

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HM 81 Congressional Term Limits  
**SPONSOR(S):** Local & Federal Affairs Committee; Caldwell and others  
**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee	15 Y, 1 N, As CS	Kelly	Rojas
2) State Affairs Committee			

### SUMMARY ANALYSIS

HM 81 urges the United States Congress to propose an amendment to the U.S. Constitution to limit the number of consecutive terms that a member of Congress may serve in the same office. Currently, there is no limit on the number of terms a U.S. Senator or Representative can serve. As a result, incumbent congressional members are able to stay in office for an undetermined amount of time. This memorial does not specify a particular term limit. Instead, it advocates for *some limit*, which it states would allow for better service of this nation's interests.

Support for congressional term limits gained measurable traction around the early 1990s when twenty-three states, including Florida, passed laws imposing term limits on their respective federal legislators. In 1995, the states' efforts were soon rendered void, when the U.S. Supreme Court held that states could not impose term limits on federal legislators and that such limitation could only be accomplished by amending the U.S. Constitution. Accordingly, since that case supporters for term limits have focused their lobbying efforts on amending the Constitution.

To amend the U.S. Constitution each house of Congress must approve a proposal for an amendment by a two-thirds majority. Then, three-fourths of the states have to ratify that proposal. Since 1995, congressional members have filed about seventy bills proposing an amendment to limit their terms, but none have been successful.

A similar memorial, HM 83, passed the Florida House of Representative on February 29, 2012 and the Florida Senate on March 1, 2012.

This memorial is identical to HM 763, a memorial filed with the Florida House of Representatives for the 2013 Legislative Session. HM 763 passed in the House, but died in the Senate.

Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the U.S. Congress to act on a particular subject. This memorial does not have a fiscal impact.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

The United States Constitution governs congressional membership.<sup>1</sup> Specifically, it states that members of the U.S. House of Representatives serve two-year terms and members of the U.S. Senate serve six-year terms.<sup>2</sup> However, the Constitution does not limit the number of terms or years a member of Congress may serve.<sup>3</sup> Thus, the only check or limit on the length of congressional membership is the possibility of not being reelected.<sup>4</sup>

Supporters of congressional term limits find this check inadequate.<sup>5</sup> Supporters argue that given the ease at which incumbents are often reelected, members of Congress can become too insulated and isolated from the interests of their constituents.<sup>6</sup> In particular, these supporters claim that so called “career politicians” tend to become too consumed with the perks of their jobs and too indebted to lobbyists and special interests that they lose sight of their duty as representatives of their constituency.<sup>7</sup> Supporters also contend setting term limits is a popular mechanism used by various states for checks on state and local political officials.<sup>8</sup> Due to its popularity, term limits should be implemented at the federal level.<sup>9</sup>

Opponents to congressional term limits argue that the ability to vote a member of Congress out of office is a sufficient check on their performance as lawmakers.<sup>10</sup> Opponents further argue that term limits would produce a more novice congressional membership that would not reduce the power of lobbyists and special interests.<sup>11</sup> Some opponents even argue that term limits would increase the power of special interests.<sup>12</sup>

#### Background on the Term Limit Debate

The term limit debate stems back to the creation of the U.S. Constitution.<sup>13</sup> However, it has taken many years to develop into the debate’s present form.<sup>14</sup> Until the 1900s, support for term limits was essentially deemed irrelevant because it was uncommon for members of Congress to serve for more than a few terms.<sup>15</sup> As time progressed, reelection rates for congressional incumbents began to increase,<sup>16</sup> as did the push for term limits.<sup>17</sup> However, proponents of term limits did not gain any

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<sup>1</sup> U.S. CONST. art. I, § 2, cl. 2; U.S. CONST. art. I, § 3, cl. 3.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> See Citizens for Term Limits, TERMLIMITS.COM, available at <http://www.termlimits.com>; U.S. Term Limits, TERMLIMITS.ORG, available at <http://termlimits.org>.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

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

<sup>10</sup> Kristi Keck, *Anti-Incumbent Mood Fuels Term Limit Debate*, CNN.COM (July 19, 2010), available at <http://www.cnn.com/2010/POLITICS/07/19/term.limits/index.html>.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> The Framers debated the issue before drafting the final version of the U.S. Constitution as there were term limits for delegates to the Continental Congress under the Articles of Confederation. See *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779, 877 (1995).

