



H.J.R. 14

126th General Assembly
(As Introduced)

Rep. Yates

RESOLUTION SUMMARY

- Proposes to submit to the electors of the state at a special election to be held on May 8, 2007, a proposal to eliminate, effective July 1, 2007, the term limits and restrictions on returning to office that apply to members of the General Assembly and to Ohio members of Congress.

CONTENT AND OPERATION

Constitutional term limit provisions

General Assembly members

Among other provisions of the Ohio Constitution, Section 2 of Article II governs the election of members of the Ohio House of Representatives and the Ohio Senate. House of Representatives members are elected by the electors of their respective districts for two-year terms of office commencing on the first day of January after their election. Senate members are elected by the electors of their respective districts for four-year terms of office commencing on the first day of January after their election. (Art. II, § 2.) The following term limit provisions also apply to the election of General Assembly members (Art. II, § 2 and Art. V, § 9):

(1) Individuals are prohibited from holding the office of Senator for a period longer than two successive terms of four years.

(2) Individuals are prohibited from holding the office of Representative for a period longer than four successive terms of two years.

(3) Terms must be considered successive unless separated by a period of four or more years, and only terms beginning on or after January 1, 1993, can be considered in determining an individual's eligibility to hold office.

Members of Congress from Ohio

Section 8 of Article V of the Ohio Constitution prohibits individuals from holding the office of United States Senator from Ohio for a period longer than two successive terms of six years or the office of United States Representative from Ohio for a period longer than four successive terms of two years. Terms are considered successive unless separated by a period of four or more years, and only terms beginning on or after January 1, 1993, can be considered in determining an individual's eligibility to hold office. (Art. V, § 8.)

Although this provision appears to establish term limits applicable to members of Congress from Ohio, and although it remains part of the text of the Ohio Constitution, this term limit provision is not enforceable. The United States Supreme Court, in *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779 (1995), held that states may not impose qualifications on candidates for federal constitutional offices other than the qualifications established in the United States Constitution. Since term limits function as a qualification for office, state-imposed term limits are unconstitutional as applied to federal constitutional offices. Thus, although term limits applicable to members of Congress from Ohio exist in the text of the Ohio Constitution, they cannot be enforced, and the text establishing those limits is effectively obsolete.

Changes proposed by the resolution

The joint resolution proposes to submit to the electors of the state at a special election to be held on May 8, 2007, a proposal containing amendments to Section 2 of Article II and Section 9 of Article V of the Ohio Constitution. These amendments would eliminate the previously described term limit provisions that apply to General Assembly members. The proposal also includes an outright repeal of Section 8 of Article V of the Ohio Constitution, the section that appears to establish term limits for members of Congress from Ohio. A related reference to the Congressional term limits also would be stricken in Section 9 of Article V of the Ohio Constitution.

If adopted by a majority of the electors voting on the proposal, the amendments to Article II, Section 2 and Article V, Section 9, as well as the outright repeal of Article V, Section 8, will take effect on July 1, 2007.

COMMENT

The term limit provisions proposed to be eliminated by the joint resolution were proposed by initiative petition and adopted at the 1992 general election.

HISTORY

ACTION	DATE
Introduced	08-15-06

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