

Term Limits

Number: PETITION

Date: April 13, 2005

The Honorable Leander J. Shaw, Jr.
Chief Justice, and
Justices of The Supreme Court
of Florida
The Supreme Court Building
Tallahassee, Florida 32399-1925

Dear Chief Justice Shaw and Justices:

In accordance with the provisions of Art. IV, s. 10 Fla. Const., and s. 16.061, Fla. Stat. (1989), it is my responsibility to petition this Court for a written opinion as to the validity of an initiative petition circulated pursuant to Art. XI, s. 3, Fla. Const.

On September 5, 1991, the Secretary of State, as required by s. 15.21, Fla. Stat. (1989), submitted to this office an initiative petition seeking to amend the State Constitution to limit the terms of office for state representatives and senators, members of the cabinet, the lieutenant governor, and United States senators and representatives from Florida. The petition provides:

"LIMITED POLITICAL TERMS IN CERTAIN ELECTIVE OFFICES

The people of Florida believe that politicians who remain in elective office too long may become preoccupied with re-election and beholden to special interests and bureaucrats, of the United States and Governor of Florida show that term limitations can increase voter participation, citizen involvement in government, and the number of persons who will run for elective office.

Therefore, to the extent permitted by the Constitution of the United States, the people of Florida, exercising their reserved powers, hereby declare that:

1) Article VI, s. 4 of the Constitution of the State of Florida is hereby amended by:

- a) inserting '(a)' before the first word thereof and,
- b) adding a new sub-section '(b)' at the end thereof to read:

'(b) No person may appear on the ballot for re-election to any of the following offices:

- '(1) Florida representative,
- '(2) Florida senator,
- '(3) Florida Lieutenant governor,
- '(4) any office of the Florida cabinet,
- '(5) U.S. Representative from Florida, or
- '(6) U.S. Senator from Florida

'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.'

2) This amendment shall take effect on the date it is approved by the electorate, but no service in a term of office which commenced prior to the effective date of this amendment will be counted against the limit in the prior sentence.

3) If any portion of this measure is held invalid for any reason, the remaining portion of this measure, to the fullest extent possible, shall be severed from the void portion and given the fullest possible force and application. The people of Florida declare their intention that persons elected to offices of public trust will continue voluntarily to observe the wishes of the people as stated in this initiative in the event any provision of this initiative is held invalid."

The ballot title and summary for the proposed amendment provides:

"LIMITED POLITICAL TERMS IN CERTAIN ELECTIVE OFFICES

Limits terms by prohibiting incumbents who have held the same elective office for the preceding eight years from appearing on the ballot for re-election to that office. Offices covered are: Florida Representatives and Senator, Lieutenant Governor, Florida Cabinet, and U.S. Senator and Representative. Terms of office beginning before amendment approval are not counted."

SINGLE SUBJECT LIMITATION

Section 16.061, FLa. Stat. (1989), requires the Attorney General to petition this Honorable Court for an advisory opinion as to whether the text of the proposed amendment complies with Art. XI, s. 3, Fla. Const.

Article XI, s. 3, Fla. Const., reserves to the people the power to propose the revision or amendment of any portion of the Constitution by initiative. It requires, however, that any such revision or amendment "embrace but one subject and matter directly connected therewith." *Evans v. Firestone*, 457 So. 2d 1351, 1353 (Fla. 1984). To comply with this one subject limitation, this Court has stated that a proposed amendment must have a "logical and natural oneness of purpose." *In re Advisory Opinion to the Attorney General English--The Official Language of Florida*, 520 So. 2d 11, 12 (Fla. 1988), *quoting*, *Fine v. Firestone*, 448 So. 2d 984, 990 (Fla. 1984).

The proposed initiative seeks to limit the terms of office of state representatives and senators, Florida cabinet members, the lieutenant governor, and United States representatives and senators. It would do so by prohibiting the appearance on the ballot for re-election of incumbents who, by the end of their current term, have the same elective office for eight consecutive years. However, the proposed amendment would not apply to terms of office which began prior to its approval. I believe the proposed initiative petition complies with the single subject limitation required by Art. XI, s. 3, Fla. Const.

BALLOT SUMMARY

Section 16.061, Fla. Stat. (1989), also requires the Attorney General to petition this Honorable

Court for an advisory opinion as to whether the proposed ballot title complies with s. 101.161, Fa. Stat. (1990 Supp.).

Section 101.161, Fla. Stat. (1990 Supp.), states the requirements for the ballot title and substance of a proposed constitutional amendment. This Court has stated on several occasions "that the ballot be fair and advise the voter sufficiently to enable him intelligently to cast his ballot." *Askew v. Firestone*, 421 So. 2d 151, 155 (Fla. 1982), *quoting*, *Hill v. Milander*, 72 So. 2d 796, 798 (Fla. 1954). The language of the summary of the initiative petition advises voters that the amendment to the Constitution limits the terms of the named elected officials, but does not apply to terms of office beginning prior to approval of the amendment. I believe this summary reflects the substance of the proposed amendment.

OTHER FACTUAL ISSUES

Section 16.061(1), F.S. (1989), provides that the Attorney General may raise any factual issues which it is believed would require a judicial determination.

It might be construed that this initiative petition to limit the terms of United States representative and senators, in effect, would alter the qualifications of such offices. If so, the question the arises whether a state may alter the qualifications of those seeking office for United States representative or senator, since such qualifications are exclusively provided in Art. I, ss. 2 and 3, U.S. Const. See *State ex rel. Davis v. Adams*, 238 So. 2d 415, 416 (Fla. 1970), and *Stack v. Adams*, 315 F.Supp. 1295 (N.D. Fla., 1970).

The Court, therefore, may wish to consider whether the amendment would amount to a change in qualifications for the offices of United States representative and senator and whether the State of Florida has the authority to alter such qualifications.

I respectfully request this Court's opinion as to the issues raised herein.

Respectfully submitted,

Robert A. Butterworth
Attorney General

RAB/tgk