

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Ethics and Elections

BILL: SJR 194

INTRODUCER: Senator Steube

SUBJECT: Limitation of Terms of Office for Members of a District School Board

DATE: January 25, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fox	Ulrich	EE	Pre-meeting
2.			ED	
3.			RC	

I. Summary:

Senate Joint Resolution 194 establishes a lifetime, two (4-year) term limit for district school board members; currently, there are no term limits for such officers. The resolution applies retroactively for purposes of determining time served for any person elected at the 2018 general election or thereafter.

The electors will vote on the joint resolution at the general election in November 2018, if passed by a 3/5ths vote of each House of the Legislature. The joint resolution, by its express terms, would apply upon approval of at least 60% of those voting on the measure.

This joint resolution substantially amends Article VI, Section 4, of the Florida Constitution.

II. Present Situation:

Term Limits

The Florida Constitution provides that a person holding any of the following offices may not have his or her name on the ballot for reelection if the person has served, or but for resignation would have served, in an office for eight consecutive years:

- State Senator;
- State Representative;
- Lieutenant Governor;
- Florida Cabinet member;
- U.S. Representative from Florida; or
- U.S. Senator from Florida.¹

¹ Art. VI, s. 4(b), FLA. CONST.

The U.S. Supreme Court has held that state-imposed limits on the terms of *federal* office holders violate the U.S. Constitution, effectively rendering unenforceable Florida's term limits on its congressional members.²

The term limits provision was proposed by citizen initiative and passed at the 1992 general election by a greater than 3-to-1 margin (approved by over 76% of electors voting on the measure).³ The amendment applied *prospectively*; service prior to the 1992 election did not count toward the eight-year restriction. Thus, the term limits amendment did not begin to have a direct impact until the 2000 election cycle.

Florida School Boards

There is no provision in the Florida Constitution or Florida Statutes that limits the term of school board members.

Section 4(a) of Article IX of the Florida Constitution provides that:

Each county shall constitute a school district ... In each school district there shall be a school board composed of five or more members chosen by vote of the electors in a nonpartisan election for appropriately staggered terms of four years, as provided by law.

The responsibility of each school district includes operating, controlling, and supervising all free public schools within the school district and determining the rate of school district taxes within the limits of the school district.⁴

There are currently about 330 school board members across the 67 districts in Florida.⁵ In 2016-17, there were approximately 50 new school board members.⁶

III. Effect of Proposed Changes:

SJR 194 establishes a lifetime, two 4-year terms ban on district school board members; currently, there are no term limits for such officers. This approach is materially different than the current *Eight is Enough* term limit restriction in the Constitution for statewide and legislative officers, which prohibits an individual from having his or her name on the ballot for reelection if by the

² See, *U.S. Term Limits, Inc. v. Thornton*, 115 S.Ct. 1842 (1995).

³ See Florida Division of Elections website at <http://dos.elections.myflorida.com/initiatives/> (Year=1992; Ballot proposal #9) (last visited Jan. 25, 2018). For more information on the 1992 term-limit constitutional amendment, see <http://dos.elections.myflorida.com/initiatives/initdetail.asp?account=1066&seqnum=1> (last visited Jan. 25, 2018).

⁴ Fla. Const. Art. IX s. 4(b).

⁵ For a list of all Florida school boards and a link to the corresponding school boards website visit: <http://fsba.org/membership/school-boards/> (last visited Jan. 25, 2018).

⁶ *State of the Association: Making Strides for Public Education, 2016-17 Annual Report, Vol. 2*, pg. 3.

Florida School Boards Association <http://fsba.org/wp-content/uploads/2017/10/1617-Annual-Report-FULL-BLEED-8-28-17-Final.pdf> (last visited Jan. 25, 2018).

end of the current term he or she served, or but for resignation would have served, more than 8 consecutive years in the same office.⁷

The resolution also differs from the current constitutional provision in that it applies *retroactively* to school board members serving after the 2018 general election; a member's time served before the 2018 general election is counted in determining two terms of office. In practice, school board members elected at the 2018 general election for a 4-year term who have served at least one previous term will be termed out in 2022. Because school board members serve in staggered terms, members not up for reelection until 2020 who will have served two complete terms at that time will not be eligible for reelection.

Finally, the resolution provides that if a member resigns before completing two 4-year terms and then seeks election, time served before resignation constitutes one 4-year term of office.

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 2018. The joint resolution, by its express terms, would apply upon approval of the voters — at least 60% of those voting on the measure.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

⁷ The companion House bill and a Constitution Revision Commission proposal both mirror the current *Eight is Enough* restriction, though the CRC Proposal contains a retroactive application provision. See CS/CS HB 1031 (2018); CRC Proposal 43.

C. Government Sector Impact:

The Division of Elections is required to advertise the full text of proposed constitutional amendments in English and Spanish twice in a newspaper of general circulation in each county before the election in which the amendment shall be submitted to the electors. The Division is also required to provide each Supervisor of Elections with either booklets or posters displaying the full text of proposed amendments.

The Division has not completed an agency bill analysis for this bill or for the linked House Bill, but has informed committee staff that the cost to advertise constitutional amendments for the 2018 general election is expected to be about \$120.31 per word.⁸ At that rate, this 298-word amendment will cost **\$35,852.38**.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Florida Constitution Revision Commission is currently considering a different proposal on term limits for school board members (Proposal 43; Commissioner Donalds), which passed all committees of reference by a combined vote of 13-1.⁹ As this Senate resolution moves forward, the bill sponsor may wish to consult with the CRC to avoid potentially duplicative or conflicting ballot proposals.

VIII. Statutes Affected:

This bill substantially amends section 4 of Article IX of the Florida Constitution.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

⁸ E-mail from Austin Stowers, Legislative Affairs Director, Fla. Dep't of State to Jonathan Fox, Chief Attorney, Senate Ethics and Elections Comm. (Jan. 26, 2018)(on file with committee).

⁹ Florida Constitution Revision Commission web site at <http://flcrc.gov/Proposals/Commissioner/2017/0043> (last visited Jan. 25, 2018).