



30 Bank Street
PO Box 350
New Britain
CT 06050-0350
06051 for 30 Bank Street
(860)223-4400
fax (860)223-4488

Testimony of Francis J. Brady, Past President,
Connecticut Bar Association
**Senate Bill 420, An Act Concerning the Qualifications
for Candidates Seeking Election to the Office of the Attorney General**
Judiciary Committee
March 19, 2012

Senator Coleman, Representative Fox and members of the Judiciary Committee, thank you for the opportunity to appear before the committee to comment in support of **Senate Bill 420, An Act Concerning the Qualifications for Candidates Seeking Election to the Office of the Attorney General**. My name is Francis J. Brady and I am a Past President of the Connecticut Bar Association, and I am appearing today on its behalf. The CBA is the preeminent voluntary association of attorneys in Connecticut with over 9,000 members who practice in every, diverse area of the law. The CBA appreciates this Committee's willingness to raise Senate Bill 420, and for the following reasons, urges the Judiciary Committee to favorably report the bill.

Senate Bill 420 would clarify the qualifications for the office of Attorney General by amending Connecticut General Statutes Section 3-124 to specify that the law should not require ten years of litigation experience for an attorney to be elected and serve as Attorney General. It would change the effect of the 2010 Connecticut Supreme Court decision in *Bysiewicz v. Dinardo*, which interpreted the present statute to require litigation experience as a criterion for eligibility for service as Attorney General.

Section 3-124 was adopted in 1897 and arguably is no longer consistent with the present requirements demanded of the modern day Attorney General. The Attorney General's Office employs more than 200 attorneys and a significant number of support staff. As such, it very

much resembles a large law firm. The work performed by the Attorney General's Office is not limited to litigation. Substantial time and resources are devoted to reviewing contracts, providing legal advice to state agencies and preparing and issuing legal opinions. A statute that is interpreted as requiring the Attorney General to have substantial litigation experience is unnecessarily restrictive. The Attorney General's Office has many, highly skilled and professional staff to handle those litigation matters. Further, the complexity, breadth and scope of matters handled by the Attorney General's Office make it impossible for the Attorney General to appear in court in the vast majority of cases handled by his or her office.

Some guidance might be drawn from a comparative analysis with other states. In that regard, a 2010 OLR Research Report outlines the qualifications for Attorney General in a number of states. This Report is attached. A review of the qualifications set forth in the Report for the five other New England States and New York demonstrates that three are silent on any bar admission or bar status requirement (New York, Rhode Island and Vermont); that two require the minimal standard of bar admission (Massachusetts and Maine); and only one requires a qualification beyond bar admission described as being "qualified by reason of education and experience" (New Hampshire). Our research revealed no judicial construction of that term. Moreover, in New Hampshire, the Attorney General is appointed, not elected. That is a key distinction. In Connecticut, it is the voters who elect the Attorney General. And the CBA believes that it is the voters who should determine whether and how much litigation experience should be required for the position of Attorney General. The present statute deprives the Connecticut voters of the opportunity to select their Attorney General from the broadest array of capable candidates and deprives a significant majority of Connecticut attorneys from the opportunity to serve as Attorney General.

