

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: Ethics and Elections Committee

BILL: SJR 1362

SPONSOR: Senator Clary

SUBJECT: Term Limits

DATE: March 16, 2005

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fox	Rubinas	EE	Pre-meeting
2.	_____	_____	JU	_____
3.	_____	_____	RC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Senate Joint Resolution 1362 increases term limits for state legislators and cabinet members from 8 to 12 years. The term limits extension only applies to persons whose consecutive term in office *begins* in November 2006 or thereafter; office holders prior to that time remain subject to the 8-year term limit.

The joint resolution also makes some technical modifications. It removes term limit restrictions for federal office holders, which the U.S. Supreme Court has ruled are unconstitutional and unenforceable.

The joint resolution, if passed by a 3/5ths vote of each House of the Legislature, will be voted on at the general election in November 2006.¹ The joint resolution, by its express terms, would apply upon approval of the voters.

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

II. Present Situation:

The Florida Constitution provides that a Florida Senator, Florida Representative, Florida Lieutenant Governor, Florida Cabinet member, U.S. Representative from Florida, or U.S. Senator from Florida, may not have his or her name on the ballot if the person has served eight

¹ A single-subject amendment to the 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. Art. XI, section 5(a), Fla. Const.

consecutive years in that office. The U.S. Supreme Court has held that state-imposed limits on the terms of federal office holders violate the U.S. Constitution. See, *U.S. Term Limits, Inc. v. Thornton*, 115 S.Ct. 1842 (1995).

III. **Effect of Proposed Changes:**

The joint resolution extends the existing term limits for state legislators and cabinet members from 8 to 12 years. Specifically, it provides that no person may appear on the ballot for re-election to the office of Florida representative, Florida senator, or any office of the Florida Cabinet, 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.

Office holders are exempted from the term limits extension. Specifically, the joint resolution provides that the term limits extension, "shall apply only to those officers whose consecutive years in office begin in November 2006 or thereafter."

The joint resolution also makes some technical modifications. It removes term limits for U.S. Representatives and U.S. Senators from Florida, which are unenforceable pursuant to U.S. Supreme Court precedent.

Also, it maintains, but relocates, the current 8-year term limit for Florida lieutenant governor.

The joint resolution will take effect, by its express terms, upon approval by the voters at the general election in November 2006.

IV. **Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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:

In 1992, voters amended the Florida Constitution to include the current “eight is enough” term-limit scheme, by a margin of about 3 to 1. The term-limit proposal was the result of an initiative. Therefore, any repeal or modification must be approved by the voters.

In 2002, the Idaho Legislature became the first body to completely repeal term limits on state and local officers (HB 425 [2002]). In 2003, the Utah Legislature followed suit and repealed term limits for legislators and statewide officials (SB 240 [2003]). Term limits in each of those states were created in statute pursuant to citizens’ *statutory* initiatives.

Repealing or extending term limits has proven a much harder task in states where citizens must approve the changes. In November 2004, the citizens of Arkansas and Montana soundly defeated legislative proposals in their respective states to extend term limits to 12 years. The final results were about the same in both states: 70% against; 30% for.

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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