

**ASSEMBLY CONCURRENT
RESOLUTION No. 156**

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MARCH 16, 2020

Sponsored by:

Assemblyman ERIK PETERSON

District 23 (Hunterdon, Somerset and Warren)

SYNOPSIS

Proposes constitutional amendment to provide for election of Attorney General.

CURRENT VERSION OF TEXT

As introduced.



1 **A CONCURRENT RESOLUTION** proposing to amend Articles II, IV,
2 and V of the Constitution of the State of New Jersey, Article VII
3 of the Constitution by adding a new paragraph, and Article XI of
4 the Constitution by adding a new section.

5
6 **BE IT RESOLVED** *by the General Assembly of the State of New*
7 *Jersey (the Senate concurring):*

8
9 1. The following proposed amendments to the Constitution of
10 the State of New Jersey are agreed to:

11
12 PROPOSED AMENDMENTS

13
14 a. Amend Article II, Section I, paragraph 1 to read as follows:

15 1. General elections shall be held annually on the first Tuesday
16 after the first Monday in November; but the time of holding such
17 elections may be altered by law. The Governor, Lieutenant
18 Governor, Attorney General, and members of the Legislature shall
19 be chosen at general elections. Local elective officers shall be
20 chosen at general elections or at such other times as shall be
21 provided by law.

22 (cf: Art. II, Sec. I, para. 1, amended effective January 17, 2006)

23
24 b. Amend Article IV, Section V, paragraph 1 to read as
25 follows:

26 1. No member of the Senate or General Assembly, during the
27 term for which the member shall have been elected, shall be
28 nominated, elected or appointed to any State civil office or position,
29 of profit, which shall have been created by law, or the emoluments
30 whereof shall have been increased by law, during such term. The
31 provisions of this paragraph shall not prohibit the election of any
32 person as Governor, as Lieutenant Governor, as Attorney General,
33 or as a member of the Senate or General Assembly.

34 (cf: Art. IV, Sec. V, par. 1, amended effective January 17, 2006)

35
36 c. Amend Article V, Section IV, paragraph 3 to read as
37 follows:

38 3. The Secretary of State **【and the Attorney General】** shall be
39 nominated and appointed by the Governor with the advice and
40 consent of the Senate to serve during the term of office of the
41 Governor, except the Governor may appoint the Lieutenant
42 Governor to serve as Secretary of State without the advice and
43 consent of the Senate.

44 (cf: Art. V, Sec. IV, par. 3, amended effective January 17, 2006)

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】 in the above bill is
not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 d. Amend Article VII, Section I by the addition of a new
2 paragraph 7 to read as follows:

3 7. The Attorney General shall be the chief law officer of the
4 State. The Attorney General shall be an attorney in good standing
5 licensed to practice law in the State of New Jersey.

6 The Attorney General shall exercise such powers and perform
7 such duties as may now or hereafter be conferred upon or required
8 of the Attorney General, either by the Constitution or by the
9 common and statutory law of the State, including, but not limited
10 to, investigating and prosecuting public corruption; ensuring that
11 the laws of the State are uniformly and adequately enforced;
12 appearing for and representing the people of the State before the
13 Supreme Court in cases in which the State or the people of the State
14 are interested; instituting and prosecuting actions and proceedings
15 in favor of or for the use of the State, which may be necessary in the
16 execution of the duties of any State officer; and defending actions
17 and proceedings against any State officer, in the officer's official
18 capacity, in any court of this State or the United States.

19 The Attorney General shall be elected by the legally qualified
20 voters of this State at the general election held during the first year
21 of the full term of the Governor. The candidate for Attorney
22 General receiving the greatest number of votes shall be elected. If
23 two or more candidates for Attorney General shall be equal and
24 greatest in votes, one candidate shall be elected by the vote of a
25 majority of all the members of both houses of the Legislature in a
26 joint meeting at the regular legislative session next following the
27 election. Contested elections for the office of Attorney General
28 shall be determined in such manner as may be provided by law.

29 The term of office of the Attorney General shall be four years,
30 beginning at noon of the third Tuesday in January next following
31 the election, and ending at noon on the third Tuesday in January
32 four years thereafter. No person who has been elected Attorney
33 General for two successive terms, including an unexpired term,
34 shall again be eligible for that office until the third Tuesday in
35 January of the fourth year following the expiration of the second
36 such successive term.

37 The Attorney General shall not be less than thirty years of age.
38 The Attorney General shall have been for at least twenty years a
39 citizen of the United States and a resident of this State seven years
40 next before election to office, unless absence during that time was
41 on the public business of the United States or of this State.

42 No member of Congress or person holding any office, or position
43 of profit, under this State or the United States shall be Attorney
44 General. If the Attorney General or person administering the office
45 of Attorney General shall accept any other office, or position of
46 profit, under this State or the United States, the office of Attorney
47 General shall thereby be vacated. No Attorney General shall be

1 elected by the Legislature to any office during the term for which
2 the person shall have been elected Attorney General.

3 In the event of a vacancy in the office of the Attorney General
4 resulting from any cause, or in the event of the incapacity or
5 impeachment of the Attorney General, the functions, powers, duties,
6 and benefits of the office shall devolve upon such officers and in
7 the order of succession as shall be provided by law.

