

COURTS: Democratic control of Senate may not end fight over judges

The White House yesterday sent to the Senate a repeat list of controversial judicial nominees that Democrats have repeatedly blocked, rekindling the prospects of another fight over nominations even under a Democratic Congress.

The White House's action drew strong criticism from Senate Democrats and liberal interest groups that say the nominations are designed to pick a fight with Democrats just days after President Bush promised increased bipartisan cooperation. The nominees are unlikely to gain any serious Senate consideration as only a few legislative days remain in the 109th Congress and Senate Republicans have shown little interest in another fight over nominations.

Among the names submitted to the Senate was former Interior Solicitor William Myers, who was first nominated in 2003 for a seat on the 9th U.S. Circuit Court of Appeals but has been repeatedly blocked by Democrats citing concerns over his environmental record. Other controversial nominees on the list include Terrence Boyle for the 4th Circuit, William Haynes also for the 4th Circuit and Michael Wallace for the 5th Circuit.

Assuming the Senate does not take any action on the nominees this year, they will expire when the 109th Congress adjourns and Bush will have to resubmit the names for the 110th Congress -- if he chooses to continue pushing the same list.

Incoming Senate Judiciary Committee Chairman Pat Leahy (D-Vt.) criticized the nominations, saying Bush was sending a "regrettable" signal about the administration's willingness to work with the Senate on the issue.

"Barely a week after the president promised to change course by working in a bipartisan and cooperative way with Congress, it is disappointing that he has decided to 'stay the course' on judicial nominees by renominating a slate of his most controversial past choices," Leahy said. "This is exactly the kind of political game-

playing that prompted Americans to demand change and a new direction in Washington."

Officials from groups who have previously opposed some of Bush's nominees said the nominations could be both an effort to cater to right-wing interest groups and a sign that the election has not changed the administration's outlook on the issue.

"It suggests that he will continue to refuse to consult with the Senate," said Glenn Sugameli, an attorney with Earthjustice. "It's one of the first things he did after meeting with the Senate leadership and saying he would cooperate. It's a very strange stick in the eye."

Leading Senate Democrats have predicted in recent days that the Democratic takeover of the Senate will likely doom Bush's most controversial nominees and could force the administration to both consult with the Senate and put forth more moderate nominees.

"My message to the president would be, 'Send us moderate judicial candidates, don't send us extremists,'" said Democratic Whip Dick Durbin (D-Ill.), who sits on the Senate Judiciary Committee. "There was a time when the president was successful doing that; that time has passed."

But Sean Rushton, executive director of the Committee for Justice, a group created to lobby for the administration's nominees, said the nominations could be a winning political issue for Republicans, pointing to the 2004 election in which GOP Senate candidates seemingly capitalized on the Democratic efforts to block the nominees.

"To the extent that this election was about Democrats, they were clever enough to find candidates who could credibly be called moderates," Rushton said. "A great way to put that to the test is on the judge issue."

Rushton added that having a series of confirmation battles would help to re-energize the Republican base that largely forgot about that issue during this election. "The judges issue was largely left off the table in this election, that was a mistake," he said. "A lot of those conservative-leaning independents and moderates ... were focused elsewhere."

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