

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HJR 157 Limitation on Terms of Office for Members of a District School Board

**SPONSOR(S):** Sabatini; Willhite and others

**TIED BILLS:** None **IDEN./SIM. BILLS:** SJR 1216, SJR 1480

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Innovation Subcommittee	13 Y, 4 N	D'Souza	Brink
2) Oversight, Transparency & Public Management Subcommittee	10 Y, 5 N	Toliver	Smith
3) Education Committee	11 Y, 4 N	D'Souza	Hassell

### SUMMARY ANALYSIS

The House joint resolution proposes an amendment to the Florida Constitution that would prohibit 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 eight consecutive years. This proposal is similar to the term limits placed on elected state officials.

The proposed limitation would apply only to terms of office beginning on or after November 3, 2020, and is prospective, so that school board members reelected to a consecutive term in 2020 could serve another consecutive eight years before reaching the term limit.

**Article XI, Section 1 of the Florida Constitution requires a joint resolution proposing a constitutional amendment be passed by three-fifths of the membership of each legislative house to be placed on the ballot.**

**Article XI, Section 5 of the Florida Constitution requires a proposed constitutional amendment be approved by at least sixty percent of those voting on the measure at a general election to amend the Florida Constitution.**

**The proposed constitutional amendment will go into effect on November 3, 2020, if approved.**

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### Present Situation

Florida's Constitution provides that each county school district must be governed by a school board composed of five or more members elected to staggered, four-year terms, as provided by law.<sup>1</sup> Each district school board must operate, control, and supervise all free public schools within the school district and determine the rate of school district taxes within constitutional limits.<sup>2</sup> The law does not limit the number of terms a school board member may serve.<sup>3</sup>

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.

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>5</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>6</sup>

The Florida Constitution prohibits a person from being elected to the office of Governor if the person served, or but for resignation would have served, as Governor or acting Governor for more than six years in two consecutive terms.<sup>7</sup> The term limit provision for the office of Governor has been in the Florida Constitution since the 1968 revision.<sup>8</sup> Prior to the 1968 revision, the Florida Constitution of 1885 restricted the Governor to a single four-year term.<sup>9</sup>

### Effect of Proposed Changes

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

<sup>2</sup> Art. IX, s. 4(b), Fla. Const.

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

<sup>4</sup> Art. VI, s. 4(c), Fla. Const.; *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>5</sup> Art. VI, s. 4(c), Fla. Const.

<sup>6</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 January 23, 2020).

<sup>7</sup> Art. IV, s. 5(b), Fla. Const.

<sup>8</sup> *See* Art. VI, s. 5(b), Fla. Const. (1968).

<sup>9</sup> *See* Art. IV, s. 2, Fla. Const. (1885).

The House joint resolution proposes amending the Florida Constitution to prohibit 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 eight consecutive years. The proposed constitutional amendment, if passed, will go into effect on November 3, 2020.<sup>10</sup>

The resolution also provides that school board members' current terms will not count toward the proposed limitation. Only terms that begin on or after November 3, 2020, will count toward the proposed limitation.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Article XI, Section 5(d) of the Florida Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the tenth week and again in the sixth week immediately preceding the week the election is held. The Division of Elections (division) within the Department of State is also required to provide each supervisor of elections with either booklets or posters displaying the full text of each proposed amendment.<sup>11</sup>

The division, using 2018 election cycle rates, has estimated the cost to advertise the amendment and produce booklets to be \$74,251.07, at a minimum.<sup>12</sup> Accurate costs based on the current election cycle cannot be determined until the total number of amendments to be advertised is known.<sup>13</sup> The cost to advertise the amendment and produce booklets would be paid from non-recurring General Revenue funds.

### 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

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<sup>10</sup> Art. XI, s. 5(e), Fla. Const.

<sup>11</sup> Section 101.171, F.S.

<sup>12</sup> Agency Bill Analysis for HJR 157, Department of State, on file with the Oversight, Transparency & Public Management Subcommittee.

<sup>13</sup> *Id.*

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**

None.