

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Prepared By: Judiciary Committee

BILL: CS/SJR's 1210 & 1362

SPONSOR: Ethics and Elections Committee and Senators Sebesta and Clary

SUBJECT: Term Limits for Legislative Office

DATE: March 29, 2005

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Babington</u>	<u>Rubinas</u>	<u>EE</u>	<u>Fav/Combined CS</u>
2.	_____	_____	<u>RC</u>	<u>Withdrawn</u>
3.	<u>Cibula</u>	<u>Maclure</u>	<u>JU</u>	<u>Favorable</u>
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Committee Substitute for Senate Joint Resolutions 1210 and 1362 increases term limits for state legislators from eight to 12 years. The term limits extension only applies to persons whose consecutive years in office *begin* in November 2006 or thereafter; office holders prior to that time remain subject to the eight-year term limit.

The committee substitute also removes term limit restrictions on federal office holders, which the U.S. Supreme Court has ruled are unconstitutional and unenforceable.

The committee substitute, if passed by a three-fifths vote of each house of the Legislature, will be voted on at the general election in November 2006.¹ The committee substitute for the joint resolutions, by its express terms, would apply upon approval of the voters.

This committee substitute substantially amends Section 4, Article VI, and creates Section 26 of Article XII of the Florida Constitution.

¹ A single amendment or revision to the State Constitution, however, can be submitted to the voters in a special election, provided each house of the Legislature so requires by a law enacted by an affirmative three-fourths vote. SECTION 5(a), ART. XI, STATE CONST.

II. Present Situation:

Term Limits

During the November 3, 1992, general election, the voters approved a citizens' initiative petition that placed term limits on certain elected offices.² The term limits are codified in s. 4(b), Art. VI, State Const., which states:

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.

“The official vote, as certified by the Secretary of State, was 3,625,500 in favor of the amendment, and 1,097,127 opposed.”³

Subsequent to the adoption of the term limit amendment, the U.S. Supreme Court ruled that states may not impose qualifications on federal offices in addition to the qualifications set forth in the federal constitution.⁴ As such, the provisions of s. 4(b), Art. VI, State Const., limiting the terms of U.S. Representatives and U.S. Senators from Florida are unconstitutional.

Legislative Proposals to Amend the State Constitution

Under s. 1, Art. XI, State Const., the Legislature may propose an amendment of a section, one or more articles, or the whole of the State Constitution. Such amendments must be proposed in a joint resolution agreed to by three-fifths of the membership of each house of the Legislature. Amendments proposed by joint resolution are submitted to the voters at the next general election held more than 90 days after the amendment is filed with the custodian of state records.⁵ The

² The impetus for the initiative petition was as follows:

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.

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

³ *Ray v. Mortham*, 742 So. 2d 1276, note 5 (Fla. 1999).

⁴ See *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779 (1995).

⁵ SECTION 5(a), ART. XI, STATE CONST.

next general election is scheduled for November 7, 2006.⁶ Unless stated otherwise in a constitutional amendment, amendments adopted at the next general election take effect on January 2, 2007.⁷

III. Effect of Proposed Changes:

The committee substitute for the joint resolutions extends the existing term limits for state legislators from eight to 12 years. Specifically, it provides that no person may appear on the ballot for re-election to the office of Florida representative or Florida senator, 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 12 consecutive years.

The provisions of the committee substitute will not authorize current state senators and representatives to serve additional terms. Specifically, the committee substitute provides that the term limits extension, "shall apply only to those officers whose consecutive years in office begin in November 2006 or thereafter."

The committee substitute also removes term limit restrictions on federal office holders, which the U.S. Supreme Court has ruled are unconstitutional and unenforceable.

The committee substitute, if passed by a three-fifths vote of each house of the Legislature, will be voted on at the general election on November 7, 2006.⁸ The committee substitute takes effect upon approval by the voters.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁶ DEPARTMENT OF STATE, DIVISION OF ELECTIONS, ELECTION DATES, at <http://election.dos.state.fl.us/online/elecdate.shtml>.

⁷ See SECTION 5(e), ART. XI, STATE CONST.

⁸ A single amendment or revision to the State Constitution, however, can be submitted to the voters in a special election, provided each house of the Legislature so requires by a law enacted by an affirmative three-fourths vote. SECTION 5(a), ART. XI, STATE CONST.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Each constitutional amendment is required to be published in a newspaper of general circulation in each county, once in the sixth week and once in the tenth week preceding the general election. Costs for advertising vary depending upon the length of the amendment; however, the cost per amendment is estimated to be approximately \$37,000.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

VIII. Summary of Amendments:

None.

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