

**Constitution Revision Commission
Local Government Committee
Proposal Analysis**

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

Proposal #: P 43

Relating to: EDUCATION, School districts; school boards

Introducer(s): Commissioner Donalds

Article/Section affected: Article IX, Section 4

Date: February 12, 2018

	REFERENCE	ACTION
1.	<u>ED</u>	<u>Fav/CS</u>
2.	<u>LO</u>	<u>Fav/CS</u>
3.	<u>LO</u>	<u>Post meeting</u>

I. SUMMARY:

The proposal amends section 4 of Article IX of the Florida Constitution to limit school board members to two consecutive four year terms. After serving two terms for a total of eight years, the school board member is ineligible to run for another term. The proposal provides that current service on the school board counts towards the eight year limit.

II. SUBSTANTIVE ANALYSIS

A. PRESENT SITUATION:

Florida School Boards

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.¹

¹ Fla. Const. art. IX s. 4(b).

There are currently about 330 school board members across the 67 districts in Florida.² In 2016-17, there were approximately 50 new school board members.³ There is no provision in the Florida constitution or Florida law that limits the term of school board members.

Term Limits in Florida

Article 4 of Section VI of the Florida Constitution contains similar language to Proposal 43, which prohibits a person from appearing on the ballot for reelection for the following prescribed offices if they have served eight years in office:

- Florida representative;
- Florida senator;
- lieutenant governor;
- any office of the Florida cabinet
- U.S. representative or U.S. senate.⁴

The term limits provision under Article VI, which became effective in 1992, was as a result of a citizens' initiative.⁵ The limitation on time in office did not begin until the effective date of the amendment and thus service prior to the amendment did not count towards the eight years.

Term limits have been applied to county commissioners in charter counties as well. In *Telli v. Broward County*, the Florida Supreme Court ruled that charter counties may apply term limits to county commissioners.⁶

B. EFFECT OF PROPOSED CHANGES:

The proposal amends section 4 of Article IX of the Florida Constitution to prohibit a person from appearing on a ballot for re-election to the office of school board if by the end of the current term of office, the person would have served, or but for resignation would have served, for eight consecutive years. Only service to the office of school board after 2015 shall accrue toward the limitations prescribed.

² 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 11/21/17).

³ *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 11/21/17).

⁴ Term limits for federal offices were found to be unconstitutional by the U.S. Supreme Court. *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779 (1995). See Also *Ray v. Mortham*, 742 So.2d 1276 (Fla. 1999).

⁵ For more information related to the 1992 term limit constitutional amendment see <http://dos.elections.myflorida.com/initiatives/initdetail.asp?account=1066&seqnum=1> (last visited 11/21/17).

⁶ *Telli v. Broward County*, 94 So.3d 504 (Fla. 2012).

The proposals also provides that service on the school board before the proposed amendment takes effect shall accrue toward the eight-year limitation on the school board.

C. FISCAL IMPACT:

Indeterminate.

III. Additional Information:

A. Statement of Changes:

(Summarizing differences between the current version and the prior version of the proposal.)

Education Committee on November 27, 2017:

The proposal was amended to apply retroactively from the effective date to the terms of current serving school board members.

Local Government Committee on December 14, 2017:

The proposal was amended to apply to the accrual of service of school board members after 2015.

B. Amendments:

The Education Committee adopted amendment barcode: 843972

The Local Government Committee adopted amendment barcode: 158644

C. Technical Deficiencies:

Specificity is required to determine the date upon which the accrual of service applies to school board members after 2015.

D. Related Issues:

None.