

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: SB 438

INTRODUCER: Senator Ingoglia

SUBJECT: Term Limits

DATE: January 16, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Biehl</u>	<u>Roberts</u>	<u>EE</u>	Favorable
2.	_____	_____	<u>CA</u>	_____
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 438 creates a term limit of 8 years for county commissioners. The new term limit will apply to terms of office beginning on or after November 8, 2022, except that more restrictive term limits already imposed by county charter are not extended.

The bill provides that a county commissioner who terms out must sit out for two years before running for a different district seat or at-large seat of the county commission.

The bill takes effect July 1, 2024.

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 county commissioner may serve.

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.⁵

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.⁶
- 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.⁷

Neither the Florida Constitution nor the Florida Statutes currently provide term limits for county commissioners. Currently, 20 Florida counties have adopted charters,⁸ some of which specify term limits for their county commissioners.⁹

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 January 12, 2024).

⁵ Art. VIII, s. 1(e), FLA. CONST.

⁶ Section 124.011, F.S.

⁷ Section 100.041(2)(a), F.S.

⁸ See Florida Association of Counties, *Charter County Information*, available at <https://www.fl-counties.com/about-floridas-counties/charter-county-information/> (last visited January 12, 2024). 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.).

⁹ 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 January 12, 2024)).

III. Effect of Proposed Changes:

The bill creates a term limit 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. In a county without imposed term limits, service of a term of office which began before November 8, 2022 is not counted towards the new term limits. The bill specifies that the statutory term limits for county commissioners does not supersede any more restrictive term limits imposed by a county charter.

The bill provides that a county commissioner who completes 8 consecutive years of service may not qualify for or appear on the ballot for a different district seat or at-large seat of the county commission until 2 years after the end date of his or her initial term.

The bill takes effect July 1, 2024.

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 section 124.012, Florida Statutes:

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.