

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 229 Limitation on Terms of Office for Members of a District School Board

SPONSOR(S): Sabatini; Fine; and others

TIED BILLS: **IDEN./SIM. BILLS:** SJR 274

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Quality Subcommittee	14 Y, 0 N	Hoeft	Guy
2) Oversight, Transparency & Public Management Subcommittee	11 Y, 4 N	Toliver	Harrington
3) Education Committee			

SUMMARY ANALYSIS

School district board members are elected constitutional officials of Florida who serve four-year terms without limit. Term limits imposed by the Florida Constitution on other elected officials include Governor, Lieutenant Governor, Cabinet members, Florida representatives, and Florida senators. Except for the office of Governor, 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 (or, but for resignation, would have served) in that office for eight consecutive years. A person who has served as Governor, or but for resignation would have served, for more than six years in two consecutive terms is prohibited from being elected for a succeeding term.

The House joint resolution proposes an amendment to the Florida Constitution that, if approved by the voters at the November 3, 2020, general election, will prohibit a school board member from appearing on a ballot for reelection if, by the end of his or her current term of office, the member will have served, or but for resignation would have served, in that office for eight consecutive years. This proposal is similar to the term limits placed on elected state officials.

The proposed limitation would apply only to terms of office beginning on or after November 3, 2020, and is prospective, so that school board members reelected to a consecutive term in 2020 could serve another consecutive eight years before reaching the term limit.

Article XI, Section 1 of the Florida Constitution requires a joint resolution proposing a constitutional amendment be passed by three-fifths of the membership of each legislative house to be placed on the ballot.

Article XI, Section 5 of the Florida Constitution requires a proposed constitutional amendment be approved by at least sixty percent of those voting on the measure at a general election to amend the Florida Constitution.

The proposed constitutional amendment will go into effect on November 3, 2020, if approved.

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

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

The Florida Constitution states that none of these officials, except for the office of Governor which is governed by a slightly different provision, 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

The Florida Constitution prohibits a person from being elected to the office of Governor, if the person served, or but for resignation would have served, as Governor or acting Governor for more than six years in two consecutive terms.⁷ The term limit provision for the office of Governor has been in the Florida Constitution since the 1968 revision.⁸ Prior to the 1968 revision, the Florida Constitution of 1885 restricted the Governor to a single four-year term.⁹

There are no term limits for school board members; however, charter counties have applied term limits to county commissioners.¹⁰

¹ Art. IX, s. 4(a), Fla. Const.

² Art. IX, s. 4(b), Fla. Const.

³ Art. VI, s. 4(c), Fla. Const.

⁴ See *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 term limits on elected federal officials).

⁵ Art. VI, s. 4(c), Fla. Const.

⁶ See *Florida Constitution Revision Commission, Amendments, Election of 11-3-92: Limited Political Terms in Certain Offices Initiative (Article VI, Section 4) {Adopted}*, available at: <https://fall.fsulawrc.com/crc/conhist/1992amen.html>.

⁷ Art. IV, s. 5(b), Fla. Const.

⁸ See Art. VI, s. 5(b), Fla. Const. (1968) available at <https://fall.fsulawrc.com/crc/conhist/1968con.html>.

⁹ See Art. IV, s. 2, Fla. Const. (1885) available at <https://fall.fsulawrc.com/crc/conhist/1885con.html>.

¹⁰ 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).

Effect of Proposed Changes

The House joint resolution proposes amending the Florida Constitution to prohibit a school board member from appearing on a ballot for reelection if, by the end of his or her current term of office, the member will have served, or but for resignation would have served, in that office for eight consecutive years. The proposed constitutional amendment, if passed, will go into effect on November 3, 2020.¹¹

The resolution also provides that school board members' current terms will not count toward the proposed limitation. Only terms that begin on or after November 3, 2020, will count toward the proposed limitation. This is consistent with the 1992 constitutional amendment that placed term limits on Florida Cabinet members, the Lieutenant Governor, state representatives, and state senators.

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 tenth 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 to advertise the proposed amendment.

Staff estimates publication costs to advertise the proposed amendment to be approximately \$50,000 based on 2018 advertising costs. The cost per word to advertise the 2018 constitutional amendments was \$120.31. The proposed amendment will include approximately 400 words if published on the 2020 general election ballot. This cost would be paid from non-recurring General Revenue funds.¹²

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

¹¹ Art. XI, s. 5(e), Fla. Const.

¹² Telephone interview with Budget Analyst, Transportation and Tourism Appropriations Subcommittee, Florida House of Representatives (January 29, 2019).

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.