



Senate Republicans 'soul searching' over filibuster rule

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Senate Republicans, who condemned a Democratic decision last year to require only 51 votes to confirm judicial and executive branch nominees, are struggling to decide whether to reverse the so-called "nuclear option" or leave it in place when they take the majority in January.

The rules change lowered the threshold for judges and President Obama's executive branch appointees from 60 votes to 51 votes.

Democrats invoked the change with a simple majority vote rather than a typically required supermajority, infuriating Republicans, who promised the Democrats would "pay a heavy price" for the move.

But with the majority just weeks away from their grasp, the Republicans are "soul searching" about whether to change it back.

Meeting behind closed doors Tuesday with soon-to-be Majority Leader Mitch McConnell, R-Ky., most members appeared undecided about what to do, although a few have come out strongly in favor of or against reversing the rules change.

"There's a careful and robust discussion but it's still ongoing and no decisions have been made," Sen. Ted Cruz, R-Texas, said Tuesday evening as he left McConnell's suite of offices in the Capitol.

Republicans don't really benefit by leaving the rule in place in the short term, since Obama remains in the White House for the next two years.

That could all change, however, if a Republican wins the White House in two years and the GOP keeps its majority in 2016.

Then it would be much easier to confirm GOP nominees with 51 votes, much the way it worked for Democrats this year, who are on target to confirm a near-record number of judges as well as many controversial executive branch nominees who otherwise would have been blocked by the 60-vote threshold.

A group of lawmakers in support of leaving the rule in place say changing it back to the 60-vote threshold makes no sense.

“I would not have invoked the nuclear option,” Cruz said. “I think it was a mistake. But, once it’s done, I don’t think we should go back. I don’t think there should be one rule for Democrats, and one rule for Republicans.”

Some Republican lawmakers reason that if they undo the Democrats’ nuclear option and return to the 60-vote threshold, Democrats will simply reinstate it the next time they are in the majority.

“They would be crazy to reinstate the judicial filibuster, because as soon as the Democrats get the majority again, they’ll get rid of it again,” said Roger Pilon, director of the Center for Constitutional Studies at the Cato Institute, a libertarian think tank.

But there are many lawmakers who also want the Senate rule restored to 60 votes because they believe the change eliminates the moderating power of the filibuster.

“You are going to have the most ideological lawmakers in both parties having a really large say about what kind of judge you pick, because you don’t have to reach across the aisle,” Sen. Lindsey Graham, R-S.C., told the *Washington Examiner*.

Most senators say they are undecided.

“I’m still kind of weighing all the arguments,” Sen. Marco Rubio, R-Fla., said after Tuesday’s meeting. “It’s an interesting question.”

According to senior Republican Senate aides, McConnell may not make a decision on whether to reverse the rules change until 2015, after nine new GOP senators are sworn into office.

McConnell, who has pledged to “restore” the Senate to regular order, has not disclosed his preference. No matter what he decides, he’ll anger at least part of his conference in what will likely be one of the first big decisions he makes as majority leader.

“It’s going to be a soul-searching moment for us,” Graham told the *Examiner*. “Because people are thinking, ‘we want the majority rule because when we get the White House, we are going to do the same thing the Democrats did.’ But that’s short-term. The consequences over time will be the hardening of the judiciary.”