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Measures to weigh rights of entrants

Props. 100, 102, 300 limit illegal immigrants' privileges

By Brady McCombs

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The Nov. 7 general election will offer a glimpse into Arizonans' attitudes toward illegal immigrants in their midst.

The ballot includes a trio of questions aimed at denying rights or services to those here illegally. Should they be allowed to take adult-education classes at community colleges? Or be given in-state tuition at colleges and universities? Or be eligible for state child-care assistance?

Proposition 300 would deny them all those services.

Another proposal, Proposition 100, would deny bail to illegal immigrants who commit serious felonies, while Proposition 102 would prohibit them from getting punitive damages in civil lawsuits.

"These are put together by people that would have us believe that we are in grave, grave danger; that they are a huge threat to our communities," said Lorraine Lee, vice president of Chicanos Por La Causa, a nonprofit community development corporation. "They are fear-mongering." Lee and other critics say the measures will harm children, burden state institutions and won't stop illegal immigration.

To backers, though, the measures would serve as baby steps on a path that will lead the state to becoming a difficult place for illegal immigrants to live, said Sen. Dean Martin, R-Phoenix, the sponsor of Prop. 300.

"If we are going to get serious about illegal immigration, the state of Arizona needs to get out of the business of supporting it," Martin said. "We are taking taxpayer resources and giving it to people who broke the law."

The measures are part of a nationwide trend by states trying to minimize the impacts of illegal immigration. At least 78 such bills were enacted across the country, an August survey by the National Conference of State Legislatures found.

"Some of them might be a cry for help, but most are expressions of dislike that the federal government has not been securing the borders and has been lax in keeping out illegal immigrants," said Paul Bender, a constitutional expert and professor of law at the Sandra Day O'Connor College of Law at Arizona State University.

300: Finishing what 200 started

If Proposition 300 looks and sounds familiar, that's because it was designed to finish what 2004's Proposition 200 started.

Prop 200, which passed with 56 percent of the vote, required Arizonans to show they were here legally when seeking some public services, and to prove they were citizens when registering to vote.

Yet, the provision hasn't had the impact its organizers hoped, largely because Attorney General Terry Goddard, a Democrat, ruled the initiative applied only to a handful of state programs — a position upheld by the courts.

The Republican Legislature passed a bill in 2005 to deny some state services, but Gov. Janet Napolitano vetoed it.

Bringing some of those issues back to voters, broken down in three propositions, was the next logical step, Martin said.

"We will finally be implementing what we thought we are getting with Proposition 200," he said. "It will directly save states and school districts millions of dollars in costs."

How much — if any — the measures would save taxpayers is difficult to nail down because of a lack of reliable figures.

Colleges and state institutions don't track how many illegal immigrants use the services.

And Martin couldn't cite any evidence the programs highlighted in Proposition 300 are currently being used by illegal immigrants, but he said its likely, since there are estimated 200,000 to 250,000 living in the state.

Whether the state is subsidizing one or 1 million illegal immigrants, a fundamental change is overdue, he said.

The measure would probably have little impact on the Department of Economic Security, spokeswoman Liz Barker Alvarez said, because the agency has required proof of residency or citizenship status to get child-care assistance since 1997.

The measure would be an "unfunded mandate" with hidden costs related to establishing a new registration process, said Pima County Community College Chancellor Roy Flores. Illegal immigrants now qualify for in-state tuition because they can prove they live here without having to prove they are in the country legally.

Verifying the immigration status of each student would be costly, agreed Gary Stuart, a regent for the Arizona Board of Education.

"Proposition 300 is a disaster — it will harm us in ways we cannot imagine," he said.

The measure is mean-spirited and would create a second-class group of residents by taking away educational opportunities from students who were brought here illegally by their parents, said Raymond Rodriguez, a leader with the Pima County Interfaith Council.

"It's society as a whole that is going to be impacted by this," Rodriguez said. "We have to pay for it now so that we don't have a high cost later on."

For supporters such as Randy Pullen, chairman of the Yes on 200 Committee that was born in 2004, the issue is simple: "Those are benefits that are for legal residents and illegal aliens aren't legal residents."

100: Eliminating flight risk

The rationale behind Proposition 100 is that illegal immigrants, coming from another country where they have relatives and friends, are a high flight risk.

The measure would block illegal immigrants who commit serious felonies from fleeing to their home countries, then returning to our communities later to commit more crimes, proponents say.

"We think people should stand trial and go through our justice system and not give them the opportunity to leave," said Kevin Rogers, Arizona Farm Bureau president.

But opponents contend the measure won't accomplish much and will cost taxpayers money to house more inmates in jails that are already full.

The Pima County jail houses an average of 200 illegal immigrants a day, about 10 percent of the population, said Capt. India Davis of the Pima County jail. About half are held without bond either by the courts or Immigration and Customs Enforcement agents who conduct daily interviews with suspected illegal immigrants at the jail, she said.

