

**STORAGE NAME:** h0289s1.er

**DATE:** February 24, 1997

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
ELECTION REFORM  
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**BILL #:** CS/HJR 289

**RELATING TO:** Constitutional residency requirements of elective public office

**SPONSOR(S):** Committee on Election Reform and Representative Bitner

**STATUTE(S) AFFECTED:** amending Section 15 of Article III; Sections 17 and 18 of Article V; and Section 1 of Article VIII; and creating Section 7 of Article VI, Florida Constitution.

**COMPANION BILL(S):** HJR 439 (s) and SJR 452 (s)

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) ELECTION REFORM YEAS 6 NAYS 3
- (2)
- (3)
- (4)
- (5)

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**I. SUMMARY:**

CS/HJR 289 proposes a constitutional amendment requiring that, in addition to the requirement that certain officers reside in the territorial jurisdiction of the office during the term of office, that such persons shall reside within the territorial jurisdiction of the office at the time of qualifying for election or at the time of appointment. The proof of residency requirement would apply to the offices of legislator, state attorney, public defender, and county commissioner. If passed by the Legislature, this constitutional amendment will be submitted to the electors at the November 1998 general election.

This resolution does not appear to have a significant fiscal impact on state or local governments.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

The Florida Constitution and statutes specify residency requirements for most elected officials. The residency requirements vary depending on the office, but most require that an officer reside within the territorial jurisdiction of the office during the term of office.

B. EFFECT OF PROPOSED CHANGES:

CS/HJR 289 proposes an amendment to the Constitution to require that individuals reside in the territorial jurisdiction of the office at the time of qualifying to run or appointment to the following offices: legislator, state attorney, public defender, and county commissioner. The resolution provides that in an election immediately following reapportionment a legislator shall establish residency upon election. The resolution provides that a person holding elective office who changes residency in order to qualify for a different elective office may not be disqualified from serving in the office currently held. The constitutional amendment proposed by CS/HJR 289 would be presented to electors at the November 1998 general election.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

CS/HJR 289 would require individuals seeking the offices of legislator, state attorney, public defender, or county commissioner to establish residency within the geographic jurisdiction of the office sought prior to qualifying for or being appointed to the office.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Not applicable.

- (2) what is the cost of such responsibility at the new level/agency?

Not applicable.

- (3) how is the new agency accountable to the people governed?

Not applicable.

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

- b. Does the bill require or authorize an increase in any fees?

No.

- c. Does the bill reduce total taxes, both rates and revenues?

No.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Not applicable.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

It is presently lawful for a person to run or seek appointment to any of the offices that will be affected by this resolution and then, if successful, move to the territorial jurisdiction of the office. CS/HJR 289 will require everyone seeking the offices of legislator, state attorney, public defender, or county commissioner to prove residency at the time of qualifying or appointment to the office.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

Not applicable.

- (2) Who makes the decisions?

Not applicable.

- (3) Are private alternatives permitted?

Not applicable.

- (4) Are families required to participate in a program?

Not applicable.

- (5) Are families penalized for not participating in a program?

Not applicable.

- b. Does the bill directly affect the legal rights and obligations between family members?

No.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

- (1) parents and guardians?

Not applicable.

- (2) service providers?

Not applicable.

- (3) government employees/agencies?

Not applicable.

D. SECTION-BY-SECTION ANALYSIS:

Not applicable.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

Each constitutional amendment is required to be published in a newspaper of general circulation in each county, once in the sixth week and once in the tenth week preceding the general election. Costs of advertising vary depending on the length of the amendment; however, it is estimated that the cost per amendment averages \$35,000.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

The total expenditure associated with CS/HJR 289 is the \$35,000 required to advertise the resolution.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:**

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

**D. FISCAL COMMENTS:**

Not applicable.

**IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:**

**A. APPLICABILITY OF THE MANDATES PROVISION:**

None.

**B. REDUCTION OF REVENUE RAISING AUTHORITY:**

None.

**C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:**

None.

V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

HJR 289 received two amendments in the Committee on Election Reform and was made into a committee substitute.

The bill was amended to allow county commissioners in reapportionment years to establish residency in the geographic jurisdiction of their office upon election. Additionally, the bill was amended to provide that an officeholder may only move out of his or her district to establish residency to qualify for a different office within the last 60 days before qualifying for the new office sought.

VII. SIGNATURES:

COMMITTEE ON ELECTION REFORM:

Prepared by:

Legislative Research Director:

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Clay Roberts

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