

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: February 19, 1998 Revised: 3/20/98 _____

Subject: Judicial Terms & Limits

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Wiehle</u>	<u>Moody</u>	<u>JU</u>	<u>Fav/1 amendment</u>
2.	<u>_____</u>	<u>_____</u>	<u>EE</u>	<u>_____</u>
3.	<u>_____</u>	<u>_____</u>	<u>RC</u>	<u>_____</u>
4.	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
5.	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>

I. Summary:

The Senate Joint Resolution proposes amending the Florida Constitution to limit the length of service of Supreme Court justices and district court of appeal judges to 8 consecutive years in office. To conform to this 8-year limitation, the resolution also provides for appointment or retention of Supreme Court justices and district court of appeal judges for a term of 4 years instead of the current 6 years.

The Senate Joint Resolution substantially amends Section 10, Article V, and Section 4, Article VI of the Florida Constitution.

II. Present Situation:

A. Constitution Amendment Process

Article XI of the Florida Constitution sets forth the various methods of proposing amendments to the State Constitution and the method of approval or rejection of those proposals. One method by which constitutional amendments may be proposed is by joint resolution agreed to by three-fifths of the membership of each house of the Legislature. s. 1, Art. XI, Fla. Const. Any such proposal must be submitted to the electors, either at the next general election held more than 90 days after the joint resolution is filed with the secretary of state, or, if pursuant to law enacted by the affirmative vote of three-fourths of the membership of each house of the Legislature and limited to a single amendment or revision, at an earlier special election held more than 90 days after such filing. s. 5, Art. XI, Fla. Const. If the proposed amendment is approved by a vote of the electors, it becomes effective as an amendment to the State Constitution on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment. *Id.*

B. Current Judicial Terms

Supreme Court justices and district court of appeal judges are appointed to or retained for terms of 6 years. s. 10, Art. V, Fla. Const. Circuit judges are elected for a term of 6 years and county court judges are elected for a term of 4 years. *Id.* No justice or judge can serve after attaining the age of 70 years except upon temporary assignment or to complete a term, one-half of which he or she has served. s. 8, Art. V, Fla. Const.

The State Constitution sets the number of Supreme Court justices at 7. s. 3, Art. V, Fla. Const. The Florida Statutes set the number of judges in the district courts of appeal, circuit courts, and county courts. Currently, there are 61 district courts of appeal positions, s. 35.06, F.S., 468 circuit court positions, s. 26.031, F.S., and 263 county court positions, s. 34.002, F.S.

C. Current Term Limits

In 1992, a constitutional amendment adopting term limits for elected officials in the state legislative and executive branches was proposed by citizen initiative and approved by a vote of the electorate. s. 4, Art. VI, Fla. Const. Pursuant to that provision, no person may appear on the ballot for re-election to any of the following offices if, by the end of the current term of office, the person will have served or, but for resignation, would have served in that office for 8 consecutive years:

1. Florida Representative;
2. Florida Senator;
3. Florida Lieutenant Governor;
4. Any office of the Florida Cabinet;
5. U.S. Representative from Florida; or
6. U.S. Senator from Florida.

Id.

The stated rationale for this amendment was:

The people of Florida believe that politicians who remain in office too long may become preoccupied with re-election and become beholden to special interests and bureaucrats, and that present limitations on the President of the United States and Governor of Florida show that term limitations can increase voter participation, citizen involvement in government, and the number of persons who will run for elective office.

See Advisory Opinion to the Attorney General--Limited Political Terms in Certain Elective Offices, 592 So.2d 225, 226 (Fla. 1991).

By its terms, the amendment took effect on the date it was approved by the electorate, but no service in a term of office which commenced prior to that date was to be counted against the established limit. *Id.*

III. Effect of Proposed Changes:

The Senate Joint Resolution proposes amending the State Constitution to add the offices of Supreme Court justices and district court of appeal judges to the list of those offices for which service is limited to 8 consecutive years. The resolution does not contain a provision that no service in a term of office which commenced prior to the effective date of the constitutional amendment is to be counted against the 8-year limitation period. As such, it could be argued that the resolution would prohibit those persons who are currently serving a second or subsequent term as a Supreme Court justice or district court of appeal judge from seeking to be retained in the office at the end of the term.

To conform the term of office to this 8-year limitation, the resolution provides that Supreme Court justices and district court of appeal judges would be appointed to or retained for a term of 4 years, not the current 6 years.

The resolution provides no effective date for the constitutional amendment. As such, it would take effect on the first Tuesday after the first Monday in January following the election at which it was approved by the electorate. s. 5, Art. XI, Fla. Const.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Indeterminable. According to information provided by the Office of the State Courts Administrator, 47 of the sitting 60 district court of appeal judges would no longer be able to serve as of the end of their current terms of office. These terms end from 1999 to 2003. By

severely decreasing the experience of those serving on the Supreme Court and district courts of appeal, the resolution may result in a decrease in judicial efficiency, which may delay completion of actions and increase costs.

On the other hand, the resolution also may increase voter participation, citizen involvement in government, and the number of persons who will run for elective office. *See Advisory Opinion to the Attorney General--Limited Political Terms in Certain Elective Offices*, 592 So.2d 225, 226 (Fla. 1991).

C. Government Sector Impact:

Indeterminable. According to information provided by the Office of the State Courts Administrator, 47 of the sitting 60 district court of appeal judges would no longer be able to serve as of the end of their current terms of office. These terms end from 1999 to 2003. By severely decreasing the experience of those serving on the Supreme Court and district courts of appeal, the resolution may result in a decrease in judicial efficiency, which may delay completion of actions and increase costs.

On the other hand, the resolution also may increase voter participation, citizen involvement in government, and the number of persons who will run for elective office. *See Advisory Opinion to the Attorney General--Limited Political Terms in Certain Elective Offices*, 592 So.2d 225, 226 (Fla. 1991).

VI. Technical Deficiencies:

None.

VII. Related Issues:

According to The Florida Bar's list of legislative positions, it opposes such a constitutional amendment.

VIII. Amendments:

#1 by Judiciary:

The amendment changes the limitation period from 8 years to 18 years and creates a new subsection instead of amending an existing section of the constitution.