The Pima County jail is full and would not be able to house more inmates, Davis said. The measure could increase the population by 5 to 10 percent, she said.

At \$166.28 for the first day and \$57.42 for each subsequent day, with an average stay of five to 10 days, the county spends between \$1.9 and \$3.1 million yearly housing illegal immigrants, she said.

102: Limiting lawsuit rights

This measure was prompted by a case where two illegal immigrants were awarded a Douglas-area ranch owned by an anti-illegal-immigration activist who reportedly pistol-whipped them in Texas in 2003.

Proposition 102 would prevent illegal immigrant victims from receiving punitive damages awarded when a court finds a perpetrator has acted maliciously.

Proponents say the measure would prevent exploitation of the court system.

"If they are not legally here, they should not be in that situation to be harmed," Sen. Martin said.

Opponents call the measure irrational since punitive damages are meant to punish the offender, and a victim's immigration status should have no bearing. If somebody has done something so malicious a jury rules for punitive damages, that punishment should stand, says the Arizona Farm Bureau, which opposes the measure.

Confident supporters

Supporters such as Martin and Pullen are confident the measures will pass. So much so that no support committee was formed.

"Every one of those things makes common sense to anyone who is a legal resident of Arizona," Pullen said.

Opponents are worried about confusion from a ballot that will include 20 propositions, and a general sentiment of fear surrounding illegal immigration, which they believe compelled voters to pass Prop. 200 in 2004.

The arguments that illegal immigrants contribute to the economy with their work, taxes and money, or that saving a buck now could cost more later when illegal immigrant children are undereducated and out of work might not stand a chance in the current climate, said Tucson City Councilman Steve Leal, who opposes Prop. 300.

"I think people have become frustrated about what has not happened at the national level and they might, by default, go after the only thing that is available to them," he said.

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Proposition 100

- The measure: Proposition 100. Denies bail to illegal immigrants who commit serious felony offenses.
- Core facts: If the court finds enough evidence that an illegal immigrant presumably committed a serious felony, he or she will not be allowed to post bail.
- For and against: Backers include Rep. Russell Pearce, R-Mesa; Andrew Thomas, Maricopa County attorney; Don Goldwater, Republican ex-candidate for governor; and the Arizona Farm Bureau. Opponents include Vote No on Prop. 100, a Tucson group.
- Real-world impact: Advocates say denying bail to illegal immigrants who commit serious felonies will make our communities safer by preventing them from fleeing the country before standing trial. Critics counter that courts already hold dangerous criminals without bail under current law, that it would take away a basic constitutional right and cost taxpayers money to house them in the jails.

Proposition 102

- The measure: Proposition 102. Prohibits illegal immigrants from receiving punitive damages in civil lawsuits.
- Core facts: Would prevent illegal immigrants who have won civil lawsuits from being awarded additional money when the court finds the perpetrator has acted maliciously. This type of punishment is intended to punish the wrongdoer and discourage others from doing the same thing.

- For and against: Backers include Rep. Russell Pearce, R-Mesa; Don Goldwater, Republican ex-candidate for governor; and Arizona Chamber of Commerce. Opponents include Rep. Steve Gallardo, D-Phoenix; Arizona Farm Bureau; Legislative Latino Caucus; Joe Hinz, director of Fairness and Accountability in Insurance Reform; the Coalition for Latino Political Action; and the Arizona Advocacy Network.

- Real-world impact: Advocates say it would prevent the exploitation of the court system by illegal immigrants. Opponents argue that it unfairly demonizes victims and lets wrongdoers off the hook.

Proposition 300

- The measure: Proposition 300. Makes illegal immigrants ineligible for certain state-funded services.

- Core facts: Prevents illegal immigrants from attending adult-education classes given by Arizona Department of Education; getting in-state tuition, grants, waivers or scholarships at public universities or colleges; and receiving child-care assistance from the Arizona Department of Economic Security. It would require state agencies handling these restrictions to report the number of people denied these services.

- For and against: Backers include Sen. Dean Martin, R-Phoenix; Rep. Russell Pearce, R-Mesa; Don Goldwater, Republican ex-candidate for governor. Opponents include the Arizona Farm Bureau, Arizona chapter of the National Organization for Women; Legislative Latino Caucus; Arizona and Pima County Interfaith Councils; and The Coalition for Latino Political Action.

- Real-world impact: Advocates say the proposition will save taxpayer money and send a message that Arizona doesn't welcome illegal immigrants. Opponents counter that denying in-state tuition, adult education classes and child-care assistance will harm children who aren't to blame for their parents bringing them here illegally. In addition, it would force state employees to conduct immigration checks they haven't been trained to carry out, they say.

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