



Activists Say S.B. 4 Immigration Law Could Be Key to Flipping GOP Hold on Texas

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The last two times Republicans pushed laws targeting undocumented immigrants in border states, the backlash flipped the states blue and purple.

But in deep red Texas?

As a federal appeals court on Wednesday weighs a legal challenge to a controversial Texas law targeting migrants, Marisa Limón Garza sees a historical moment unfolding not unlike the resistance to anti-immigrant legislation in California in the 1990s or the protests over Arizona's "show me your papers" law in the 2010s.

"I don't have rose-colored glasses but I look to history, to California's Prop 187 and Arizona's S.B. 1070, and I see states that took short-term hits," said Limón Garza, executive director of Las Americas Immigrant Advocacy Center. The group is one of several plaintiffs suing Texas over the law known as Senate Bill 4. "But people changed those states."

The federal 5th Circuit Court of Appeals in New Orleans was set to hear oral arguments Wednesday in a Justice Department lawsuit alleging Texas S.B. 4 is unconstitutional.

The lawsuit, which was combined with a legal challenge brought by El Paso County and Las Americas Immigrant Advocacy Center, says immigration is the sole purview of the federal government. Texas contends that the federal government has been derelict in border enforcement and that the state has a right to enforce its own border.

Though it hasn't taken effect yet because of a court injunction, S.B. 4 is mobilizing Texas immigrant communities in unprecedented ways, said Fernando Garcia, executive director of the Border Network for Human Rights. The El Paso, Texas, nonprofit has joined an effort uniting 50 Texas organizations called the We Will Resist Campaign Coalition. Members planned to protest outside the New Orleans courthouse Wednesday.

"This is an extreme version of what we saw in the past in Arizona," Garcia said. Under S.B. 4, "the Texas Department of Public Safety will be asking the question of immigration and arresting people. That is sending shockwaves of fear through our community."

More: SB 1070 galvanized a generation of Latinos to run for office and get politically involved

Are hardline tactics shifting the immigration debate?

Texas Gov. Greg Abbott has targeted illegal immigration with razor wire and a floating barrier in the Rio Grande, with National Guard troops at the border, with human trafficking allegations against migrant shelters, and, now, with a new law that makes it a state crime to cross the U.S.-Mexico border in Texas and allows the state to order deportations.

Whether the political winds in Texas could shift as a result, the way they did in California and Arizona, is up for debate.

S.B. 4 may have galvanized activists like Limón Garza who say they want to protect immigrant families in Texas and prevent communities of color from being unfairly targeted. But the hard-line border enforcement policies have also proved popular with many Texas voters, including in majority-Hispanic border communities.

Selene Rodriguez runs the conservative-leaning Texas Public Policy Foundation's Secure and Sovereign Texas campaign that supported S.B. 4. She hails from a ranching community near Del Rio, Texas, at the U.S.-Mexico border. Like Limón Garza, she traces her family roots to Mexico. But she doesn't believe resistance to S.B. 4 will approach anything like what happened in California and Arizona – on the contrary.

"You are always going to have split opinions," Rodriguez said, "but I am seeing a growing increase in people wanting stricter immigration laws, especially in Hispanic communities. My community is tired of the human smuggling attempts.

"Texas very much supports legal and safe immigration. What we don't want is millions of people putting themselves into the hands of Mexican cartels coming here illegally."

Texas S.B. 4 differs from California's Prop 187

In 1994, amid an economic downturn and anxiety around globalization, California Republicans led by Gov. Pete Wilson pushed for Prop. 187. Voters approved the law, which required police, health care workers and teachers to verify and report the immigration status of all people, including children, and report undocumented immigrants to federal authorities.

The law "ruined the GOP brand in the eyes of immigrants, their children and whites who were turned off by the nativist appeals – driving all of them into the arms of the Democrats who were pro-immigration," Alex Nowrasteh, vice president for economic and social policy studies at the Libertarian CATO Institute, wrote in a 2016 analysis.

