

TERM LIMITS FOR STATE LEGISLATORS AND FINANCIAL DISCLOSURE REPORTS BY STATE ELECTED OFFICIALS

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House Joint Resolution R as introduced
Sponsor: Rep. Jason Wentworth
Committee: [Referred to Second Reading]
Revised 6-7-22

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Joint Resolution R would amend the state constitution to provide that a person cannot be elected as a state legislator for terms or partial terms totaling more than 12 years, no matter whether they are served in the House or in the Senate. (Currently, a person cannot be elected more than three times as a state representative and more than two times as a state senator.) HJR R also would require certain state elected officials to file an annual financial disclosure report containing specified information (including income, assets, liabilities, gifts, and other positions held). If adopted by a two-thirds majority of each house, the constitutional amendment would appear on the ballot at the next general election. HJR R is similar, but not identical, to a petition for a constitutional amendment that is now circulating and will be placed on the ballot if it gets 425,049 valid signatures by July 11, 2022 (see **Background**, below).

Term limits

The state constitution currently provides that a person cannot be elected more than three times as a state representative and cannot be elected more than two times as a state senator. (Partial-term appointments or elections count as one election with regard to the limits.)

The joint resolution would instead provide that a person cannot be elected for terms or partial terms that add up to more than 12 years, regardless of whether served in the House, the Senate, or both.

Comparison of possible maximums

The term of office for a state representative is two years, and for a state senator is four years, so the most a person now can serve in both houses combined is 14 years—six years in the House (three two-year terms) and eight years in the Senate (two four-year terms).

Although the maximum total of 12 years is less than the current 14-year maximum possible total, the limits under the joint resolution would allow a legislator to serve for a longer time in a single house than they can now. For example, under the joint resolution's 12-year limit, a person could serve six two-year terms in the House (where currently the limit is three) or three four-year terms in the Senate (where currently the limit is two).

Exception

The joint resolution would include an exception to allow a person to be elected to the office of state senator in 2022 for the number of times allowed at the time the person became a candidate for that office. This would apply to candidates who have served three two-year House terms and one four-year Senate term. Their election to a second four-year Senate term in 2022 is now allowed under the constitution, but would exceed the joint resolution's 12-year cap. The

exception would allow these candidates to operate under the rules in effect at the time they filed to run for office.

Financial disclosure report

House Joint Resolution R also would require the governor, the lieutenant governor, the attorney general, the secretary of state, and each member of the legislature to electronically file an annual financial disclosure report with the Department of State (DOS). The report would have to be filed by April 15, 2024, and by a date prescribed by state law for each following year. The report would have to include information regarding all of the following:

- Description of assets and sources of unearned income.
- Sources of earned income.
- Description of liabilities.
- Positions currently held as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any organization, corporation, firm, partnership, or other business enterprise, nonprofit organization, labor organization, or educational or other institution other than the state of Michigan. Positions held in a religious, social, fraternal, or political entity, or positions that are solely of an honorary nature, would not have to be disclosed.
- Agreements or arrangements with respect to future employment, a leave of absence while serving as a legislator or state officer, continuation or deferral of payments by a former or current employer other than the state of Michigan, or continuing participation in an employee welfare or benefit plan maintained by a former employer.
- Gifts received and required to be reported by a lobbyist or lobbyist agent, as prescribed by state law.
- Travel payments and reimbursements received and required to be reported by a lobbyist or lobbyist agent, as prescribed by state law.
- Payments to a charity made by a lobbyist or lobbyist agent in lieu of honoraria.

DOS would have to prescribe the form and manner in which the report must be made and also make the report available to the public online.

The legislature would have to further implement the provisions described above by appropriate legislation that would be prohibited from limiting or restricting the application of those provisions. If legislation implementing the provisions described above were not enacted by December 31, 2023, a Michigan resident could initiate a legal action against the legislature and the governor in the Michigan Supreme Court to enforce the requirements of those provisions.

Legislative intent regarding ballot wording

The joint resolution states that it is the intent of the legislature that the constitutional amendment described above be presented with the following question, in the following words, when it is submitted to Michigan voters:

“A PROPOSAL TO AMEND THE STATE CONSTITUTION TO REQUIRE ANNUAL PUBLIC FINANCIAL DISCLOSURE REPORTS BY LEGISLATORS AND OTHER STATE OFFICERS AND LIMIT SERVICE AS A LEGISLATOR TO 12 YEARS.

The proposed constitutional amendment would:

- Require members of the legislature, the governor, the lieutenant governor, the secretary of state, and the attorney general to file annual public financial disclosure reports

after 2023, reporting assets, liabilities, income, positions held, future employment agreements, gifts, travel reimbursements, and other payments.

- Require the legislature to implement but not limit or restrict the reporting requirements.

- Reduce current term limits for state representatives and state senators to a 12-year total limit in any combination between the house of representatives and the senate, with the exception that a person elected to the senate in 2022 may be elected the number of times allowed when that person became a candidate.