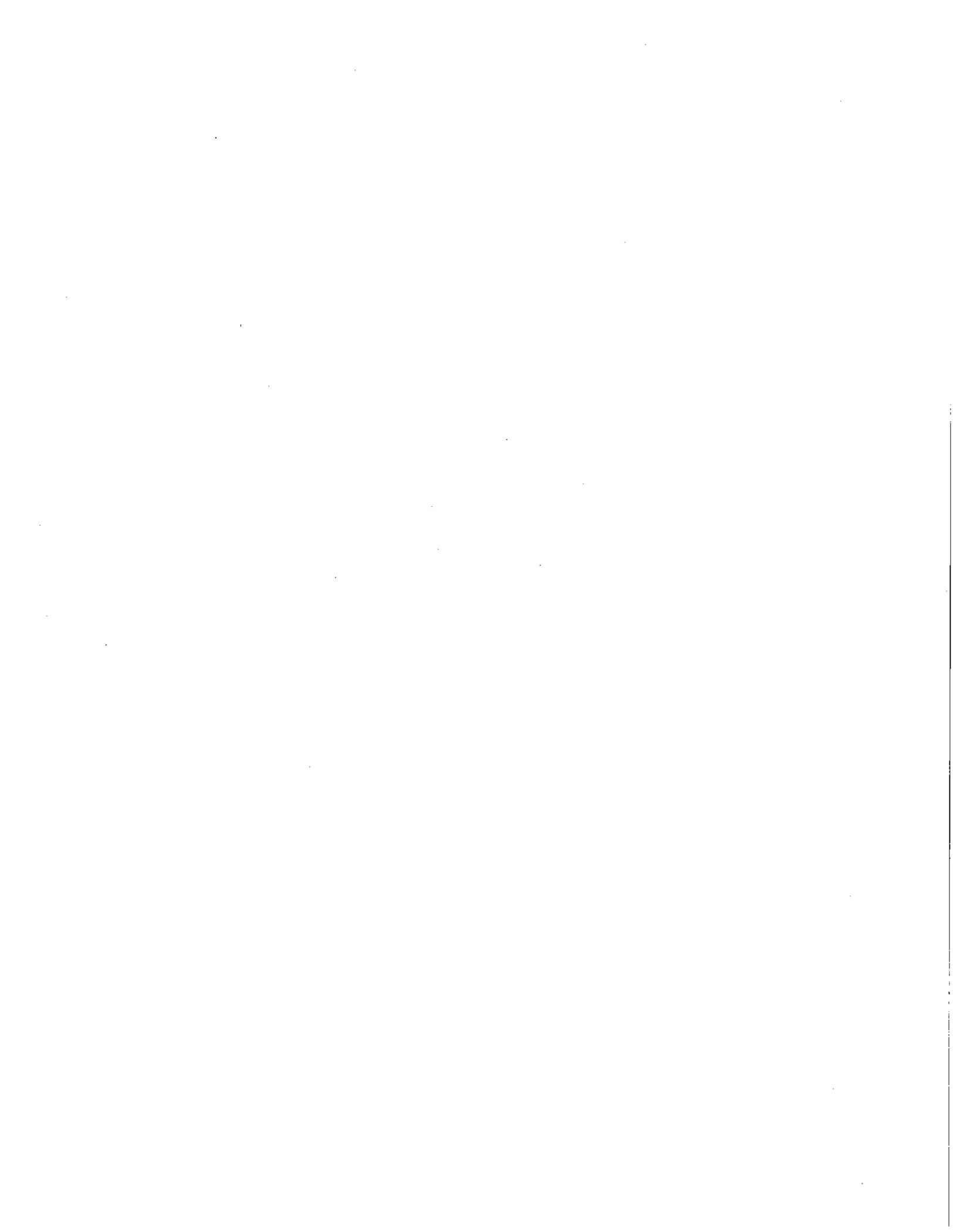
Enacting Senate Bill 420 would:

1. Recognize the need for legal experience and maintain the qualification requirement of being a member of the bar for a minimum of ten years.
2. Avoid the specter of litigation influencing or deciding the qualifications of candidates nominated for the office during the heat of an election.
3. Allow the voters rather than the courts to decide who is best qualified for the Office of Attorney General.

The CBA, however, urges this Committee to amend the bill prior to approving it as follows: in line 6, delete "admitted to" and replace it with "who has been a member of", and in lines 7 – 8, delete "for a continuous period of at least ten years immediately prior to taking office" and replace it with "for a period of at least ten years prior to taking office".

Thank you for allowing me the opportunity to comment on Senate Bill 420. On behalf of the CBA, I urge this committee to amend and act favorably on the bill.

I would be happy to answer any questions you may have.



Location:

ATTORNEY GENERAL;

Scope:

Other States laws/regulations;

**OLR RESEARCH REPORT**

June 25, 2010

2010-R-0253

STATES' QUALIFICATIONS FOR ATTORNEY GENERAL

By: Kristin Sullivan, Principal Analyst

You asked for other states' qualifications for attorney general and whether they are constitutional or statutory.

SUMMARY

State qualifications for attorney general, and whether they are constitutional or statutory, vary. The most common qualifications address minimum age, citizenship, residency, electoral status, and bar admission. Others prohibit the attorney general from holding multiple offices.

Some states expressly prescribe these qualifications through their constitution or statute. Others are less specific and imply qualifications. For example, states often require the attorney general to be an elector. In the absence of a provision prescribing minimum age, we know that he or she must be at least age 18 since no state currently allows younger individuals to qualify for electoral status.

According to the National Association of Attorneys General (NAAG), state constitutions establish the Office of the Attorney General in 44 states and the selection method and term length in 42 states. Constitutions in 23 states set specific qualifications for office, the most common being minimum age and residency requirements. Twenty-seven states set specific statutory or constitutional bar membership requirements. Of those that do, 11 set a minimum time that an individual must be admitted, ranging from five to 10 years.

QUALIFICATIONS

Table 1 provides a cross section of states' qualifications for attorney general concerning age, citizenship, residency, electoral status, and bar membership and indicates if they are constitutional or statutory. It represents a compilation of information from *State Attorneys General Powers and Responsibilities*, issued by NAAG, and *The 2009 Book of the States*, issued by the Council of State Governments (CSG).

