



# Florida School Boards Association

*The voice of education in Florida.*

## Proposal 43 – School Board Member Term Limits Background and Key Concepts

### Summary

The proposal amends Article IX, Section 4 of the Florida Constitution. The proposal would limit school board members to two consecutive four year terms in office. The proposal provides that a portion of the service accrued since the last election of a school board member would count toward the eight year limit. Therefore, the provisions of the proposal would be at least partially retroactive.

### Background

Pursuant to a citizens' initiative approved by voters in the 1992 General Election. Article VI, Section 4 of the Florida Constitution was amended to provide that no person may appear on the ballot for re-election for the office of Florida Representative, Florida Senator, Florida Lieutenant Governor, or any office of the Florida Cabinet 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 (NOTE: This provision also would have applied to the office of U.S. Representative and U.S. Senate, but it was deemed unconstitutional by the Florida Supreme Court). The provisions of this amendment became effective in 1992 and the limitation on time in office did not begin until the effective date of the amendment. Thus, service prior to the amendment did not count toward the eight year term limit. Term limits also have been applied to a few local elected officials, including one school board, in a few Florida counties, but the decision to impose term limits was made at the local level.

### Key Concepts

- Unlike the elections for all other state offices currently subject to term limits, all Florida school board elections are non-partisan.
- In 43 school districts, school board members are elected by a district-wide vote of electors (at-large election). In 21 school districts, school board members are elected by a vote of the electors within their residence area (single member district election). In 4 school districts, school board members are elected by a combination of single member district election and at-large election.
- If the imposition of term limits is intended to encourage more competitive races and/or to reduce the power of incumbency, these problems are not evident in school board races. A review of school board election results for 2010, 2012, 2014, and 2016 shows that most (65%) of school board races are competitive. More important, about 41% of all school board races result in the election of a new school board member.

YEAR	SEATS OPEN FOR ELECTION	QUALIFIED CANDIDATES	COMPETITIVE RACES	INCUMBENTS RE-ELECTED	NEW MEMBERS ELECTED
2010	210	463	143 – 68%	126	84 – 40%
2012	159	357	102 – 64%	97	62 – 39%
2014	210	444	144 – 69%	132	78 – 37%
2016	162	347	96 – 59%	87	75 – 46%

- If the imposition of term limits is intended to encourage more competitive races and/or to reduce the power of incumbency, it does not appear to have had that effect on the elections for the Florida Legislature. Instead, term limits seem to encourage allowing a term-limited legislator to remain in office, unchallenged, until the term limit is reached.
- This proposal would apply to only one group among several similar groups of local elected officials. It seems discriminatory, punitive, and possibly a violation of constitutional equal protection provisions, to single out one group to be subjected to these conditions and limitations that are not applied equally to all similar groups.
- Making the term limit partially retroactive is inconsistent with the implementation of term limits in Florida and appears to be inconsistent with the implementation of term limits anywhere else in the U.S.
- This proposal would make fundamental changes to the conditions under which some current school board members was elected. This is unfair not only to the school board member but, more important, it is unfair to the voters who elected that board member. One must question the purpose, the appropriateness, and the legality of making the term limit partially retroactive.
- Making the term limit partially retroactive will cause confusion for candidates and voters, particularly if it is retroactive to include service since 2015. Consider this scenario: A school board member is first elected to office in 2014 and is fortunate enough to be re-elected in 2018. What are the implications for the 2022 election cycle?
  - If the school board member, who has already accrued six years of the eight-year term limit, chooses to run for re-election in 2022, would he/she would be required to resign mid-way through that term in 2024? If so, the governor would appoint an individual to fill the unexpired term. Based on 2014 election data, this could result in as many as 78 appointments by the governor. This would deny local voters from being able to elect the person of their choice to fill the unexpired term and would deny potential candidates from running for election to fill the unexpired term.
  - If the school board member is deemed ineligible to run for re-election in 2022 because he/she has already accrued six years of the eight-year term limit and, therefore, cannot complete the term of office, this would impose a six-year term limit, rather than an eight year term limit, on this individual. This also could disrupt the pattern of staggered elections to the school board.

### **Sources**

[Proposal 43](#)

[CRC Proposal 43 Staff Analysis](#)

[Article VI, Section 4 of the Florida Constitution](#)

[Florida Department of State, Division of Elections](#)

[FSBA School Board Election Results](#)