

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HJR 1343 w/CS District School Board Members/Term Limits  
**SPONSOR(S):** Arza, Littlefield and others  
**TIED BILLS:** **IDEN./SIM. BILLS:** SJR 612

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Judiciary	11 Y, 6 N w/CS	Birtman	Havlicak
2) Education K-20			
3) Ethics & Elections (Sub)			
4) Procedures			
5)			

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**SUMMARY ANALYSIS**

This joint resolution imposes term limits of twelve consecutive years on members of a district school board. The resolution, if adopted by the voters, would apply prospectively to a member elected after the general election in which the joint resolution was adopted. The resolution provides that resignation prior to completion of a 4-year term would count as a completed 4-year term for purposes of meeting the term limit.

House Joint Resolution 1343 would create s.4 (c) of Article IX of the State Constitution.

Pursuant to s. 1, Article XI of the State Constitution, amendment of the constitution may be proposed by joint resolution agreed to by three-fifths of the membership of each house of the legislature.

HJR 1343 appears to have minimal fiscal impact on the state.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |  |   |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

To the extent that term limits reduce an individual’s option to vote for the candidate of their choice, it would appear that this bill does not expand individual freedom.

#### B. EFFECT OF PROPOSED CHANGES:

**Election of District School Board Members:** County school boards are addressed in the State Constitution, which provides that each county shall constitute a school district<sup>1</sup>; and that in each school district there shall be a school board composed of five or more members chosen by vote of the electors in a nonpartisan election for appropriately staggered terms of four years, as provided by law.<sup>2</sup> Current statutory law provides the following:

- District school board members shall be elected at the general election in November for terms of 4 years.<sup>3</sup>
- The term of office of a school board member shall begin on the second Tuesday following the general election in which such member is elected.<sup>4</sup>
- An alternate procedure for the election of district school board members for single-member representation is provided.<sup>5</sup>

The Florida School Board Association reports that there are currently 355 school board members, and that approximately 80 percent of school board members serve eight years or less.

**Effect of Proposed Changes:** If adopted, the constitutional amendment would limit a school board member to serving twelve consecutive years. The joint resolution further provides that time served by a school board member prior to that member’s election following the ratification of this joint resolution is not counted for purposes of calculating term limits. Thus the bill appears to be prospective in application only.

HJR 1343 provides that if a district school board member resigns prior to completion of his or her term, the time served by that member would constitute one 4-year term of office for purposes of the term limit.

It appears that the first school board members subject to the joint resolution would be those members elected in November, 2006.<sup>6</sup>

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<sup>1</sup> See Article IX, section 4(a) of the State Constitution which also provides that two or more contiguous counties may, upon vote of the electors of each county pursuant to law, be combined into one school district.

<sup>2</sup> See Article IX, section 4 of the State Constitution.

<sup>3</sup> See s. 1001.35, F.S.

<sup>4</sup> See s. 100.041(3), F.S., which also provides that in school districts with 5 members, the terms shall be arranged so that three members are elected at one general election and two members are elected at the next ensuing general election.

<sup>5</sup> See s. 1001.362, F.S., which allows single-member representation within the residence areas of the district if a proposition is submitted to and approved by a majority of the qualified electors voting on such proposition.

C. SECTION DIRECTORY:

See "Effect of Proposed Changes" above.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The State Constitution requires that a proposed amendment to the constitution be published in one newspaper of general circulation in each county in which a newspaper is published, once in the tenth week and once in the sixth week immediately preceding the week in which the election is held.<sup>7</sup> The Division of Elections estimates that the cost of compliance would be approximately \$35,000.<sup>8</sup>

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

HJR 1343 does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority to raise revenues; or reduce the percentage of a state tax shared with cities or counties.

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<sup>6</sup> See Article XI, section 5(a) of the State Constitution which requires a proposed amendment to the constitution to be submitted to the electors at the next general election held more than ninety days after the joint resolution is filed with the custodian of state records, unless pursuant to law enacted by three-fourths of the membership of each house of the legislature and limited to a single amendment or revision, it is submitted at an earlier special election held more than ninety days after such filing. HJR 1343 does not call for a special election. Section 5(d) of Article XI requires an effective date of the first Tuesday after the first Monday in January following the election, or on such other date as may be specified. HJR 1343 does not specify an effective date.

<sup>7</sup> See Article XI, section (5)(c) of the State Constitution.

<sup>8</sup> Estimate based on 2002 advertising rates.

2. Other:

**Right of Association:** Candidate qualification rules, such as term limits, implicate the right to associate for the advancement of political beliefs and the right of qualified voters to cast their votes effectively, which are rights protected by the First and Fourteenth Amendments to the U.S. Constitution.<sup>9</sup> The analysis applied to determine whether qualification restrictions are unconstitutional requires the court to weigh the “character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendments” against the interest put forward by the state in justifying the burden on those rights.<sup>10</sup> In holding that the imposition of term limits upon legislators did not violate candidates’ First Amendment rights, the Florida Supreme Court weighed the interests of the voters and concluded that the amendment passed muster.<sup>11</sup> While the constitutional imposition of term limits upon school board members has not been directly addressed by the Florida Supreme Court, the Court has held that in order to subject constitutionally authorized offices to term limit disqualifications, the Florida Constitution would have to be amended.<sup>12</sup>

**Accuracy of the Ballot Summary:** Regardless of the method of proposal, the full text of the proposed amendment is rarely placed on the ballot form; instead a ballot summary is provided. The ballot summary must be sufficient to provide fair notice of the contents and effect of the amendment.<sup>13</sup> Further, the ballot summary must fully advise the electorate of all consequences of the proposal.<sup>14</sup> The ballot statement on HJR 1343 does not notify the voter that resignation by a district school board member would result in assessing a completed 4-year term to the member for purposes of calculating term limits, even though the member never completed the 4-year term.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On April 9, 2003, the Judiciary Committee adopted one amendment to HJR 1343 that changed the term limits from eight years to twelve years. This analysis is drafted to the joint resolution as amended.

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<sup>9</sup> See Ray v. Mortham, 742 So.2d 1276 (Fla. 1999).

<sup>10</sup> See Anderson v. Celebrezze, 460 U.S. 780, 789 (1983).

<sup>11</sup> See Ray v. Mortham at 1285. The interests of the voters, as stated in the citizens’ petition were three fold: to increase voter participation; to increase citizen involvement in government; and to increase the number of persons who will run for elective office. The voters also expressed a belief that “politicians who remain in office too long may become preoccupied with re-election and become beholden to special interests and bureaucrats.”

<sup>12</sup> See Cook v. City of Jacksonville, 823 So.2d 86 (Fla. 2002), wherein the Court held that county charter provisions imposing term limits on school board members were unconstitutional attempts to impose an additional disqualification from election to office.

<sup>13</sup> See Advisory Opinion to the Attorney General re Stop Early Release of Prisoners, 642 So.2d 724 (Fla. 1994).

<sup>14</sup> See Armstrong v. Harris, 773 So.2d 7 (Fla. 2000).