

STORAGE NAME: h1253a.ree.doc
DATE: February 12, 2002

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
RULES, ETHICS & ELECTIONS (PRC)
ANALYSIS**

BILL #: HJR 1253
RELATING TO: Term Limits
SPONSOR(S): Representative(s) Greenstein and Others

TIED BILL(S):

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

- (1) RULES, ETHICS & ELECTIONS (PRC) YEAS 13 NAYS 0
- (2) STATE ADMINISTRATION (SGC)
- (3) PROCEDURAL & REDISTRICTING COUNCIL
- (4)
- (5)

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I. SUMMARY:

HJR 1253 proposes to amend art. VI, s. 4, of the Florida Constitution to increase the current term limits, from eight years to twelve years, for Florida Representatives and Senators, the Lieutenant Governor, or any member of the Cabinet.

HJR 1253 proposes to delete the eight-year term limitation for United States Representatives and United States Senators from Florida, which provision was declared unconstitutional by the United States Supreme Court.

The proposed amendment would be presented to the electors of Florida at the November 2002 general election.

The Committee on Rules, Ethics & Elections adopted a "strike all" amendment at its February 12, 2002 meeting. See Section VI. "Amendments or Committee Substitute Changes," which is traveling with the bill.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

B. PRESENT SITUATION:

Art. VI, s. 4, of the Florida Constitution currently provides that a Florida representative or senator, Lieutenant governor, Florida cabinet member, United States Representative or United States Senator from Florida may not have his or her name placed on the ballot if the person has served eight consecutive years in that office. Florida voters approved term limits under the "eight is enough" proposal (citizen initiative) in 1992 by a margin of 77 percent to 23 percent. Article VI, s. 4(b) currently reads:

No person may appear on the ballot for re-election to any of the following offices:

- (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

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 eight consecutive years.

In 1995 the United States Supreme Court held that state limits on the terms of federal officials violate the United States Constitution.¹ Shortly after that date, the provisions relating to state officials were challenged, but the Florida Supreme Court upheld the provisions of art. VI, s. 4(b), that apply to those officials.²

¹ *U.S. Term Limits, Inc. v. Thornton*, 115 S.Ct. 1842 (1995).

² *Ray v. Mortham*, 742 So.2d 1276 (Sept. 2, 1999) (The Court found that the portions relating to state officials could be severed from the portions that were stricken as invalid in *Thornton* and held that the term limits amendment as applied to state officers was constitutional.)

C. EFFECT OF PROPOSED CHANGES:

HJR 1253 proposes to increase from eight to twelve years the number of consecutive years that a Florida Representative or Senator, Lieutenant Governor, or Cabinet member may hold office before he or she is prohibited from appearing on the ballot.

The joint resolution eliminates the term limitation imposed on a United States Representative or Senator, which was held unconstitutional by the United States Supreme Court in 1995.

The proposed amendment would appear on the ballot as follows:

TERM LIMITS

Increases, from 8 to 12, the number of consecutive years a state legislator, the Lieutenant Governor, or any Cabinet officer may serve in that office before being denied the right to have his or her name appear on the ballot for re-election to that office. Removes provisions that apply term limits by means of ballot access to members of Congress, which the United States Supreme Court has determined violate the Federal Constitution.

D. SECTION-BY-SECTION ANALYSIS:

N/A

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

Article XI, s. 5, Fla. Const. requires that each proposed amendment to the Constitution be published in a newspaper of general circulation in each county two times prior to the general election. The Division of Elections estimates that the cost of compliance would be approximately \$58,767.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

N/A

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

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

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

N/A

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

The United States Supreme Court struck down state constitutional term limits for federal officeholders in *Thornton v. Hill*.³ The Florida Supreme Court upheld term limits for state officials in *Ray v. Mortham*.⁴ Because HJR 1253 proposes only to increase the term limitations governing state officials, no constitutional issues are implicated.

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

If adopted, the provisions of HJR 1253 would be applicable to current state officials.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Rules, Ethics & Elections adopted a "strike all" amendment to HJR 1253 at its meeting on February 12, 2002, clarifying that current officers are not included in the extension of term limits from 8 to 12 years. Specifically, the amendment creates Art. XII, s. 26, Fla. Const., to provide that the term limits amendment in art. VI, s. 4, Fla. Const., "shall apply only to those officers whose consecutive years in office begin in November 2002 or thereafter."

³ 115 S.Ct. 1842 (1995).

⁴ 742 So.2d 1276 (Sept. 2, 1999).

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VII. SIGNATURES:

COMMITTEE ON RULES, ETHICS & ELECTIONS (PRC):

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