8 In the event of a vacancy in the office of Attorney General, an
9 Attorney General shall be elected to fill the unexpired term at the
10 next general election, unless the vacancy shall occur within seventy
11 days immediately preceding a general election, in which case the
12 Attorney General shall be elected at the second succeeding general
13 election. No election to fill the unexpired term shall be held in any
14 year in which an election for a full term is to be held. An Attorney
15 General elected for an unexpired term shall assume office
16 immediately upon election.

17 No diminution in the functions, powers, and duties of the
18 Attorney General, whether by law or by executive order or
19 proclamation, enacted, adopted or issued after the election of any
20 person to that office, shall take effect until another person has been
21 elected to succeed that person and has qualified into office.

22 The Attorney General shall receive for services a salary, which
23 shall not be diminished or increased during the period for which the
24 Attorney General shall have been elected and shall not be less than
25 four-fifths of the salary received by the Governor.

26

27 e. Amend Article XI by the addition of a new Section VIII to
28 read as follows:

29 Until the Attorney General is elected and qualifies pursuant to
30 Article VII, Section I, paragraph 7 of this Constitution, the Attorney
31 General shall be nominated and appointed by the Governor with the
32 advice and consent of the Senate to serve during the term of office
33 of the Governor.

34

35 2. When this proposed amendment to the Constitution is finally
36 agreed to pursuant to Article IX, paragraph 1 of the Constitution, it
37 shall be submitted to the people at the next general election
38 occurring more than three months after the final agreement and
39 shall be published at least once in at least one newspaper of each
40 county designated by the President of the Senate, the Speaker of the
41 General Assembly and the Secretary of State, not less than three
42 months prior to the general election.

43

44 3. This proposed amendment to the Constitution shall be
45 submitted to the people at that election in the following manner and
46 form:

47 There shall be printed on each official ballot to be used at the
48 general election, the following:

- 1 a. In every municipality in which voting machines are not used,
2 a legend which shall immediately precede the question as follows:
3 If you favor the proposition printed below make a cross (X), plus
4 (+), or check (✓) in the square opposite the word "Yes." If you are
5 opposed thereto make a cross (X), plus (+) or check (✓) in the
6 square opposite the word "No."
7 b. In every municipality the following question:
8

	YES	<p>CONSTITUTIONAL AMENDMENT TO PROVIDE FOR THE ELECTION OF THE ATTORNEY GENERAL</p> <p>Do you approve amending the Constitution to provide for the election of the State Attorney General? Currently, the Attorney General is appointed by the Governor, with the advice and consent of the Senate.</p>
	NO	<p>INTERPRETIVE STATEMENT</p> <p>This change to the Constitution would allow the voters to elect the State Attorney General. The Attorney General would be the chief law officer of the State.</p> <p>The Attorney General would serve for a term of four years. The election of the Attorney General would take place at the general election held during the first year of the term of the Governor.</p> <p>The Attorney General would have to be at least 30 years old, a citizen of the United States for 20 years, and a resident of the State for seven years. The Attorney General must also be a member in good standing of the bar of the State of New Jersey.</p> <p>Currently, the Attorney General is appointed by the Governor, with the advice and consent of the Senate, to serve during the Governor’s term of office.</p>

9

10

SCHEDULE

11

12 The first election of the Attorney General shall be held at the
13 first general election following the general election, including the
14 general election at which this amendment is approved by the voters
15 if applicable, at which a Governor and Lieutenant are elected for a
16 full term.

STATEMENT

This proposed Constitutional amendment would provide for the election by the voters of the State Attorney General. Currently, the Attorney General is appointed by the Governor, with the advice and consent of the Senate, to serve during the Governor's term of office.

The Attorney General would be the chief law officer of the State and must be an attorney in good standing and licensed to practice law in the State of New Jersey.

The Attorney General would be elected by the legally qualified voters of this State at the general election held during the first year of the full term of the Governor.

The term of office of the Attorney General would be four years, beginning at noon of the third Tuesday in January next following the election, and ending at noon on the third Tuesday in January four years thereafter.

The Attorney General would have to be at least 30 years old. The Attorney General would have to be a citizen of the United States for at least 20 years and a resident of this State for seven years.

In the event of a vacancy in the office of the Attorney General resulting from any cause, or in the event of the incapacity or impeachment of the Attorney General, the functions, powers, duties and emoluments of the office would devolve upon such officers and in the order of succession as would be provided by law.

In the event of a vacancy in the office of Attorney General, an Attorney General would be elected to fill the unexpired term at the next general election, unless the vacancy shall occur within seventy days immediately preceding a general election, in which case the Attorney General would be elected at the second succeeding general election.

The Attorney General would exercise such powers and perform such duties as may now or hereafter be conferred upon or required of the Attorney General, either by the Constitution or by the common and statutory law of the State.

No diminution in the functions, powers, and duties of the Attorney General, whether by law or by executive order or proclamation, enacted, adopted or issued after the election of any person to that office, could take effect until another person has been elected to succeed that person and has qualified into office.

The Attorney General will receive for services a salary which will not be less than four-fifths of the salary received by the Governor.