Table 1: State Qualifications for Attorney General In Selected States

| <i>State (citation)</i> | <i>Minimum Age</i> | <i>U.S. Citizenship (years, if applicable)</i> | <i>State Resident (years, if applicable)</i> | <i>Qualified voter (years, if applicable)</i> | <i>Bar Admission Requirement</i> |
|---|------------------------|--|--|---|---|
| Alabama (Ala. Const. Art. V, § 132) | 25 | Yes (7) | Yes (5) | Yes | ** |
| Arizona (Ariz. Const. Art. 5, §§ 1 and 2 and Ariz. Rev. Stat. § 41-191) | 25 | Yes (10) | Yes (5) | Yes | Must be a practicing attorney before the state Supreme Court for at least five years immediately preceding the date of taking office |
| California (Cal. Const. Art. V, §§ 11 and 13, Cal. Elec. Code § 201, and Cal. Gov't Code §12503) | 18 | Yes | Yes | Yes | Must be admitted to practice before the state Supreme Court for at least five years immediately preceding election or appointment to the office |
| Colorado (Colo. Const. Art. IV, §§ 1 and 4) | 25 | Yes | Yes (2) | Yes | Must be a licensed attorney of the state Supreme Court in good standing |
| Georgia (Ga. Const. Art. V, § 3) | 25 | Yes (10) | Yes (4) | Yes | Must be an active-status member of the Georgia State Bar for seven years |
| Illinois (Ill. Const. Art. V, § 3 and 15 Ill. Comp. Stat. 205/4) | 25 | Yes | Yes (3) | Yes | Must be a member of the state bar |
| Kentucky (Ky. Const. Part I §§ 91 and 92) | 30 | Yes | Yes (2) | ** | Must be a practicing lawyer for at least eight years before election |

| | | | | | |
|---|----|-----|---------|----------|---|
| <p>Maine (Me. Const. Art. IX, § 11 and Me. Rev. Stat. Ann. tit. 5, § 191-B)</p> | ** | ** | ** | ** | <p>Must be a member in good standing of the state bar (i.e., admitted to the practice of law in Maine, registered with the Board of Overseers of the Bar as an active practitioner, and not disbarred or suspended from practice)</p> |
| <p>Maryland (Md. Const. Art. V, § 4, Md. Code Ann., State Gov't § 6-101 et seq.)</p> | 18 | Yes | Yes | Yes | <p>Must have resided and practiced law in the state for at least 10 years</p> |
| <p>Massachusetts (Mass. Gen. Laws ch. 12, § 1)</p> | 18 | ** | Yes (5) | Yes | <p>Must be a member of the state bar</p> |
| <p>Montana (Mont. Const., Art. VI, § 3)</p> | 25 | Yes | Yes (2) | ** | <p>Must be an attorney in good standing to practice law in the state and engaged in active practice for at least five years before election</p> |
| <p>New Hampshire (N.H. Const. Art. II, § 46 and N.H. Rev. Stat. Ann. §§ 7.1 and 21-M:3)</p> | ** | Yes | Yes | ** | <p>Must have been admitted to the practice of law in the state and shall be qualified by reason of education and experience</p> |
| <p>New Jersey (N.J. Const. Art. V, § IV)</p> | 18 | ** | Yes | ** | ** |
| <p>New York (N.Y. Const. Art. IV, § 2 and Art. V, § 1)</p> | 30 | Yes | Yes (5) | ** | ** |
| <p>Oklahoma (Okla. Const. Art. III, § 1 and art. VI, §§ 1 and 3)</p> | 31 | Yes | Yes | Yes (10) | ** |
| <p>Rhode Island</p> | 18 | ** | ** | Yes | ** |

| | | | | | |
|--|----|-----|---------|---------|--|
| (R.I. Const. Art. III, §1 and Art. IX, §§ 1 and 12, R.I. Gen. Laws § 42-9-1 <i>et seq.</i>) | | | | | |
| Utah (Utah Const. Art. VII, §§ 1 and 3) | 25 | Yes | Yes (5) | Yes | At the time of election, must be admitted to practice before the state Supreme Court and in good standing at the bar |
| Vermont (Vt. Stat. Ann. tit. 3, §151 <i>et seq.</i>) | 18 | Yes | Yes | Implied | ** |
| Virginia (Va. Const. Art., V, § 15, Art. VI, § 7, Va. Code Ann. §§ 2.2-500, 24.2-210, and 24.2-500) | 30 | Yes | Yes (1) | Yes | Must have been admitted to the state bar at least five years prior to election (same as judge of court) |
| Wisconsin (Wis. Const. Art. V, §2, Art. VI, §§ 1 and 3) | ** | Yes | Yes | ** | ** |

** Indicates no formal provision

Sources: *State Attorneys General Powers and Responsibilities*, NAAG

The 2009 Book of the States, CSG

KS:df