

State AGs To Play Larger Role With Trump Back In Office

By Jack Karp

Law360 (March 20, 2025, 3:59 PM EDT) -- Many state attorneys general will have growing influence on national issues under the new Trump administration, as they ramp up regulatory enforcement in areas where the federal government pulls back, while also fighting against or in support of the administration's policies, lawyers and observers say.

Democratic top state law enforcement officials have already filed multiple challenges to President Donald Trump's freeze on government spending and firing of government workers.

Republican state attorneys general, meanwhile, are already helping fight some of their Democratic colleagues' efforts, and will likely also sue to enforce the Trump administration's priorities in areas like the environment and diversity.

And attorneys general on both sides of the aisle are expanding their enforcement efforts around issues like consumer protection, financial services and antitrust, where the Trump administration has already signaled it intends to be more lax, lawyers say.

But attorneys general who spoke with Law360 Pulse insist that their role won't be any different under the Trump administration than it has been under previous presidents.

"I actually don't think it's any different," said New Jersey Attorney General Matt J. Platkin.

"I'm doing what I took an oath to do, and I think that's what my colleagues are doing, which is uphold the Constitution of our states and this nation and the laws of both and protect our residents," Platkin added.

Opposing Trump Policies

There are currently 23 Democratic state attorneys general and 28 Republican ones, including Washington, D.C., according to the Democratic and Republican attorneys general associations.

Those 23 Democratic state law enforcement officers are already focusing much of their attention on challenging the Trump administration's actions in court, a shift from the mainly Republican attorneys general who went to court against the Biden administration, according to experts.

That reversal is likely to continue for the next four years, lawyers and attorneys general say.

"We'll certainly see things flip, which is no surprise in terms of who is stepping up and leading the charge to challenge the federal government on numerous issues," said Marquette University political science professor Paul Nolette, who tracks state attorney general activity.

A group of 21 Democratic state attorneys general have already sued the Trump administration **over mass layoffs** at the U.S. Department of Education and firing of probationary federal government workers, as well as the National Institutes of Health's **plan to cap indirect costs** for research grants and the administration's order to **freeze all federal government funding**, both of which have already been blocked by federal judges.

Some of those attorneys general insist those lawsuits don't mark a change in their agendas.

"The focus is the same, and that is on protecting Connecticut families," said Connecticut's Democratic Attorney General William Tong. "It doesn't matter who the president is. My job is to protect Connecticut, and right now the impact on Connecticut is very painful and profound, and that's why I've been so active."

Platkin, also a Democrat, echoed that remark.

"If the president does things that violate the law and violate the constitution and hurt our residents, I'm not going to hesitate to stand up to protect them, which, by the way, is the same thing we did during the Biden administration," he said.

While the principles behind these legal challenges may be the same, there are likely to be a lot more of them against the Trump administration, according to Nolette.

The first Trump administration drew 160 multistate lawsuits, more than were filed during the George W. Bush and Barack Obama administrations combined, Nolette pointed out. And he expects to see even more legal challenges during Trump's second term, saying he's already tracking "more cases than in any other administration we've seen after barely a month in, and I expect a lot more to be coming."

The number of areas in which these challenges are being brought has also grown in recent years and will likely keep expanding under Trump, he said.

Most multistate legal challenges against the federal government used to concern the environment, but lawsuits filed by states against the administration over the next four years will focus as well on healthcare, civil rights and immigration. That's in addition to the many legal battles over the administration's spending cuts, Nolette said.

"What they are involved in these days is far broader than just the environment," Nolette added. "They're suing over just about everything."

Plugging Enforcement "Holes"

State attorneys general from both red and blue states are also likely to spend the next four years ramping up regulatory enforcement in areas where the Trump administration has signaled it plans to pull back.

The Trump administration **has dropped** multiple consumer protection **enforcement actions** and practically **shut down** the Consumer Financial Protection Bureau, announced a new policy that would allow companies that self-report corruption-related misconduct to **dodge civil monetary penalties**, and **paused enforcement** of the Foreign Corrupt Practices Act, among other shifts in priorities.

State AGs will try to pick up the slack, according to lawyers.

Their expanded enforcement efforts will likely come in areas like consumer protection, environmental regulation, labor issues, civil rights and social issues such as diversity and responsible governance, said Morgan Lewis & Bockius LLP partners Alison Tanchyk and Diana Cortes and of counsel Nicholas M. Gess, who all work in the firm's state attorneys general practice.

But they could focus first on consumer protection, given all the CFPB litigation that has been dropped by the Trump administration, according to Troutman Pepper Locke LLP partner Christopher Carlson, who served as an assistant attorney general in the Office of the West Virginia Attorney General.

"I know for a fact the states are looking at those and saying, 'OK, if the CFPB thought that that was warranted, I'm going to give that a hard look,'" Carlson said. "So it really has been how do we plug perceived holes in the boat from a consumer protection perspective."

In fact, the number of lawyers handling consumer protection cases in the West Virginia Attorney General's Office has doubled since he worked in that office, Carlson said.

The primary enforcement statute available to the states is the ability to prosecute allegedly unfair and deceptive acts and practices, according to Tanchyk, Cortes and Gess.

Texas' Republican Attorney General Ken Paxton, for instance, **announced in September** a settlement with healthcare technology company Pieces Technologies, which uses AI to assist hospitals with clinical notes, under the Texas Deceptive Trade Practices-Consumer Protection Act. It's the first attorney general settlement pursuant to a state consumer protection act involving generative artificial intelligence, according to Carlson.

