

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HJR 1031 Limitation of Terms of Office for Members of a District School Board
SPONSOR(S): Public Integrity & Ethics Committee; PreK-12 Quality Subcommittee; Fischer and Raburn
TIED BILLS: None **IDEN./SIM. BILLS:** CS/SJR 194

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Quality Subcommittee	12 Y, 2 N, As CS	Brink	DavisGreene
2) Public Integrity & Ethics Committee	17 Y, 1 N, As CS	Poreda	Kiner
3) Education Committee	14 Y, 2 N	Brink	Hassell

SUMMARY ANALYSIS

District school board members are elected constitutional officials of Florida who serve four-year terms without limit. Term limits on other elected officials, including Florida representatives; Florida senators; the Florida lieutenant governor; Florida Cabinet members, including the Governor; U.S. representatives from Florida; and U.S. senators from Florida were amended into the Florida Constitution by way of a citizens' initiative in 1992. Such officials are ineligible to appear on a ballot for reelection if, by the end of the current term of office, the person will have served for (or, but for resignation, would have served) in that office for eight consecutive years.

The House joint resolution proposes an amendment to the Florida Constitution that, if approved by the voters at the general election in November 2018, prohibits a district school board member from appearing on a ballot for reelection if, by the end of their current term of office, the member will have served, or but for resignation would have served, in that office for eight consecutive years. This provision is similar to the term limits for elected state and federal officials added to the Florida Constitution in 1992.

The proposed limitation would only apply to terms of office that begin after November 6, 2018.

A joint resolution proposing an amendment to the State Constitution must be passed by three-fifths of the membership of each house of the Legislature.

The Constitution requires 60 percent voter approval for passage of a proposed constitutional amendment.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

Present Situation

Florida's Constitution provides that each county school district must be governed by a school board composed of no fewer than five members elected to staggered, four-year terms, as provided by law.¹ Each district school board must operate, control, and supervise all free public schools within the school district and determine the rate of school district taxes within constitutional limits.²

Florida's Constitution establishes term limits for the following elected officials:³

- Florida representatives;
- Florida senators;
- Florida Lieutenant governor;
- Florida Cabinet members;
- U.S. representatives from Florida; and
- U.S. senators from Florida.

Terms limits for federal elected officials were held to be unconstitutional, and thus unenforceable, by the U.S. Supreme Court in 1995.⁴

Specifically, the Constitution states that none of these officials may appear on a ballot for reelection 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.⁵ These term limits became effective in 1992 and were prospective, so that officials reelected to a consecutive term in 1992 could serve another consecutive eight-years before reaching the term limit.⁶

There are no term limits for district school board members; however, term limits have been applied to county commissioners by charter counties.⁷

Effect of Proposed Changes

The joint resolution proposes an amendment to the Florida Constitution that, if approved by the voters at the general election in November 2018, prohibits a district school board member from appearing on a ballot for reelection if, by the end of their current term of office, the member will have served, or but for resignation would have served, in that office for eight consecutive years.

The resolution also provides that school board members' current terms will not count toward the proposed limitation. Terms that begin on November 6, 2018, or after will count against the proposed limitation. This is consistent with the 1992 Constitutional Amendment that enacted the term limits to Florida Cabinet members, the Lieutenant governor, State Representatives, and State Senators.

¹ Art. IX, s. 4(a), Fla. Const.

² See art. IX, s. 4(b), Fla. Const.

³ Art. VI, s. 4(b), Fla. Const.

⁴ *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779 (1995). See also *Ray v. Mortham*, 742 So.2d 1276 (Fla. 1999) (holding that term limits imposed on elected state officials were severable from provisions imposing the limits on federal offices).

⁵ See *id.*

⁶ See Florida Department of State, Proposed Constitutional Amendment #9 (1992), available at

<http://dos.elections.myflorida.com/initiatives/fulltext/pdf/1066-1.pdf>.

⁷ See *Telli v. Broward County*, 94 So.3d 504 (Fla. 2012) (holding that an amendment to the Broward County charter limiting commissioners to no more than three consecutive four-year terms was constitutional).

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Article XI, Section 5(d) of the Florida Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the 10th week and again in the sixth week immediately preceding the week the election is held. The division of Elections within the Department of State has not estimated the publication costs for advertising the joint resolution.

However, based on 2016 advertising costs, staff estimates full publication costs for advertising the proposed constitutional amendment to be less than \$50,000. This would likely be paid from non-recurring General Revenue funds.

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:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 17, 2018, the PreK-12 Quality Subcommittee adopted a strike all amendment and reported the joint resolution favorably as a committee substitute. The strike all amendment differs from the resolution as originally filed by:

- specifying that a school board member is ineligible for reelection if, by the end of their current term of office, the member will have served, or but for resignation would have served, in that office for eight consecutive years (this is the same term limit for elected state officials that was added to the Florida Constitution in 1992); and
- providing that service as a school board member after 2013 counts towards the eight-year limit.

On January 24, 2018, the Public Integrity & Ethics Committee adopted an amendment and reported the joint resolution favorably as a committee substitute. The amendment provides that only terms of office that begin on or after November 6, 2018, count toward the limitation in the resolution. The amendment also provides a schedule amendment to enact this intent of the resolution.

The analysis is drafted to reflect the joint resolution, as amended by the Public Integrity & Ethics Committee.