

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 477 Term Limits for District School Board Members

**SPONSOR(S):** Rizo

**TIED BILLS:** None. **IDEN./SIM. BILLS:** SB 1110

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Choice & Innovation Subcommittee	14 Y, 4 N	Wolff	Sleap
2) Education & Employment Committee	16 Y, 4 N	Wolff	Hassell

### SUMMARY ANALYSIS

Florida's Constitution provides that each school district must be governed by a school board composed of five or more elected members elected to staggered, 4-year terms, as provided by law. In 2022, the Legislature established a term limit of 12 years for district school board members. This term limit applies to those individuals elected on or after November 8, 2022.

The bill aligns district school board term limits to the other term limits provided for in the Florida Constitution. The bill prohibits a school board member from appearing on a ballot for reelection if the member will have served, or would have served if not for resignation, in that office for 8 consecutive years. The proposed limitation would apply only to terms of office beginning on or after November 8, 2022, and is prospective, so that school board members reelected to a consecutive term in 2022 could serve another 8 consecutive years before reaching the term limit.

The bill does not have a fiscal impact.

The bill takes effect on July 1, 2023.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### District School Board Member Terms of Office

The Florida Constitution provides that “[i]n 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.”<sup>1</sup> This provision has been interpreted to allow school board member qualifications to be established by statute.<sup>2</sup> The Florida Constitution does not address the number of terms a school board member may serve.<sup>3</sup>

However, Florida’s Constitution establishes term limits for the following elected officials:<sup>4</sup>

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

Term limits imposed by states for federal elected officials were held to be unconstitutional, and thus unenforceable, by the U.S. Supreme Court in 1995.<sup>5</sup>

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.<sup>6</sup> 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.<sup>7</sup>

In 2022, the Legislature established a term limit of 12 years for district school board members.<sup>8</sup> This term limit applies to those individuals elected on or after November 8, 2022.<sup>9</sup> The term limit is prospective, so that school board members reelected to a consecutive term in 2022 could serve another 12 consecutive years before being term limited.<sup>10</sup> Currently, Duval County is the only district to

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<sup>1</sup> Art. IX, s.4(a), Fla. Const.

<sup>2</sup> In *Askew v. Thomas*, 293 So.2d 40, 42 (Fla. 1974), the court interpreted section 4(a) of article IX and refused to invoke the constitutional principle that “statutes imposing additional qualifications for office are unconstitutional where the basic document of the constitution itself has already undertaken to set forth those requirements” because that section does not address school board member qualifications. Similarly, in *Telli v. Broward County*, 94 So. 3d 504 (Fla. 2012), the court receded from prior opinions which held that article VI, section 4(b), Florida Constitution, listing the state elected offices with mandatory term limits, prohibited the imposition of term limits on other officials. The court held that “[i]nterpreting Florida’s Constitution to find implied restrictions on powers otherwise authorized is unsound in principle” and that “express restrictions must be found not implied.” *Id.* at 513.

<sup>3</sup> Art. IX, s.4(a), Fla. Const.

<sup>4</sup> Art. VI, s.4(c), Fla. Const. *See also* art. IV, s. 5(b), Fla. Const.

<sup>5</sup> *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).

<sup>6</sup> Art. VI, s.4(c), Fla. Const.

<sup>7</sup> *See* Art. VI, s. 4, Fla. Const. (1992); Billy Buzzett and Steven J. Uhlfelder, *Constitution Revision Commission: A Retrospective and Prospective Sketch*, *The Florida Bar Journal* (April 1997), <https://www.floridabar.org/the-florida-bar-journal/constitution-revision-commission-a-retrospective-and-prospective-sketch> (last visited Jan 24, 2023).

<sup>8</sup> Section 1001.35, F.S.

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

<sup>10</sup> *Id.*

have established a more restrictive term limit for its school board members of two consecutive full terms of 4 years.<sup>11</sup>

### **Effect of Proposed Changes**

The bill prohibits 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 would have served if not for resignation, in that office for 8 consecutive years. The proposed limitation would apply only to terms of office beginning on or after November 8, 2022, and is prospective, so that school board members reelected to a consecutive term in 2022 could serve another 8 consecutive years before reaching the term limit.

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

**Section 1:** Amends s. 1001.35, F.S.; revising the term limits for district school board members.

**Section 2:** Providing an effective date.

## **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.

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.

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<sup>11</sup> Charter of the City of Jacksonville, Florida, art. 13, s. 13.15,

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Q (last visited Jan. 27, 2023).

**STORAGE NAME:** h0477c.EEC

**DATE:** 3/9/2023

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

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

None.