Both New Jersey's Platkin and Connecticut's Tong confirmed that they plan to focus on consumer protection enforcement in the absence of that enforcement from the Trump administration.

"You better believe we're going to stand up and protect our residents and our consumers and make sure that the largest companies in the world can't prey on them," Platkin said. "That is absolutely going to be a priority. I wish the federal government would continue to play the important role that it should play, but if it doesn't, then we're going to step up and protect our residents however we can."

Antitrust enforcement is another area where states' top law enforcement officials could become more active.

The legal challenges to grocery chain Kroger's \$24.6 billion bid to buy Albertsons is "a perfect case study" of this trend, according to Carlson. Nine states joined the Federal Trade Commission in opposing the merger, but Colorado and Washington state **sued separately** and **got to trial first**.

"Even if [the U.S. Department of Justice] pulls back, the states can and have banded together to enforce their own antitrust statutes," Marquette University's Nolette said. "And so this can be a powerful way

for them to achieve goals even if the federal government isn't involved."

Partisan Multistate Actions or Going It Alone

Some of this heightened enforcement action will come in the form of increased partisan multistate lawsuits, according to experts.

In the past, multistate legal actions usually involved both red and blue states' attorneys general. But in recent years there have been more multistate actions involving just Democratic attorneys general — focused on issues like climate change, for instance — or just Republicans — focused on areas like consumer protection, according to Carlson.

That trend is likely to continue and even accelerate under the Trump administration, Carlson said, adding, "partisan multistate actions are definitely increasing."

But individual states will also be more willing to break away from multistate actions and go it alone, especially if some of those states' attorneys general feel that a multistate suit doesn't accomplish enough, according to lawyers.

Some attorneys general may be more intent on making businesses change their practices, so they may say, "The money may be right for a multistate, but we really need to use some of our resources to make sure the industry is practicing in a better way," Carlson said.

The Role of Republican AGs

Republican states' top lawyers aren't going to stay on the sidelines, though, according to observers.

Many of them will band together to defend Trump administration policies against their Democratic colleagues' challenges, lawyers said.

Republican state attorneys general have already filed an amicus brief in the D.C. Circuit, siding with Trump in his **recent standoff** with U.S. District Judge James Boasberg over the deportation of Venezuelan migrants under the Alien Enemies Act of 1798, and another in support of Trump's executive order **ending birthright citizenship**, opposing more than a dozen Democrat-led states that challenged the order. The First Circuit has already denied the government's effort to stay a lower court injunction blocking that executive order.

Paxton and other Republican attorneys general will also work to enforce policies that align with the Trump administration's objectives, according to Nolette.

Paxton, for instance, has made clear that he wants to partner with the Trump administration on the aggressive deportation of unauthorized immigrants and is pressuring local governments to cooperate with those efforts, Nolette said.

Nebraska's Republican attorney general **sued several car and truck companies** in November seeking to stop them from eliminating fossil fuel-powered vehicles by claiming that the agreement the companies signed with California is anticompetitive.

And attorneys general from **10 red states** wrote to Goldman Sachs, JPMorgan and other financial

institutions in January, saying the companies' diversity initiatives have caused "mounting concern that political objectives have, in some cases, influenced your decision-making at the expense of your statutory and contractual obligations."

Other GOP attorneys general could pursue legal action against more liberal cities that are trying to implement liberal policies, a trend Nolette says **has grown in recent years**.

In fact, Paxton has already announced that he's investigating the city of Dallas over its "refusal to comply with state and federal immigration laws."

"The law is not optional. Local governments do not have the authority to disregard state and federal immigration laws," Paxton said in a March 13 statement.

GOP legislators are also jumping into the fray.

North Carolina's Republican-controlled Senate recently approved S.B. 58, which would bar the state's Democratic attorney general from participating in lawsuits challenging Trump's executive orders.

New Jersey's Republican lawmakers have called for the resignation of Platkin and initiated impeachment proceedings against him, in part over his participation in legal challenges against the Trump administration, though **other unrelated allegations** are at the center of the GOP effort.

"I don't spend a whole lot of time worrying about partisan political attacks," Platkin told Law360 Pulse in response. "The one thing that I'm focused on is: Is the law being followed and are our residents being harmed? And I'm going to keep doing the same thing I've done since I took office, which is stand up for them. I don't believe that's optional. I believe that's my job."

The Growing Influence of State AGs

State attorneys general like Platkin have increased influence when it comes to national policies and politics, and experts say the next four years are likely to further expand that power.

"They definitely, without question, are playing a larger role on the national stage," Nolette said. "And many state AGs recently have made national reputations from their time as AG."

That's, in part, because Congress hasn't been passing legislation, so states are instead regulating through enforcement, according to lawyers and attorneys general.

In the absence of the federal government enacting cannabis reform or data privacy legislation, the preeminent attorney addressing cannabis right now is Colorado's attorney general, and California's attorney general is leading the charge on data privacy, Carlson said.

"Congress isn't essentially being aggressive enough or doing enough to regulate in some of these areas, so the state attorneys general are stepping in," Carlson said. "I expect them to continue to keep having more and more expanded influence."

Tong said the states have to take over in the face of inaction.

"Congress is broken, and because it's unable to discharge its basic functions, the fights the American

people need us to take on have to be taken on by the sovereign states," he said.

But Tong said that role isn't a new one for him and his colleagues.

"I was here for Trump 1.0. I was here for the building of the border wall. AGs were fighting the Muslim ban. We were defending the Affordable Care Act," Tong said. "So we've been here on the front lines for a long time."

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