

What Can U.S. Presidents Accomplish in a Second Term?

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Ratified in 1951, the 22nd Amendment to the Constitution of the United States limits the number of terms a president can serve to two – and it is a lifetime restriction. Living two-term presidents such as Bill Clinton and George W. Bush are thus excluded from ever serving again. The irony of the limit is that even the most politically successful contemporary presidents – those who achieve reelection – reach the peak of their careers and the beginning of their decline at the same moment, when they raise their hands to be sworn in at the second Inauguration.

From that moment, second termers are known to be leaving office on a date certain. Inexorably, their influence is on the wane. So how much can re-elected presidents accomplish in their last four years? Although the options are limited, they are not all bad, because over two and a half centuries the office of the U.S. presidency has accumulated significant powers.

Limits for Lame Ducks Walking

Second-term presidents regularly face problems with appointments, bargaining, and relations with Congress:

- In relations with Congress, the first two years of the second term hold the best prospects for reelected presidents to get Congress to enact their priorities. The normal presidential success rate during that time is on a par with the first term. In the last two years, however, the president usually has little success, especially because the reelected president's party regularly does badly in the next midterm election.
- A reelected president is likely to have to fill many high level positions. Because heading an agency or working in the White House is a high stress position that pays relatively little compared to the private sector, high-level officials often depart and need to be replaced at the beginning of the second term. At the same time, judges of the president's party often step down in hope that their replacements will be ideologically similar. Yet the now lame-duck president may have trouble persuading highly qualified administrators to serve. And if nominees are found, the Senate still has to confirm them. It may do so in the first years of the second terms, but by the last two years, the Senate, if controlled by the opposition, may stall in order to wait the president out.
- In international affairs (and sometimes in domestic dealings, too), actors outside the government may try to take advantage of a second-term president. Because lame duck presidents are limited in the promises they can make, foreign leaders or domestic actors may go so far as to deal with major party candidates or an incoming president-elect before the sitting president even leaves office to see if they can get a better deal.

Possibilities for Continuing Influence

Reelected presidents need to move quickly on proposed legislation. Fortunately for them, the experience they have gained from the first four years can lay the groundwork even before the second term starts. Thus, reelected presidents should be realistic and proactive; they should fill key posts quickly and encourage judges who are planning to retire to leave as early as possible. Key strategic positions in the bureaucracy are the priority, as lesser positions can be left vacant to be filled by acting agency heads who are generally reliable professional civil servants.

Second-term presidents can also deploy administrative and executive powers that do not require legislative approval. Executive orders, rulemaking, the exercise of delegated authority are all important tools at their disposal, even though there are limits to their effectiveness.

- **Constitutional authority:** All presidents can use the veto and the threat of a veto to shape policy. But a veto serves only to negate, so it cannot much help the president drive legislation in a preferred direction. The president also has the authority to issue pardons and take the nation to war.
- **Delegated authority:** Congress has often delegated significant powers to the president to ensure that laws on the books are carried through. According to the courts, delegated authority can only be reversed by another act of Congress. As long as a given president remains in office (and even afterwards), legislative reversals are unlikely because of the presidential veto that can only be overridden by a two-thirds vote of both houses of Congress.
- **Executive orders:** As the chief executive officer of the vast federal government, the president does not need Congressional permission to issue orders that apply exclusively to executive branch activities. The U.S. federal government taxes and spends roughly one-fifth of the gross national product, and the United States is the only world superpower. Executive orders can therefore have very wide-ranging effects. True, the next president may cancel or amend executive orders, but it often happens that any given order has built up a supportive constituency, making it impracticable to reverse. And to the extent that executive orders enhance presidential power, succeeding presidents may want the authority regardless of party.
- **Rulemaking:** Regulations issued by agencies to implement federal statutes are a little known but critical part of policymaking. Laws passed by Congress often leave great latitude for interpretation, and proposed regulations go through a rigorous and difficult review process. Once in place, they are hard to change, because modifications or reversals must go through the same difficult process. Even a president known to be on the way out the door can thus use rulemaking to place a firm imprint on governmental policy.

Last but not least is the “bully pulpit” available to all presidents. This was President Theodore Roosevelt’s phrase for the chief executive’s capacity to highlight an issue or ideas through statements that capture broad public attention. Second-term departing presidents may have special capacities in this regard even at the very end. In the last State of the Union address, or in a thoughtful Farewell Address, an outgoing president can call upon eight years of experience to make cogent and influential observations – such as President George Washington’s advice against “entangling alliances” with foreign powers, or President Dwight Eisenhower’s warning about the modern “military industrial complex.” Their ideas can become a permanent part of national

debates, living on long after those who gave expression to them move out of the White House and lay down the awesome powers of the U.S. presidency.

Read more in Daniel Paul Franklin, *Pitiful Giants: Presidents in Their Final Terms* (Palgrave Macmillan, 2014).