<sup>14</sup> Tiffanie Kovacevich, *Constitutionality of Term Limits: Can States Limit the Terms of Members of Congress?*, 23 PAC. L.J. 1677, 1680 (1992).

<sup>15</sup> *Id.*

<sup>16</sup> See *Reelection Rates Over the Years*, OPENSECRETS.ORG, available at <http://www.opensecrets.org/bigpicture/reelect.php> (showing data on re-election rates since 1964).

significant or measurable support until the early 1990s when twenty-three states, including Florida, passed laws imposing term limits on their respective federal legislators.<sup>18</sup> These efforts were eventually rendered void, however, with the 1995 Supreme Court case, *U.S. Term Limits, Inc. v. Thornton*.<sup>19</sup> In that case, the Supreme Court held the following:

- 1) State-imposed candidacy limitations on federal legislative office violates the U.S. Constitution's "qualifications clauses;" and
- 2) Term limits on federal legislators may only be imposed by amendment to the Constitution.<sup>20</sup>

Accordingly, since the *Thornton* decision, proponents for term limits have focused their lobbying efforts on amending the Constitution.<sup>21</sup> To successfully amend the U.S. Constitution each side of Congress must approve a proposal for amendment by a two-thirds majority.<sup>22</sup> Then, three-fourths (38 states) of the states have to ratify the proposal.<sup>23</sup> Since 1995, congressional members have filed about seventy bills proposing an amendment to limit their terms, but none have been successful.<sup>24</sup>

### Effect of Proposed Changes

HM 81 urges Congress to propose an amendment to the U.S. Constitution to limit the number of consecutive terms that a member of Congress may serve in the same office. The memorial does not advocate for a permanent ban from service of congressional members once their term limits expire. Under the memorial's approach, a member could be reelected to the same position as long as there is a break between periods of service. In addition, the memorial does not specify a particular term limit. Instead, it advocates for *some limit*, which it states would allow for better service of the Nation's interests.

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### B. SECTION DIRECTORY:

Not applicable.

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<sup>17</sup> For example, discussion of congressional term limits came about during the debate before the 1951 ratification of the 22<sup>nd</sup> amendment, which imposed a two-term limit on the office of the President. Former Senator O'Daniel, a Democrat from Texas, sought a proposal for congressional term limits, but he only received one vote.

<sup>18</sup> Sula P. Richardson, U.S. Congressional Research Service. *Term Limits for Members of Congress: State Activity* (June 4, 1998), available at [http://digital.library.unt.edu/ark:/67531/metacrs582/m1/1/high\\_res\\_d/96-152\\_1998Jun04.pdf](http://digital.library.unt.edu/ark:/67531/metacrs582/m1/1/high_res_d/96-152_1998Jun04.pdf) (finding that passed some form of congressional term limits include the following: AK, AR, AZ, CA, CO, FL, ID, ME, MA, MI, MO, MT, NE, NH, NV, ND, OH, OK, OR, SD, UT, WA, WY).

<sup>19</sup> *Thornton*, 514 U.S. 779, 881 (1995).

<sup>20</sup> *Id.*

<sup>21</sup> See Citizens for Term Limits, TERMLIMITS.COM, available at <http://www.termlimits.com>; U.S. Term Limits, TERMLIMITS.ORG, available at <http://termlimits.org>.

<sup>22</sup> U.S. Const., art V.

<sup>23</sup> *Id.*

<sup>24</sup> CONGRESS.GOV (Feb. 3, 2014), available at

<http://beta.congress.gov/search?q=%7B%22source%22%3A%22legislation%22%2C%22search%22%3A%22term%20limits%22%7D>.

## 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:

Not applicable.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 6, 2014, the Local & Federal Affairs Committee adopted one amendment, which deleted at the "et al." in case name in line 27. This analysis is updated to reflect this amendment.