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Bill to Elect USVI Attorney General Killed in Senate By Gittens, Johnson and Bolques

Gittens doubts elected AGs differ from appointed; Johnson fears donor influence; bill's failure seen as setback for accountability

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Senators Franklin Johnson, Angel Bolques Jr., and Kenneth Gittens voted against the bill, while Ray Fonseca abstained. Alma Francis Heyliger and Dwayne DeGraff voted in favor. By. V.I. LEGISLATURE

An attempt by Senator Alma Francis Heyliger to make the attorney general of the U.S. Virgin Islands one elected by the people failed on Tuesday after receiving minimal support from other lawmakers.

If Bill 35-0248 had succeeded, it would have set the stage for the legislature to request the United States Congress to amend the territory's Revised Organic Act to allow for the direct election of the attorney general. Francis Heyliger's effort comes years after a 1998 opinion poll found that a majority of voters supported electing the attorney general.

The senator's effort comes after the [termination of both Denise George](#) and [Ariel Smith](#) within the span of approximately one year. In April, Governor Albert Bryan announced his [nomination of Gordon Rhea](#) as the USVI's newest AG. Ian Clement is the current acting attorney general.

Testifying before the Committee on Homeland Security, Justice and Public Safety, Clement provided a list of recommendations that the Department of Justice believed would strengthen the draft legislation. He noted that arguments could be made both for and against introducing elections for the position. One drawback Mr. Clement anticipated could arise from candidates for the territory's top legal representative having to solicit funds from individuals and businesses during election campaigns. He worried that such a scenario could impact the independence of an elected AG by creating a "potential conflict of interest in deciding which cases to pursue or not."

Forty-three states on the mainland U.S. hold elections for their attorney general seat.

Stronger reservations were shared by the Chief Territorial Public Defender, Julie Smith-Todman, who ultimately wanted to remain neutral on the introduction of an electoral process. She too was concerned that attorney general hopefuls could be "unduly influenced by campaign contributions." Ms. Smith-Todman also feared that they may "embrace harsher actions to placate public sentiment," creating an illusion that they are "tough on crime." She also asserted that "elected prosecutors will be the target of pressure" that could affect how they do their jobs. "Elections also may not be the best tool to measure an attorney's ability."

Instead, she suggested that the Legislature take measures to "increase accountability." For Ms. Smith-Todman, "what is noteworthy is that we all seek an effective ethical and responsive attorney general, whether appointed or elected."

Local attorney Russell Pate was the next to share his opinion on Senator Francis Heyliger's proposed legislation. One of the bill's proponents, Mr. Pate stated that "the attorney general should be a servant of the people and not the governor." He too, made several recommendations to improve the legislation that, like the suggestions from Mr. Clement, will now no longer need to be considered.

Much of the pushback on the failed legislation came from fellow lawmakers. Senator Kenneth Gittens quickly agreed that "we need a change in how justice is administered," but said he was "equally concerned with further politicizing the office," a sentiment he repeated several times throughout the discussion. He asserted that the bill needed stronger accountability measures. Electing an attorney general "will remove the Legislature's ability to have oversight of the Department of Justice's activities," he argued. "Do we really want to give up that oversight responsibility...which creates that level of checks and balances?"

Senator Franklin Johnson was also on the fence, expressing hesitation about the implications of having to run a political campaign as an attorney general candidate.. "Sometimes, people who donate to your campaign think they can manipulate you," he warned. Meanwhile, Senator Ray Fonseca told his colleagues that he was "leaning in support of Bill 35-0248." However, perhaps swayed by the assessments shared by the other committee members, Mr. Fonseca later abstained from recording a vote on the measure.

Ahead of the failed vote, Ms. Francis Heyliger repeatedly reminded her colleagues of the merit of attorney general elections. “By nature, this office is politicized,” she asserted, deeming claims of politicization as void.

She also took offense to Mr. Gittens’s assertion that “there's nothing to ensure that an elected AG will be more effective in carrying out their duties.” For Ms. Francis Heyliger, the statement was an indictment on the discernment of Virgin Islanders. “They're smart enough to put us here to make decisions for them, but somehow, they're not smart enough to elect someone?” she demanded. Ultimately, however, Senator Dwayne DeGraff was the only other senator to support the measure from his colleague, and the measure was defeated with only two votes in favor.

Twenty-six years since an opinion poll showed that over 70 percent of voters in each district wished to elect their attorney general, the process by which the territory could get to that stage has stalled once more.