

Obama action on immigration could affect midterms

Dan Nowicki and Daniel Gonzalez, The Republic | azcentral.com 10:33 a.m. MST August 22, 2014

President Barack Obama is getting ready to act alone on immigration reform, just weeks before this year's congressional midterm elections.

Immigrant advocates are pushing President Barack Obama to "go big and go bold" when he wields his executive authority in the coming weeks to shield potentially millions of undocumented immigrants from deportation.

But no matter what independent action Obama takes on immigration, big or small, it could scramble U.S. politics just weeks before the Nov. 4 congressional midterm elections and reverberate into the 2016 presidential election.

Obama's unilateral move to provide deportation relief risks hurting the re-election campaigns of some fellow Democrats in the Senate and House by angering Republican voters and spurring them to the polls.

A political backlash could help Republicans retake the Senate in the coming November elections if Obama's action drives more angry Republican voters to the polls than Democrats who would want to reward him.

Obama also risks alienating Republican allies of immigration reform, such as Sen. John McCain, R-Ariz, who was the lead GOP negotiator on last year's bipartisan reform bill — which passed the Senate in 2013 — and is warning Obama not to overreach on his own.

Still, Obama's presidential legacy on immigration is at stake and he may be ready to "go big" despite the political ramifications.

"I think the people want the president to be bold," said Petra Falcon, executive director of Promise Arizona, an immigration advocacy group. "They want the president to be a leader. He needs to be a problem solver. Right now, the finger-pointing unfortunately is going to be with the Republicans who did not want to act."

Plenty of criticism

The president has taken flak from both sides on immigration reform. He has been criticized by reformers for the record number of deportations during his administration. He has been frustrated

by Republicans in the House, who declined to take up the Senate-passed bipartisan reform package.

On June 30, Obama signaled that he would try to fix as much of the nation's broken immigration system as he could unilaterally.

He directed Attorney General Eric Holder and Homeland Security Secretary Jeh Johnson to identify by summer's end the actions the administration legally can take "to do what Congress refuses to do and fix as much of our immigration system as we can" and vowed he would "adopt those recommendations without further delay."

After numerous closed-door meetings, the timeline for presidential action is expected to be early to mid-September, although there already are rumblings that the president should push the decision until after Election Day.

The injection of uncertainty — nobody is really sure how voters will react to Obama's - announcement, which some advocates hope could protect up to 5 million immigrants from deportation — means more anxiety for targeted red-state Democratic senators such as Mary Landrieu of Louisiana, Mark Pryor of Arkansas and Kay Hagan of North Carolina.

All three have said on the record that they would prefer Obama continue to work with lawmakers on the issue rather than go it alone in a far-reaching way.

Executive action by Obama also could put pressure on embattled Democrats in congressional swing districts, such as Reps. Ron Barber, Ann Kirkpatrick and Kyrsten Sinema of Arizona.

By using his executive authority as president, Obama would try to reshape policy without going to Congress. But whatever he does would not carry the weight of a law and he could provoke a legal challenge if he tries to legislate on his own.

Some of the recommendations Obama may be considering are:

- Expanding his Deferred Action for Arrivals program. The program is currently limited to young undocumented immigrants brought to the U.S. as minors. Some advocates are recommending that Obama expand the program to include undocumented parents and siblings of immigrants already approved.
- Expanding the use of "parole in place" to include undocumented immigrants already in the U.S. who are eligible for green cards. That would allow them to get green cards without having to first return to their country and wait 10 years.
- Allow some family members who have been deported to return to the U.S. to reunite with relatives in the U.S. who are citizens through the expanded use of "humanitarian parole."

- Allow immigrants who receive deferred action, temporary protected status, asylum or refugee status to join the military and, after serving five years, be eligible for citizenship. Immigrants without permanent residency are currently barred from the military.

There also are indications Obama could make concessions to business interests such as the high-tech industry in hopes of softening opposition to the other policy changes.

But by going "big" and "bold," which is the mantra of the immigration advocates who are urging him on, Obama still likely would turn off reform-friendly Republicans such as McCain and others who supported the Senate bill.

McCain is warning that unilateral executive action would be a death knell for the legislative effort to increase border security, modernize the visa system and offer a pathway to citizenship for undocumented immigrants.

"It will dramatically inflame the opposition," McCain told *The Arizona Republic*.

Obama already has concluded, some observers say, that the Republicans in Congress are unlikely to deliver any significant immigration reform during his presidency. As a result, the observers say, the president is now looking toward burnishing his legacy before moving into the lame-duck phase of his second term.