Should this proposal be adopted?

YES []

NO []”.

House Joint Resolution R would amend sections 10 and 54 of Article IV of the state constitution. If adopted by a two-thirds majority of each house, the constitutional amendment would be submitted to voters at the next general election. (General elections are November elections of even-numbered years. The next general election as of the date of this summary is Tuesday, November 8, 2022.)

BACKGROUND:

Initiative petition

House Joint Resolution R is similar, but not identical, to a constitutional amendment proposed by initiative petition sponsored by Voters for Transparency and Term Limits.¹ This petition’s form and summary were approved by the Board of State Canvassers on March 23, 2022.

For a constitutional amendment to be placed before the voters at a general (November) election, the applicable petition must be signed by at least the number of electors equal to 10% of the number of votes cast in the last election for governor (for this petition, that means 425,059 valid signatures) and be submitted to the Board of State Canvassers at least 120 days before the general election (in this case, by July 11, 2022).²

Comparison of term limit requirements

The provisions in the Voters for Transparency and Term Limits petition that address term limits are identical to those of HJR R, described above. (That is, the petition also would provide that a person cannot be elected as a state legislator for terms or partial terms totaling more than 12 years, no matter whether they are served in the House or in the Senate.)

Comparison of financial disclosure requirements

Like HJR R, the Voters for Transparency and Term Limits petition would require the filing of annual financial disclosure reports by the governor, lieutenant governor, secretary of state, attorney general, and state legislators.

However, unlike HJR R, the petition also would require the filing of *periodic financial transaction reports* by those individuals.

¹ For the text of the petition and proposed constitutional amendment, see: [https://www.michigan.gov/sos/-/media/Project/Websites/sos/24delrio/Voters_for_Transparency_and_Term_Limits_03-28-2022_750777_7-\(2\).pdf](https://www.michigan.gov/sos/-/media/Project/Websites/sos/24delrio/Voters_for_Transparency_and_Term_Limits_03-28-2022_750777_7-(2).pdf)

² See <https://crcmich.org/michigans-citizen-initiative-petition-process-in-2022-a-lot-of-ballot-proposals>

Further, in addition to the information that HJR R would require to be disclosed, the petition would require disclosure of information regarding *purchases, sales, or exchanges of a security or real property*.

In addition, the petition would require that the legislation to implement its provisions must be at least as stringent as the requirements that apply to annual financial disclosure reports and periodic financial transaction reports by members of the United States Congress under Title I of the federal Ethics in Government Act of 1978, 5 USC App 101 to 111.³

Finally, both the joint resolution and the petition would require, in some form, disclosure of gifts, travel payments and reimbursements, and payments made to a charity by others in lieu of honoraria. However, those item categories are described differently in the two proposals. The petition would require disclosure of “gifts, as defined in section 4 of 1978 PA 472, MCL 4.414” (the lobbyist registration act), “travel payments and reimbursements,” and “payments made by others to a charity in lieu of honoraria.” The joint resolution would require disclosure of “gifts received and required to be reported by a lobbyist or lobbyist agent, as prescribed by state law”; “travel payments and reimbursements received and required to be reported by a lobbyist or lobbyist agent, as prescribed by state law”; and “payments made by a lobbyist or lobbyist agent to a charity in lieu of honoraria.”

House of Representatives seating assignments

As noted above, House Joint Resolution R would amend section 54 of Article IV of the state constitution. A provision in 1893 PA 58, which governs the assignment of seats in the House of Representatives, states that 1893 PA 58 no longer applies if section 54 of Article IV is amended after December 29, 2020. Thus, if voters approve House Joint Resolution R, 1893 PA 58 will be effectively repealed.

Under 1893 PA 58, on the first day of the first regular session of each legislature, the clerk of the House of Representatives must allocate seats in the House chamber between the political parties whose members were elected the previous November. The majority and minority leaders then assign a seat to the members of their respective caucus. Any member not assigned a seat through that process (for example, because of no party affiliation) is assigned a seat by the majority leader. The seat assignments are then printed in the House Journal.

The above provisions will no longer apply if House Joint Resolution R is approved by voters.

FISCAL IMPACT:

House Joint Resolution R would require additional administrative work hours from Department of State (DOS) staff to develop the financial disclosure report form and to compile and make the reports available online. Any potential additional staff costs would be dependent on whether existing staff could accommodate the report related requirements of HJR R.

³ <https://www.law.cornell.edu/uscode/text/5a/compiledact-95-521/title-I>

For a description of what the federal reports are required to contain, see:

<https://www.law.cornell.edu/uscode/text/5a/compiledact-95-521/title-I/section-102>

There could also be additional information technology development costs, depending on the manner in which DOS chooses to receive electronic filings of the annual financial disclosure reports and make them available online.

HJR R would have no fiscal impact on other state government entities or on local units of government.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.