

Having an Elected Attorney General in NJ is Not a Good Idea

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The Monitor was recently contacted by the [Asbury Park Press](#) and asked to write a short article on the subject of whether New Jersey, like many other states, should have its Attorney General elected by the voters, or continue to be appointed by the Governor. Viewpoints on this subject were also sought from Peter J. Barnes III, a New Jersey State Senator, Amy H. Handlin, a member of the New Jersey State Assembly, and Dr. Heath A. Brown, Assistant Professor of Political Science and Public Affairs at Seton Hall University. Our [four articles](#) were recently published in the Asbury Park Press and other Gannett-owned publications.

My article is reposted below:

Appointed AG more immune to politics

By statute and practice, the New Jersey attorney general serves as the state's chief law enforcement officer. The AG's diverse and complex responsibilities include protecting lives and property through statewide law enforcement and emergency response services.

In addition, the AG supervises approximately 9,000 employees responsible for protecting citizens' civil and consumer rights, promoting highway traffic safety, maintaining public confidence in the alcoholic beverage, gaming and racing industries, and providing legal services and counsel to other state agencies. It is an extremely important job — so important that it must remain, to the maximum extent possible, unaffected by political influences and public opinion.

There is no high-ranking public office that can be completely and utterly free from political pressure. That much is beyond dispute. Nonetheless, along the spectrum of vulnerability to outside influences, we should place the office of the attorney general as far as possible to that side of the scale that minimizes the likelihood that outside influences can have an appreciable effect.

Our present system of having the attorney general nominated by the governor, with the advice and consent of the Senate, while not perfect, has one particularly necessary feature. Under our state constitution, almost all Cabinet-level officials serve "at the pleasure of the governor," meaning they can be replaced at any time, for any reason or for no reason, as the governor sees fit.

One of the exceptions to this constitutional provision concerns the attorney general. Once the attorney general is nominated and confirmed, he or she begins a term of office that lasts as long as the governor's term of office. What this means is that the governor has no power or authority to fire a sitting attorney general. The only way for a sitting attorney general to be involuntarily removed from office is through impeachment, a lengthy and very public process involving the legislative branch of government.

Why did the drafters of our state constitution think to place the office of attorney general outside of the large umbrella of executive department officials who can be removed "at the pleasure of the governor"? They did so for a very laudable reason — to maximize the ability of a sitting attorney general to perform his or her official functions without worrying too much about offending the governor.

While there are many who may believe that any attorney general would be reluctant to pursue a course of action offensive to a sitting governor, imagine how that perception would increase under a system in which the attorney general served “at the pleasure of” the sitting governor. The current provisions of our state constitution at least provide the attorney general with some measure of job security, and, by corollary, some measure of independence.

Subjecting the office of attorney general to the ever-swirling winds of politics through the electoral process would not diminish the likelihood of outside influences. Indeed, having an elected attorney general would produce precisely the opposite effect. An elected attorney general would depend upon party political leaders for endorsements and placement on the ballot, would need to solicit corporations, individuals and special interest groups for donations to finance a campaign, and would be subject to negative advertising by political opponents — all factors that would not make the office more independent.

No attorney general should ever be afraid to dismiss a criminal case that should be dismissed, or to charge or prosecute someone who should be charged or prosecuted, or to follow or abandon a particular law enforcement policy, because of a concern about how the decision will play out on the nightly news or the front page of the newspaper.

The likelihood of those precise scenarios, or at least the public perception of them, would be vastly increased if a candidate for attorney general were compelled to seek or retain the office through a public campaign and election.

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