

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HM 763 Congressional Term Limits

**SPONSOR(S):** Caldwell

**TIED BILLS:** **IDEN./SIM. BILLS:** SM 970

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee	13 Y, 3 N	Lukis	Rojas
2) State Affairs Committee	11 Y, 6 N	Moore	Camechis

### SUMMARY ANALYSIS

HM 763 urges the United States Congress to propose an amendment to the U.S. Constitution to limit the number of consecutive terms that a member of Congress may serve in the same office. Currently, there is no limit on the number of terms a U.S. Senator or Representative can serve. As a result, congressional members are able to stay in office for long periods of time, which supporters of term limits contend negatively impacts their roles as representatives. This memorial does not specify a particular term limit—it advocates for *some limit*, which it states would allow for better service of this nation's interests.

Support for congressional term limits gained measurable traction around the early 1990s when 23 states, including Florida, passed laws imposing term limits on their respective federal legislators. The states' efforts were soon rendered void, however, in 1995 when the U.S. Supreme Court held that states could not impose term limits on federal legislators and that such limitation could only be accomplished by amending the U.S. Constitution. Accordingly, since that case supporters for term limits have focused their lobbying efforts on amending the Constitution.

To amend the U.S. Constitution each house of Congress must approve a proposal for an amendment by a two-thirds majority. Then, three-fourths (38) of the states have to ratify that proposal. Since 1995, congressional members have filed about 70 bills proposing an amendment to limit their terms, but none have been successful.

A similar memorial, HM 83, passed the Florida House of Representative on February 29, 2012 and the Florida Senate on March 1, 2012. That HM was filed with the Secretary of State on March 23, 2012.

Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review. Memorials have no force of law—they are mechanisms for formally petitioning the U.S. Congress to act on a particular subject. This memorial does not have a fiscal impact.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

The United States Constitution governs congressional membership.<sup>1</sup> It specifies that members of the U.S. House of Representatives serve two-year terms and members of the U.S. Senate serve six-year terms.<sup>2</sup> The Constitution does not limit the number of terms or years a member of Congress may serve.<sup>3</sup> The only check or limit on the length of congressional membership is the possibility of not being reelected.<sup>4</sup>

Supporters of congressional term limits find this check inadequate. They argue that given the ease at which incumbents are often reelected, members of Congress can become too insulated and isolated from the interests of their constituents.<sup>5</sup> In particular, these supporters claim that so called “career politicians” tend to become too consumed with the perks of their jobs and too indebted to lobbyists and special interests that they lose sight of their duty as representatives.<sup>6</sup>

Conversely, opponents to congressional term limits argue that the ability to vote members of Congress out of office is a sufficient check on their performance as lawmakers.<sup>7</sup> Opponents argue further that term limits would produce a more novice congressional membership and would not reduce the power of lobbyists and special interests.<sup>8</sup> Some even argue that term limits would increase the power of special interests.<sup>9</sup>

#### Background on the Term Limit Debate

This debate stems back to the late 18<sup>th</sup> Century;<sup>10</sup> however, it took many years for it to develop into its present form. Until the 1900s, support for term limits was essentially deemed irrelevant because it was uncommon for members of Congress to serve for more than a few terms.<sup>11</sup> As time progressed through the 20<sup>th</sup> Century and reelection rates for congressional incumbents began to increase,<sup>12</sup> the push for term limits also grew but never with much success.<sup>13</sup> Proponents of term limits did not gain any significant or measurable support until the early 1990s when 23 states, including Florida, passed laws imposing term limits on their respective federal legislators.<sup>14</sup> These efforts were eventually

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<sup>1</sup> U.S. Const. art. I, § 2, cl. 2; U.S. Const. art. I, § 3, cl. 3.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *See, id.*

<sup>5</sup> <http://www.termlimits.com/>; <http://termlimits.org/>; <http://www.cnn.com/2010/POLITICS/07/19/term.limits/index.html>

<sup>6</sup> *Id.*

<sup>7</sup> <http://www.cnn.com/2010/POLITICS/07/19/term.limits/index.html>; *See also*

[http://www.cleveland.com/opinion/index.ssf/2012/07/the\\_case\\_against\\_legislative\\_t.html](http://www.cleveland.com/opinion/index.ssf/2012/07/the_case_against_legislative_t.html)

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> The Framers debated the issue before drafting the final version of the U.S. Constitution as there were term limits for delegates to the Continental Congress under the Articles of Confederation.

<sup>11</sup> H0083z.FAS.DOCX March 15, 2012, citing Tiffanie Kovacevich, *Constitutionality of Term Limits: Can States Limit the Terms of Members of Congress?*, 23 Pac. L.J. 1677, 1680 (1992).

<sup>12</sup> *See*, the following source for data on re-election rates since 1964: <http://www.opensecrets.org/bigpicture/reelect.php>.

<sup>13</sup> For example, discussion of congressional term limits came about during the debate before the 1951 ratification of the 22<sup>nd</sup> amendment, which imposed a two-term limit on the office of the President. Former Senator O’Daniel, a Democrat from Texas, sought a proposal for congressional term limits, but he only received one vote.

<sup>14</sup> U.S. Congressional Research Service. Term Limits for Members of Congress: State Activity (No. 96-152 GOV; Nov. 22, 1996), by Sula P. Rishardson. Text at: <http://digital.library.unt.edu/ark:/67531/metacrs582/m1/>; Accessed: February 25, 2013. (States that passed some form of congressional term limits include the following: AK, AR, AZ, CA, CO, FL, ID, ME, MA, MI, MO, MT, NE, NH, NV, ND, OH, OK, OR, SD, UT, WA, WY.)

rendered void, however, with the 1995 Supreme Court case *U.S. Term Limits, Inc. v. Thornton*.<sup>15</sup> In that case, the Supreme Court held the following:

- 1) state-imposed candidacy limitations on federal legislative office violate the U.S. Constitution's "qualifications clauses"; and
- 2) term limits on federal legislators may only be imposed by amendment to the Constitution.<sup>16</sup>

Accordingly, since the *Thornton* decision, proponents for term limits have focused their lobbying efforts on amending the Constitution. To successfully amend the U.S. Constitution each side of Congress must approve a proposal for amendment by a two-thirds majority.<sup>17</sup> Then, three-fourths (38) of the states must ratify the proposal.<sup>18</sup> Since 1995, congressional members have filed about 70 bills proposing an amendment to limit their terms, but none have been successful.<sup>19</sup>

### **Effect of Proposed Changes**

HM 763 urges Congress to propose an amendment to the U.S. Constitution to limit the number of consecutive terms that a member of Congress may serve in the same office. The memorial does not advocate for a permanent ban from service of congressional members once their term limits expire. Under the memorial's approach, a member could be reelected to the same position as long as there is a break between periods of service. In addition, HM 763 does not specify a particular term limit—it advocates for *some limit*, which it states would allow for better service of this nation's interests.

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#### **B. SECTION DIRECTORY:**

Not applicable.

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

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

##### **1. Revenues:**

None.

##### **2. Expenditures:**

None.

#### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

##### **1. Revenues:**

None.

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<sup>15</sup> *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779, 881 (1995).

<sup>16</sup> *Id.*

<sup>17</sup> U.S. Const., art V.

<sup>18</sup> *Id.*

<sup>19</sup> This information was discovered through searches on [www.thomas.gov](http://www.thomas.gov), the online library of Congress.

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:

Not applicable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.