

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	11 Y, 5 N	Davison	Camechis

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.

In the early 1990s, 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.

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 must ratify that proposal. Since 1995, congressional members have filed over 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.¹ 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.² However, the Constitution does not limit the number of terms or years a member of Congress may serve.³ Thus, the only check or limit on the length of congressional membership is the possibility of not being reelected.

Supporters of congressional term limits find this check inadequate. They 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.⁴ 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.⁵

Conversely, 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.⁶ Opponents further argue that term limits would produce a more novice congressional membership that would not reduce the power of lobbyists and special interests.⁷ Some opponents even argue that term limits would increase the power of special interests.⁸

Background on the Term Limit Debate

In the early 1990s, twenty-three states, including Florida, passed laws imposing term limits on their respective federal legislators.⁹ These efforts were eventually rendered void, however, with the 1995 Supreme Court case, *U.S. Term Limits, Inc. v. Thornton*.¹⁰ 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.¹¹

To successfully amend the U.S. Constitution each side of Congress must approve a proposal for amendment by a two-thirds majority.¹² Then, three-fourths (38 states) of the states must ratify the

¹ U.S. CONST. art. I., § 2, cl. 2; U.S. CONST. art. I, § 3, cl. 3.

² *Id.*

³ *Id.*

⁴ See *Citizens for Term Limits*, <http://termlimits.com/why/>; *U.S. Term Limits*, <http://www.termlimits.org>; 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>.

⁵ *Id.*

⁶ 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>; see also Thomas Suddes, *The Case Against Legislative Term Limits*, http://www.cleveland.com/opinion/index.ssf/2012/07/the_case_against_legislative_t.html.

⁷ *Id.* See also *Arguments for Term Limits*, Restart Congress, <http://restartcongress.org/revolution/arguments-for-term-limits/>.

⁸ *Id.*

⁹ 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 (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).

¹⁰ *Thornton*, 514 U.S. 779 (1995).

¹¹ *Id.*

¹² U.S. Const., art V.

proposal.¹³ Since 1995, congressional members have filed over seventy bills proposing an amendment to limit their terms, but none have been successful.¹⁴

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.

A similar memorial, HM 83, passed the Florida House of Representatives on February 29, 2012 and the Florida Senate on March 1, 2012. HM 83 was filed with the Secretary of State on March 23, 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.

B. SECTION DIRECTORY: Not applicable.

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.

¹³ *Id.*

¹⁴ CONGRESS.GOV (Feb. 3, 2014), available at <http://beta.congress.gov/>.

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.