



## **GOP ‘Disapproves’ of Obama’s Immigration Action. Duh!**

By [Eric Pianin](#)

December 4, 2014

As the lame duck session of the 113<sup>th</sup> Congress mercifully draws to a close, Americans are being treated to another round of low-grade political theater by GOP lawmakers in the bruising battle over President Obama’s immigration executive order.

House Speaker John Boehner (R-OH) is trying to pass a complex spending measure next week that would keep the department responsible for implementing Obama’s executive order on a short budgetary leash while fully funding the rest of the government for the remainder of the fiscal year. But Ted Cruz (R-TX) and a growing number of House Tea Party conservatives are trying to block that plan.

There are signs that Boehner and his lieutenants will prevail, but if conservatives somehow succeed in attaching a rider to the Department of Homeland Security’s appropriations authorization blocking implementation of the new executive order, Obama has threatened a veto that would trigger another partial government shutdown when the current authority expires Dec. 11.

For now, however, law makers and state officials are marking time with symbolic gestures.

The House on Thursday approved a largely meaningless resolution of disapproval of Obama’s immigration executive order while Republicans continue to wrestle behind the scenes over whether to risk another government shutdown by cutting off funds for the enforcement of the new order.

The resolution of disapproval, drafted by Rep. Ted Yoho (R-FL), would nullify the president’s action if it survived Senate scrutiny. It was approved by the House, 219 to 197, with all but seven Republicans voting for it. But with Senate Majority Leader Harry Reid (D-NV) vowing to shelve the measure when it reaches his chamber, the resolution is little different from the scores of other House Republican feel-good bills that were sent to their graves in the Senate.

“This bill doesn’t talk about deporting anybody as you might hear -- that it’s going to deport nine million people,” Yoho said in opening the floor debate. “It just stops an unconstitutional action by our president who has taken an oath to defend and protect the Constitution of the

United States, just like the rest of us in this body has. To vote no against this bill is to vote no against the Constitution.”

Rep. John Conyers of Michigan, the ranking Democrat on the House Judiciary Committee, sharply criticized Yoho and other House Republicans for wasting more time on political messaging while refusing to address comprehensive immigration reforms.

“No one questions that our immigration system is broken,” Conyers said. “It’s failing our economy and millions of families and our businesses. And yet rather than deal with these critical issues, we are here today to vote on yet another symbolic, anti-immigrant measure that has absolutely no chance of consideration in the Senate.”

With so much uncertainty over how this epic power struggle between GOP lawmakers and the executive branch will play out, GOP state attorneys general and other officials from across the country have decided to step into the breach.

On Wednesday, Texas and 16 other states filed suit in federal court in Brownsville, Texas challenging the constitutionality of the president’s decision to selectively enforce deportation laws and “illegally” impose new burdens on state budgets.

The states’ lawsuit also argues that Obama’s decision to temporarily protect nearly five million illegal immigrants from deportation would encourage yet another wave of illegal crossings at the U.S.-Mexico borders, forcing states to spend additional millions of dollars on law enforcement, education and health care.

Other states that joined the legal challenge include Alabama, Georgia, Idaho, Indiana, Kansas, Louisiana, Maine, Mississippi, Montana, Nebraska, North Carolina, South Carolina, South Dakota, Utah, West Virginia and Wisconsin.

Obama and other administration officials dismissed the suit as frivolous, saying that the president has been authorized by existing statute to use prosecutorial discretion in determining who to deport and who to allow to remain in the country. Shawn Turner, a White House spokesman, told reporters yesterday that the Supreme Court and Congress have made it clear that federal officials can set priorities in the enforcement of immigration law.

Even some conservative legal scholars agree that the states’ efforts to challenge the constitutionality of a president’s decision on how to enforce a law is something of a legal stretch. Trevor Burrus, a research fellow at the libertarian Cato Institute’s Center for Constitutional Law, said today that it would be highly unusual for the courts to grant states legal standing in challenging a president’s enforcement policies.

“Most people don’t have the standing to challenge executive orders, especially executive orders about discretionary non-enforcement because if something is not being enforced then you don’t have a complaint,” Burrus said in an interview.

In fact, there is little legal precedent for what Texas and other states are attempting to do. Republican state officials largely struck out in their attempts to participate in court challenges to the Affordable Care Act. And the Supreme Court struck down most of a 2010 Arizona state law designed to supersede federal enforcement of immigration laws by empowering state and local law enforcement officers to arrest illegal immigrants who were in Arizona without carrying registration documents and to crack down on those who were sheltering illegal immigrants.