



# THE PATE LAW FIRM

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May 6, 2024

Legislature of the Virgin Islands

*Attn:* Senate Majority Leader, Hon. Kenneth L. Gittens

3022 Golden Rock

Christiansted, V.I. 00820

[SenatorGittens@LegVi.org](mailto:SenatorGittens@LegVi.org); [SenatorFrancisHeyliger@legvi.org](mailto:SenatorFrancisHeyliger@legvi.org); [MSamuel@legvi.org](mailto:MSamuel@legvi.org)

## **Re: Testimony on Bill 35-0248; Resolution re Elected Attorney General**

Dear Majority Leader Gittens and Honorable Members of the 35<sup>th</sup> Legislature,

I write regarding Bill 35-0248, the proposed Resolution to Congress to amend the Revised Organic Act to provide an elected Attorney General for the United States Virgin Islands. Regarding the Resolution, it is well-written, particularly the background Whereas sections. As to the substance of the Resolution, I would recommend edits as to:

1. **Residency.** I would lower residency from 3 years to 1 year. There are many well-qualified Virgin Islands attorneys that are working stateside. The residency should be lowered, so that it is feasible to come back to the Virgin Islands to run for the Attorney General position. The USVI population is small; and there is a small pool of lawyers, so the residency should be as low as possible to make the pool of available candidates as high as possible.
2. **Practice of Law.** I would lower the practice of law from 3 years to 1 year. There is no law school in the Virgin Islands. Thus, a Virgin Islander who graduates law school may have accepted work in a stateside law firm or academic institution and taken a stateside bar exam. Only later, may he or she decide to gain admission to the Virgin Islands Bar.
3. **Term.** For continuity, the term of office should be 4 years, scheduled for a staggered election on off-cycle years of the Governor's election. (However, I would recommend raising trial court judicial terms to 8 years, as 6 years terms allows a 2-term Governor to appoint every trial court judge. One Governor appointing every single trial court judge in the Territory should be avoided.)



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4. **Sharing.** I would recommend that the Resolutions not only be sent to the Speakers of the House and Senate, but also the Majority and Minority Leaders for both chambers.

## Local Code Revisions.

The Resolution is a good start, but much more work can be done locally. The Legislature can draft an elected Attorney General law through creative language in the Elections Title, and perhaps other sections.

1. Create the same qualifications to run for Attorney General as to be Governor.
2. The candidate shall be an admitted member of the Virgin Islands Bar Association licensed to practice before the Supreme Court of the Virgin Islands for no less than 1 year.
3. The election for Attorney General shall be on an off-election cycle year from the Governor.
4. Within XYZ days of the election, a duly elected Attorney General shall be speedily appointed by the Governor to the position of Attorney General of the Virgin Islands. The Legislature shall speedily confirm the nomination, preferably before the next Legislature is seated.
5. If an Attorney General resigns or is incapacitated, the Deputy Attorney General shall be the Attorney General.
6. An Attorney General may only be removed for good cause, upon notice thereof and a hearing before the Legislature, in which the Attorney General may speak and/or have witnesses speak upon the Attorney General's behalf. If the Legislature votes at 13 members or greater, the Attorney General shall be removed.

Thomas Paine and Thomas Jefferson wrote that natural rights and human power flows from the citizen upwards. Thus, government should be as local and as close to the actual citizens as possible. The Attorney General should be a Servant of the People, not the Governor. (The Governor already has 2 to 3 in-house Legal Counsels on staff in Government House and the Lieutenant Governor also has in-house Legal Counsels.)

Best Regards,

J. Russell B. Pate, Esq.



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