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DATE: February 14, 2002

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
STATE ADMINISTRATION
ANALYSIS**

BILL #: HJR 1253
RELATING TO: Term Limits
SPONSOR(S): Representative(s) Greenstein, Maygarden 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
- (3) PROCEDURAL & REDISTRICTING COUNCIL
- (4)
- (5)

I. SUMMARY:

HJR 1253 proposes to amend Art. VI, s. 4, Florida Constitution, to increase the current term limits, from 8 to 12 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 meeting on February 12, 2002, which is traveling with the bill. See the "Amendments or Committee Substitute Changes" section for further discussion.

This bill does not appear to have a fiscal impact on local governments, but it does have a minimal fiscal impact on state government. Please see the "Fiscal Analysis and Economic Impact Statement" for further discussion.

Please see the "Other Comments" section of this analysis for comments by the Committee on State Administration.

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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:

Article VI, s. 4, 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 violates 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), Florida Constitution, 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 8 to 12 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 violates the Federal Constitution.

D. SECTION-BY-SECTION ANALYSIS:

See "Effect of Proposed Changes."

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Article XI, s. 5, Florida Constitution, 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:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

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

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

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:

None.

C. OTHER COMMENTS:

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

Comments by the Committee on State Administration

HJR 1253 amends Art. VI, s. 4, Florida Constitution, to allow the Lieutenant Governor, state legislators, and any cabinet officer to serve for up to 12 consecutive years. Article IV, s. 5(b), Florida Constitution, provides that "[n]o person who has, or but for resignation would have, served as governor or acting governor for more than six years in two consecutive terms shall be elected governor for the succeeding term." Accordingly, the Governor of the State of Florida may not run for a third consecutive term. Article IV, s. 5(a), Florida Constitution, provides that all candidates for the offices of governor and lieutenant governor must form joint candidacies so that the electors of Florida cast a single vote for these candidates running together. It is not compatible with the Florida Constitution to allow the Florida Lieutenant Governor to serve for up to 12 consecutive years, and only allow the Florida Governor to serve for eight consecutive years. The sponsor of this legislation will file an amendment to the strike-all amendment adopted by the Committee on Rules, Ethics, &

³ 115 S.Ct. 1842 (1995).

⁴ 742 So.2d 1276 (Sept. 2, 1999).

Election to address this issue. This amendment will only permit the Florida Lieutenant Governor to serve in office for up to eight consecutive years.

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, Florida Constitution, to provide that the term limits amendment in Art. VI, s. 4, Florida Constitution, "shall apply only to those officers whose consecutive years in office begin in November 2002 or thereafter." This amendment is traveling with the bill.

VII. SIGNATURES:

COMMITTEE ON RULES, ETHICS & ELECTIONS (PRC):

Prepared by:

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AS REVISED BY THE COMMITTEE ON STATE ADMINISTRATION:

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