stand alone. Moreover, it is not a weak interest only that can give plausible reasons for public aid: when the State once enters upon the business of subsidies, we shall not fail to discover that the strong and powerful interests are those most likely to control legislation, and that the weaker will be taxed to enhance the profits of the stronger.

Forms of the 1850 constitutional provisions related to internal improvements and state credit survive today, although the courts have allowed many state subsidies. Clearly, these are difficult times in Michigan. The understandable temptation is to try anything to improve Michigan’s lot. Yet, the arguments for the renewable energy legislation sound eerily like those for the failed governmental projects of the 19th century.

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