Twitter Thread by Andrew Prokop



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Trump is trying to overturn the election results. I doubt he'll be successful. But I don't know it for sure.

In the coming weeks, I'll be watching two things:

1. Certifications
2. GOP state legislators and

There are two things that are set to happen with the election results in the coming weeks that ordinarily would be formalities, but in a disputed election are crucial.

First is the states' certifications of their results. Second is the selection of electors.

Right now, both processes are clearly on track to make Biden the next president.

Trump's only hope is to upset the apple cart on one or both. Blocking or delaying certifications somehow, or getting partisan GOP state legislators in states Biden won to appoint Trump electors.

Re: certifications, Trump will get little help from officials in the key states— they're mostly Democrats or bipartisan boards, except for GA Sec of State Brad Raffensperger.

Raffensperger is being pressured from the right, but he's pushed back so far

https://t.co/tMG9f4Eumg

With dim prospects for getting state officials to block certifications, Trump has been trying to get judges to do that, by filing lawsuits.

These lawsuits seem weak so far. But watch if judges start to take any of them seriously.

https://t.co/aHYWd83dvI

If certifications proceed as planned, the next step in the process is the selection of electors. Again, should be a formality. Biden should get electors in the states Biden won.

But the risk, many have long argued, is that GOP state legislators, will try to make a move here

PA's state senate majority leader, Jake Corman (R), has said for months that the state legislature plays no role in appointing electors, according to PA law.

But now, facing "pressure" to overturn the results, he's hedging that statement, saying that's in "normal circumstances"

> Meanwhile, Pennsylvania's Republican Senate majority leader, Jake Corman, has **long claimed** that the state legislature plays no role in selecting electors. But in recent days he has begun to **hedge that statement somewhat**, saying this would be the case "in normal circumstances." ("Pressure has begun mounting on Corman and other GOP state leaders to reverse course and somehow overturn the results of the race," **Politico's Holly Otterbein reported Tuesday**.)

A Wisconsin GOP state legislator has already endorsed this idea.

"You either have to toss this election out and have a whole new election, or we have our delegates to the Electoral College vote for the person they think legitimately should have won"

https://t.co/kCUStGwE7F

> "You either have to toss this election out and have a whole new election, or we have our delegates to the Electoral College vote for the person they think legitimately should have won," Sanfelippo said.
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> He suggested electors could decide on their own to award Wisconsin's 10 Electoral votes to Trump instead of Biden.

Still, there does not currently appear to be a solid effort on the part of any GOP legislature to replace Biden electors with Trump electors.

But we'll have to see if that changes in the weeks ahead as the pressure rises.

Even if legislatures do decide to make a play, there's a problem — WI, PA, & MI have Dem governors who will veto any attempt to change state laws.

But there's also a potential solution: the Gorsuch/Kav theory that state legislatures, not governors, call the shots in elections

> Yet in both Pennsylvania **and Wisconsin**, there is a process codified in state law for choosing electors, and it gives the legislature no part. (As Corman **wrote just last month**, "Pennsylvania law plainly says that the state's electors are chosen only by the popular vote of the commonwealth's voters.") Furthermore, both states have Democratic governors, so the legislatures can't pass a new law changing these rules after the fact.
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> But there may be one more catch. Supreme Court Justices Neil Gorsuch and Brett Kavanaugh **recently embraced** a legal theory that, in Gorsuch's words, "state legislatures — not federal judges, not state judges, not state governors, not other state officials — bear primary responsibility for setting election rules."
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> If three other Supreme Court justices agree with this line of thinking, they could potentially grant partisan state legislatures far more leeway to do what they want with elections, without having to worry about governor's' vetoes, secretaries of states, or elections boards. And if those partisan state legislatures want to appoint electors who will give Trump a second term — well, maybe the Supreme Court will let them do it.

To be clear, this is a far-fetched scenario. It's very unlikely to actually happen. Things look to be on track for Biden.

But again, the two things to watch in the coming weeks are: whether states stay on track for certifications, and how GOP legislators talk about electors