

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 Community Affairs

BILL: CS/SB 438

INTRODUCER: Community Affairs Committee and Senator Ingoglia

SUBJECT: Term Limits

DATE: February 8, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Biehl</u>	<u>Roberts</u>	<u>EE</u>	Favorable
2.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	Fav/CS
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 438 creates a term limit of 8 years for county commissioners. The new term limit will apply to counties not already subjected to term limit by county charter, and to terms of office beginning on or after November 5, 2022, except that more restrictive term limits already imposed by county charter are not extended.

The bill provides that a county commissioner who terms out must sit out for two years before running for a different district seat or at-large seat of the county commission.

The bill also provides that a charter county whose charter contains term limits for county commissioners in excess of 8 years must hold a referendum on November 5, 2024, as to whether the county should prohibit commissioners from serving longer than 8 consecutive years.

The bill takes effect July 1, 2024.

II. Present Situation:

Term Limits in Florida's Constitution

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

- Florida Governor;
- Florida representatives;

- Florida senators;
- Florida Lieutenant Governor;
- Florida Cabinet members;
- U.S. representatives from Florida; and
- U.S. senators from Florida.¹

Term limits imposed by states for federal elected officials were held to be unconstitutional, and thus unenforceable, by the U.S. Supreme Court in 1995.²

The Florida Constitution states that none of the specified 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.³ 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.⁴

The Florida Constitution does not address the number of terms a county commissioner may serve.

County Commissioner Terms of Office

The Florida Constitution provides that each board of county commissioner shall consist of five or seven members serving staggered terms of four years. After each decennial census, the board of county commissioners divides the county into districts of contiguous territory as nearly equal in population as practicable. One commissioner in each district must be elected as provided by law.⁵

The statutes implementing the constitutional provisions specify:

- County commissioners may be elected at-large in some counties and from single-member districts in other counties.⁶
- For single-member districts, each commissioner from an odd-numbered district is elected at the general election in each year the number of which is a multiplier of four. Each commissioner from an even-numbered district is elected at the general election in each even-numbered year the number of which is not a multiple of four.⁷

¹ Article VI, s. 4(c), FLA. CONST. *See also* art. IV, s. 5(b), FLA. CONST.

² *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).

³ Article VI, s. 4(c), FLA. CONST.

⁴ *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 January 12, 2024).

⁵ Art. VIII, s. 1(e), FLA. CONST.

⁶ Section 124.011, F.S.

⁷ Section 100.041(2)(a), F.S.

Neither the Florida Constitution nor the Florida Statutes currently provide term limits for county commissioners. Currently, 20 Florida counties have adopted charters,⁸ some of which specify term limits for their county commissioners.⁹

III. Effect of Proposed Changes:

Section 1 creates s. 124.012, F.S., to create a term limit for county commissioners, providing that a county commissioner may not appear on a ballot for reelection if, by the end of his or her current term of office, the commissioner will have served, or would have served if not for resignation, in that office for 8 consecutive years. The section does not apply to counties in which term limits were imposed prior to July 1, 2024. In a county without imposed term limits, service of a term of office which began before November 5, 2022 is not counted towards the new term limits. The bill specifies that the statutory term limits for county commissioners does not supersede any more restrictive term limits imposed by a county charter.

The bill provides that a county commissioner who completes 8 consecutive years of service may not qualify for or appear on the ballot for a different district seat or at-large seat of the county commission until 2 years after the end date of his or her initial term.

The bill provides that the section does not supersede any more restrictive term limits imposed by a county charter, and does not authorize a person in such a county to serve an additional 8 consecutive years.

The bill also provides that a charter county whose charter contains term limits for county commissioners in excess of 8 years must hold a referendum on November 5, 2024, as to whether the county should prohibit commissioners from serving longer than 8 consecutive years.

Section 2 creates chapter law to provide the form for a referendum election in a county whose charter provides term limits in excess of 8 years, to be held on November 5, 2024. The ballot must be in substantially the following form:

COUNTY COMMISSIONER TERM LIMITS

Should the county prohibit county commissioners from serving longer than 8 consecutive years?

() Yes.

() No.

Section 3 provides that the bill takes effect July 1, 2024.

⁸ See Florida Association of Counties, *Charter County Information*, available at <https://www.fl-counties.com/about-floridas-counties/charter-county-information/> (last visited January 12, 2024). A county with a charter has all powers of self-government not inconsistent with general law or special law approved by the county voters (Art. VIII, s. 1(g), Fla. Const.).

⁹ The charter for the consolidated City of Jacksonville/Duval County, for example, limits the consecutive service of its county commissioners to three terms (charter available at https://www.fl-counties.com/themes/bootstrap_subtheme/sitefinity/documents/duval.pdf (last visited January 12, 2024)).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Counties required to include the referendum required by the bill in the November general election will incur costs associated with administration of that provision.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 124.012, Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Community Affairs on February 6, 2024:

The committee substitute provides that term limits imposed by the bill apply to counties in which term limits are not imposed by a county charter as of July 1, 2024, and that service of a term of office commenced prior to November 5, 2024, may not be counted towards the limitations. The committee substitute further provides that the bill does not supersede a more restrictive county charter term limit, and does not authorize a person subject to such more restrictive limitations to serve an additional 8 consecutive years.

The committee substitute also provides that a county whose charter authorizes county commissioners to serve longer than term limits imposed by the bill shall hold a referendum election coinciding with the 2024 general election to determine whether limits imposed by the bill shall apply to the county. The committee substitute provides the form for such referendum election.

- B. **Amendments:**

None.