

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: Ethics and Elections Committee

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BILL: SJR 2788

INTRODUCER: Senators Posey and Haridopolos

SUBJECT: Elections; Term Limits

DATE: March 29, 2006

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fox	Rubinas	EE	<b>Favorable</b>
2.	_____	_____	JU	_____
3.	_____	_____	RC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

Senate Joint Resolution 2788 rescinds House Joint Resolution 1177 (2005), which proposes a constitutional amendment to be voted at the 2006 general election extending term limits from 8 to 12 years for state legislators and Cabinet members whose continuous term in office commences in November 2006 or later.

If SJR 2788 passes each house of the Legislature by the constitutionally-required 3/5<sup>ths</sup> affirmative vote, the proposed term limits amendment will not appear on the 2006 ballot.

This joint resolution repeals HJR 1177 (2005), which substantially amends Art. VI, s. 4, and creates Art. XII, s. 26, of the State Constitution.

## II. Present Situation:

In the 2005 regular session, the Florida Senate (35-4) and Florida House (92-24) overwhelmingly passed HJR 1177 by the constitutionally-required 3/5<sup>ths</sup> affirmative vote.

HJR 1177 (2005) proposes an amendment to Art. VI, s. 4, of the Florida Constitution, increasing the current term limits from eight years to twelve years for Florida Senators and Representatives, or any member of the Cabinet. It retains the eight-year term limit for the Office of Lieutenant Governor.

HJR 1177 (2005) proposes also to delete the eight-year term limitation for United States Representatives and United States Senators from Florida, which was rendered unconstitutional by the United States Supreme Court decision in U.S. Term Limits, Inc. v. Thornton, 115 S.Ct. 1842 (1995) (invalidating Arkansas constitutional provision precluding persons who had served

certain number of terms in the United States Congress from having their names placed on the ballot as violative of the qualifications clause of the U.S. Constitution).

The amendment in HJR 1177 (2005) is due to appear on the November 2006 general election ballot, and, if approved by the voters, will apply only to those officers whose consecutive years in office begin in November 2006 or after.

The ballot summary due to be printed on the 2006 ballot neatly sums up the major changes proposed in the amendment:

#### TERM LIMITS

Proposes an amendment to Section 4 of Article VI and the creation of Section 26 of Article XII of the State Constitution to increase, from 8 to 12, the number of consecutive years a state legislator or any Cabinet officer may serve in that office before being denied the right to have his or her name appear on the ballot for re-election to that office; applies to those officers whose consecutive years in office begin in November 2006 or thereafter; removes provisions that apply term limits by means of ballot access to members of Congress, which the United States Supreme Court has determined violate the Federal Constitution.

### III. Effect of Proposed Changes:

If SJR 2788 passes the Legislature by the constitutionally-required 3/5<sup>th</sup> affirmative vote of the membership of each house, the term limits amendment proposed in HJR 1177 (2005) will not appear on the 2006 general election ballot in November.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

### V. Economic Impact and Fiscal Note:

#### A. Tax/Fee Issues:

None.

#### B. Private Sector Impact:

None.

**C. Government Sector Impact:**

Each constitutional amendment must be published in a newspaper of general circulation in each county, once in the sixth week and once in the tenth week preceding the general election. Costs for advertising vary depending upon the length of the amendment; however, the cost per amendment is estimated to be approximately \$37,000. Adopting SJR 2788 will eliminate this cost.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The Florida Attorney General has opined that the Florida Legislature may rescind a proposed constitutional amendment and prevent it from appearing on the ballot by adopting a joint resolution at a subsequent session that is agreed to by the same percentage of the membership required to pass the original joint resolution (currently, the constitutionally-required 3/5<sup>ths</sup> affirmative vote of the membership of each house). AGO 070-21 (April 3, 1970). The AG opinion cites several examples of resolutions in 1962 and 1968 that did precisely that. *See* AGO 070-21 (SJR 18-X [1962] successfully withdrawing SJR 216 [1961] relating to redistricting, preventing it from appearing on the 1962 general election ballot).



## **VIII. Summary of Amendments:**

None.

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

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