"Is the midterm election his primary concern? I doubt it," said Frank Sharry, executive director of America's Voice, a national organization that advocates for comprehensive immigration reform. "I think his primary concern is playing to the history books.

"He wants to be seen as someone who used every ounce of executive authority to protect as many immigrants as possible,. Not only will he go from being the 'Great Deporter' to the 'Great Emancipator,' but it will define the two political parties for a generation."

The short-term cost could be the loss of Senate seats crucial to the Democratic majority and a widening of the gap in the GOP House.

Republicans need to win six seats to take control of the Senate. A political backlash triggered by Obama's immigration action also could cause the Democrats to lose more ground in the House, where Republicans already outnumber Democrats 231-199.

Others think that Obama acting on immigration could benefit the Democrats in the long run. The political upside could become apparent as early as 2016, when the White House next is up for grabs and the Senate battlefield is expected to be more advantageous to the Democrats.

Arizonans weigh in

Rep. Raúl Grijalva, D-Ariz., said Obama must take action on his own because it is now clear that Congress is not going to act before his second term as president ends. He also argues that Obama

is bound to receive criticism from Republicans for taking even limited action on immigration so why not use his authority to protect as many people as possible from deportation?

Grijalva dismisses McCain's claim that Obama will destroy chances for passing an immigration bill if he takes action on his own.

"If the president does something big, it is going to build momentum, maybe not during his time in office, but I guarantee you, whoever runs for president in 2016 will have question Number 1 to answer on the issue of immigration reform," Grijalva said. "The question will be: Are you going to extend (Obama's) executive actions on immigration?"

Rep. David Schweikert, R-Ariz., an opponent of comprehensive immigration reform, said he believes Obama and his Democratic allies likely are counting on a GOP overreaction to whatever he eventually does. If Republicans go too far and, for example, start demanding Obama's impeachment, it would motivate Democratic voters to get to the polls this year, he said.

"I've grown to believe this White House is politics all the time," Schweikert said. "They would be calculating what type of reaction they would get from the right and would that be a reaction enough to energize the Democrat base."

After immigration-reform efforts fell apart in the House, Falcon's organization, Promise Arizona, shifted its attention to push Obama to take action to protect as many undocumented immigrants as possible from deportation and allow them work permits.

"What we want him to do is bring relief to as many of the 11 million undocumented (in the country) as possible," Falcon said.

McCain, however, emphasized his belief that the Constitution's separation of powers don't work that way. Immigration reform requires congressional action, he said.

"To me, it's a matter of principle," McCain said. "It should be legislation, not executive fiat."

President has many options

In April, the Congressional Hispanic Caucus sent a memo to Department of Homeland Security Secretary Jeh Johnson outlining numerous recommendations Obama could take to offer deportation protection to more undocumented immigrants.

They include:

— Expanding the Deferred Action for Childhood Arrivals program. The program currently is limited to young undocumented immigrants 30 and under brought to the U.S. as minors. Those approved are allowed to remain in the U.S. for two years without the threat of deportation as well as receive work permits. The caucus is recommending the program be expanded to include parents of siblings of undocumented immigrants who have already received deferred deportation

action and also to the undocumented parents of children who are U.S. citizens or legal permanent residents.

— Expanding the use of "parole in place." This program allows undocumented immigrants to enter the country legally for urgent humanitarian reasons or for a significant public benefit. The Hispanic Caucus is recommending the program be expanded to undocumented immigrants already in the U.S. who are eligible for green cards because they have close relatives who are U.S. citizens or legal permanent residents. By giving them parole in place, they would be able to apply for green cards without first having to return to their home countries, where ordinarily they have to wait up to 10 years as punishment for entering the U.S. illegally. In November, 2013, the Obama administration began authorizing parole in place for immediate relatives of people serving in the U.S. military.

— Allowing some family members who have been deported to return to the U.S. to reunite with relatives in the U.S. who are citizens through the expanded use of humanitarian parole.

— Allowing immigrants who receive deferred action, temporary protected status, asylum or refugee status to join the military and after serving five years be eligible for citizenship. Immigrants without permanent residency are currently barred from joining the armed forces.

— Making it easier for immigrants facing deportation or who have already been deported to apply for waivers if they can demonstrate their removal would cause "extreme hardship" to a child who is a U.S. citizen or legal resident.

— Limiting deportations of immigrants without first allowing them to receiving a hearing in front of an immigration judge.

— Instead of placing immigration holds on immigrants charged with crimes by local police, limiting detainees only to immigrants convicted of certain crimes.

--- Ending 287(g) and Secure Community programs that enlist the help of local police to enforce federal immigration laws.

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