But S.B. 4 differs from Prop. 187 in important ways, he said. The Texas law specifically prohibits enforcement at locations including schools, hospitals and churches, and it's framed as targeting border security, not interior enforcement.

"The reach of S.B. 4 – although large – is much less large than Prop. 187," Nowrasteh told USA TODAY. "Even in border communities, they are concerned about border security. They may be

worried about being misidentified, but they are also concerned about individuals coming over the border, which softens the opposition to S.B. 4."

In the 1990s, a federal district judge determined Prop. 187 violated the U.S. Constitution. A court-mediated settlement in 1999 ended myriad legal challenges to the law. Wilson lost his next election, and Democrats gained a stronghold in California.

In Arizona a decade later, Maricopa County Sheriff Joe Arpaio rose to national fame, or notoriety, for his aggressive enforcement of the state's "show me your papers" law. The U.S. Supreme Court struck down most of Arizona's S.B. 1070 in 2012, reasoning that the supremacy clause of the Constitution placed immigration under the exclusive purview of the federal government – a longstanding legal precedent that the courts have upheld so far.

Arpaio was convicted of contempt of court for ignoring a judge's order that his agency stop racially profiling Latinos, and he subsequently lost four elections and never returned to public office. (He later received a presidential pardon from Donald Trump.)

Latino grassroots organizations that grew out of opposition to the law remain politically active. In the decade that followed S.B. 1070, Latinos increased their representation in the Arizona Legislature, doubling their seats in the House.

Limón Garza said she and other immigrant advocacy organizations are connecting with the California activists who led the charge against Prop 187 and Arizona organizations that resisted S.B. 1070. They are building coalitions within Texas as well.

"That's how I sleep at night," she said. "I think, there is going to be collateral damage. There will be harm. But it goes back to strategy and being very intentional. If we are disciplined in our strategy, we could come back in 10 years stronger."

Already, advocates have coalesced in a new statewide organization founded last year in response to Abbott's border initiatives. The Texas Immigration Law Council's stated mission is "to protect and promote the rights of immigrants and refugees of all nationalities in Texas."

"There is a lot of organizing happening along the border, from shelter organizations to legal services organizations and local and national organizations," said Denise Gilman, co-director of the Immigration Clinic at the University of Texas at Austin School of Law. "I don't think we had seen that level of coordination in Texas in the past or that level of common purpose."

Gov. Greg Abbott: 'Texas will hold the line'

At the moment, Abbott enjoys broad support for his border and immigration initiatives.

A poll in February by the Texas Politics Project at the University of Texas, Austin revealed more than half of respondents said they "strongly" or "somewhat" supported a host of Abbott's measures, including deploying state and military resources to the border, placing razor wire in the Rio Grande, and building or repairing border barriers.

In a nod to S.B. 4, 60% of respondents said they supported making it a state crime for an undocumented immigrant to be in Texas in most circumstances.

The governor has continued investing political capital and taxpayer money in his border strategy.

Last week, he met with House Speaker Mike Johnson in Austin and urged him to pass border security legislation – although Johnson helped torpedo a border security bill earlier this year.

Abbott touted the state's migrant busing program, which has shipped more than 108,000 migrants out of state to Democrat-led "sanctuary" cities, including New York, Chicago and Denver. And he has broken ground on a "forward operating base" for Texas National Guard under construction at the border, where he plans to house 2,300 soldiers.

"Texas will hold the line," Abbott said on X after migrants rushed the border in El Paso and breached razor wire barriers to turn themselves in to border agents.

The S.B. 4 law hasn't been allowed to take effect as legal challenges wind their way through the court system and are likely headed for the Supreme Court. Any political consequences of S.B. 4 may be felt only if the law takes effect.

"If it does clear the legal challenges, we'll have to see how it's implemented and where it's implemented," said Kristin Etter, director of policy and legal services at the Texas Immigration Law Council.

The strength of resistance to the law may not be felt "until Texans realize what the impacts will be when immigrants start leaving the state or when they see their own family and friends pulled over."