

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 Ethics and Elections

BILL: CS/SJR 194

INTRODUCER: Ethics and Elections Committee, Senator Steube and others

SUBJECT: Limitation of Terms of Office for Members of a District School Board

DATE: January 31, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fox	Ulrich	EE	Fav/CS
2.			ED	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SJR 194 proposes that district school board members be subject to a 12-year consecutive service term limitation. This is four years longer than the term limits that presently apply to statewide officers and legislators. The provision would operate prospectively beginning with the 2018 general election. Thus, the earliest any currently serving school board member could be “termed-out” would be at the 2030 general election.

The joint resolution, if passed by a 3/5ths vote of each House of the Legislature, will be voted on at the general election in November 2018.

II. Present Situation:

Term Limits

The Florida Constitution provides that a person holding any of the following offices may not have his or her name on the ballot for reelection if the person has served, or but for resignation would have served, in an office for eight consecutive years:

- State Senator;
- State Representative;
- Lieutenant Governor;
- Florida Cabinet member;
- U.S. Representative from Florida; or

- U.S. Senator from Florida.¹

The U.S. Supreme Court has held that state-imposed limits on the terms of *federal* office holders violate the U.S. Constitution, effectively rendering unenforceable Florida's term limits on its congressional members.²

The term limits provision was proposed by citizen initiative and passed at the 1992 general election by a greater than 3-to-1 margin (approved by over 76% of electors voting on the measure).³ The amendment applied *prospectively*; service prior to the 1992 election did not count toward the eight-year restriction. Thus, the term limits amendment did not begin to have a direct impact until the 2000 election cycle.

Florida School Boards

There is no provision in the Florida Constitution or Florida Statutes that limits the term of school board members.

Section 4(a) of Article IX of the Florida Constitution provides that:

Each county shall constitute a school district ... In 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.

The responsibility of each school district includes operating, controlling, and supervising all free public schools within the school district and determining the rate of school district taxes within the limits of the school district.⁴

There are currently about 330 school board members across the 67 districts in Florida.⁵ In 2016-17, there were approximately 50 new school board members.⁶

III. Effect of Proposed Changes:

CS/SJR 194 provides that a person may not appear on the ballot for reelection to the office of school board member if by the end of his or her current term he or she served, or but for resignation will have served, in the office for 12 consecutive years. While the language mirrors

¹ Art. VI, s. 4(b), FLA. CONST.

² See, *U.S. Term Limits, Inc. v. Thornton*, 115 S.Ct. 1842 (1995).

³ See Florida Division of Elections website at <http://dos.elections.myflorida.com/initiatives/> (Year=1992; Ballot proposal #9) (last visited Jan. 25, 2018). For more information on the 1992 term-limit constitutional amendment, see <http://dos.elections.myflorida.com/initiatives/initdetail.asp?account=1066&seqnum=1> (last visited Jan. 25, 2018).

⁴ Fla. Const. Art. IX s. 4(b).

⁵ For a list of all Florida school boards and a link to the corresponding school boards website visit: <http://fsba.org/membership/school-boards/> (last visited Jan. 25, 2018).

⁶ *State of the Association: Making Strides for Public Education, 2016-17 Annual Report, Vol. 2*, pg. 3.

Florida School Boards Association <http://fsba.org/wp-content/uploads/2017/10/1617-Annual-Report-FULL-BLEED-8-28-17-Final.pdf> (last visited Jan. 25, 2018).

the current constitutional limits that apply to state legislators and certain Cabinet members, its duration is four years (one term) longer. The provision would operate prospectively beginning with the 2018 general election; thus, the earliest any currently serving school board member could be “termed-out” would be at the 2030 general election.

The joint resolution, if passed by a 3/5ths vote of each House of the Legislature, will be voted on at the general election in November 2018. The joint resolution, by its express terms, would apply upon approval of the voters — at least 60% of those voting on the measure.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Division of Elections is required to advertise the full text of proposed constitutional amendments in English and Spanish twice in a newspaper of general circulation in each county before the election in which the amendment shall be submitted to the electors. The Division is also required to provide each Supervisor of Elections with either booklets or posters displaying the full text of proposed amendments.

The Division has not completed an agency bill analysis for this bill or for the linked House Bill, but has informed committee staff that the cost to advertise constitutional amendments for the 2018 general election is expected to be about \$120.31 per word.⁷ At that rate, this 317-word amendment will cost **\$38,138.27**.

⁷ E-mail from Austin Stowers, Legislative Affairs Director, Fla. Dep’t of State to Jonathan Fox, Chief Attorney, Senate Ethics and Elections Comm. (Jan. 26, 2018)(on file with Ethics and Elections committee).

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Florida Constitution Revision Commission is currently considering a similar proposal on term limits for school board members (Proposal 43; Commissioner Donalds), which passed all committees of reference by a combined vote of 13-1.⁸ As this Senate resolution moves forward, the bill sponsor may wish to consult with the CRC to avoid potentially duplicative or conflicting ballot proposals.

VIII. Statutes Affected:

This bill substantially amends section 4 of Article IX of the Florida Constitution.

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 Ethics and Elections on January 30, 2018:

The CS eliminates the retroactivity provisions in the original bill, and provides for 12-year consecutive service term limits in lieu of an 8-year lifetime ban.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

⁸ Florida Constitution Revision Commission web site at <http://flcrc.gov/Proposals/Commissioner/2017/0043> (last visited Jan. 25, 2018).