

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote personal responsibility

If term limits were being removed completely from the Constitution, this bill would promote more personal responsibility. Term limits impose constraints over a voter's choice of candidates. However, because term limits are not being eliminated, but only extended for an additional four years, the House principles are not affected.

B. EFFECT OF PROPOSED CHANGES:

Current 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. In 1992, Florida voters approved term limits under the "eight is enough" proposal (citizen initiative) by a margin of 77 percent to 23 percent.

Art. 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 those provisions of Art. VI, s. 4(b).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.)

Proposed Situation -

HJR 1177 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, or any member of the Cabinet. It retains the eight-year term limit for the Office of Lieutenant Governor.

HJR 1177 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.

If enacted, the proposed amendment will be presented to the electors of Florida at the November 2006 general election, and if approved, will apply only to those officers whose consecutive years in office begin in November 2006 or after.

Representative Troutman filed an identical bill in 2004 (HJR 659). HJR 659 received favorable support in committee (7-1 in the Subcommittee on Ethics & Elections; 21-8 in Committee on Procedures). The bill was placed on the special order calendar, but died on the last day of session.

A number of states have taken steps to repeal term limits legislation. According to NCSL figures, 16 states have had legislation to alter their term limits since 1999. Idaho repealed its term limits law in 2003 and Utah did the same in 2004. Unlike Florida, these two states had *statutory* term limits.

If enacted, the proposed constitutional amendment will appear on the November 2006 ballot as follows:

TERM LIMITS

Proposes an amendment to Section 4 of Article VI and the creation of Section 26 of Article XII of the State Constitution to increase, from 8 to 12, the number of consecutive years a state legislator 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; applies to those officers whose consecutive years in office begin in November 2006 or thereafter; 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.

C. SECTION DIRECTORY:

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

2. Expenditures:

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

2. Expenditures:

Art. XI, s. 5, of the 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 \$37,000.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

2. Other: See "Current Situation" in "EFFECT OF PROPOSED CHANGES" above.

B. RULE-MAKING AUTHORITY:

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.