

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 1110

INTRODUCER: Ethics and Elections Committee and Senator Ingoglia

SUBJECT: Term Limits

DATE: April 3, 2023

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1110 reduces the length of term limits for school board members to 8 years from 12 years, and creates a term limit of 8 years for county commissioners. The revised and new term limits will apply to terms of office beginning on or after November 8, 2022.

The bill takes effect July 1, 2023.

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

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

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 school board member or county commissioner may serve.

District School Board Member Terms of Office

The Florida Constitution provides that “[i]n 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.”⁵ This provision has been interpreted to allow school board member qualifications to be established by statute.⁶

In 2022, the Legislature established a term limit of 12 years for district school board members.⁷ This term limit applies to those individuals elected on or after November 8, 2022.⁸ The term limit is prospective, so that school board members reelected to a consecutive term in 2022 could serve another 12 consecutive years before being term limited.⁹ Currently, Duval County is the only district to have established a more restrictive term limit for its school board members of two consecutive full terms of 4 years.¹⁰

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 March 17, 2023).

⁵ Article IX, s. 4(a), FLA. CONST.

⁶ In *Askew v. Thomas*, 293 So.2d 40, 42 (Fla. 1974), the court interpreted section 4(a) of article IX and refused to invoke the constitutional principle that “statutes imposing additional qualifications for office are unconstitutional where the basic document of the constitution itself has already undertaken to set forth those requirement” because that section does not address school board member qualifications. Similarly, in *Telli v. Broward County*, 94 So. 3d 504 (Fla. 2012), the court receded from prior opinions which held that article VI, section 4(b), Florida Constitution, listing the state elected offices with mandatory term limits, prohibited the imposition of term limits on other officials. The court held that “[i]nterpreting Florida’s Constitution to find implied restrictions on powers otherwise authorized is unsound in principle” and that “express restrictions must be found not implied.” *Id.* at 513.

⁷ Section 1001.35, F.S.

⁸ *Id.*

⁹ *Id.*

¹⁰ Charter of the City of Jacksonville, Florida, art. 13, s. 13.15, available at https://library.municode.com/fl/jacksonville/codes/code_of_ordinances?nodeId=CHRELA_PTACHLACHJAFL_ART13DU_COSCBO (last visited March 31, 2023).

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.¹¹

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.¹²
- 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.¹³

Neither the Florida Constitution nor the Florida Statutes currently provide term limits for county commissioners. Currently, 20 Florida counties have adopted charters,¹⁴ some of which specify term limits for their county commissioners.¹⁵

III. Effect of Proposed Changes:

The bill revises term limits for school board members 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 8 consecutive years.

The bill also creates term limits 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 bill specifies that the bill section creating term limits for county commissioners supersedes any term limits imposed by a county charter but that it may not be construed to extend term limits already applicable to a sitting county commissioner.

The proposed changes would apply only to terms of office beginning on or after November 8, 2022, and are prospective, so school board members or county commissioners reelected to a consecutive term in 2022 could serve another 8 consecutive years before reaching the term limit.

The bill takes effect July 1, 2023.

¹¹ Art. VIII, s. 1(e), FLA. CONST.

¹² Section 124.011, F.S.

¹³ Section 100.041(2)(a), F.S.

¹⁴ See Florida Association of Counties, *Charter County Information*, available at <https://www.fl-counties.com/about-floridas-counties/charter-county-information/> (last visited March 17, 2023). 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.).

¹⁵ 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 March 31, 2023)).

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:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 124.012 and 1001.35.

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 March 21, 2023:

The CS specifies that the creation of prospective eight-year term limits for county commissioners does not extend term limits already applicable to a sitting county commissioner.

- B. **Amendments:**

None.

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