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The inside story of how N.J. and its governor gutted an important law

Updated: Jun. 18, 2024, 10:23 a.m. | Published: Jun. 16, 2024, 8:30 a.m.

17–22 minutes

A few weeks ago, about a dozen advocates gathered in Gov. [Phil Murphy](#)'s Trenton office for a cordial but pointed meeting. Their message: Please don't sign a bill that would weaken transparency and democracy in New Jersey.

Murphy hosted the sit-down — which included progressive organizations, good-government groups, and press associations — about a week after the state Legislature, despite widespread outcry, [passed a controversial measure](#) to overhaul the state law governing the public's right to access government documents. Final approval was up to Murphy.

These weren't strangers sitting in his office. Some were longtime supporters or even friends, dating back to Murphy's early days as a little-known progressive Democrat.

Antoinette Miles, one of those in the room, said she had hoped Murphy would “really consider this would be a stain on his legacy.”

“I think that was a very compelling point,” said Miles, the New Jersey state director of the Working Families Party. “I'm disappointed that did not prevail at the end of the day.”

In reality, the deed may have already been done.

Less than two weeks later, Murphy [signed the bill](#) those advocates so vehemently opposed. He said the state's Open Public Records Act, known as OPRA, was outdated after two decades. And he charged it was ["offensive"](#) that critics suggested politicians were seeking to change the law in an effort to hide corruption.

The contentious law was hashed out over months of tense negotiations between Murphy and other state leaders who control what legislation passes in Trenton, according to interviews NJ Advance Media conducted with nearly two dozen sources familiar with the situation — though the governor insists his mind was not made up when he held that meeting.

The backroom talks also included enacting laws raising New Jersey's gas tax to pay for critical transportation projects and redoing the state's long-vexing affordable housing rules. While the OPRA overhaul was the most polarizing part of discussions, there were fears that nixing the plan might have led to a state government shutdown.

It's the kind of horse-trading that happens all the time in Garden State politics, with all sides coming to the table with something they are willing to give up if there's something they want to get.

Indeed, some of the law's opponents have expressed support for the gas tax and affordable housing laws.

But one advocate speaking on the condition of anonymity lamented that perhaps OPRA "wasn't the right thing" for leaders "to be trading away."

Critics say the law will limit the ability of members of the public and

the media to obtain government documents, especially those that politicians want to keep secret. Watchdogs and journalists use OPRA to seek out records to scrutinize government decisions.

Some opponents now say blue-leaning New Jersey ranks even further down the list of states when it comes to open government and expressed worry this may be seen as a model for other states on how to curtail records laws.

Supporters say the measure ([S2930](#)) — sponsored by both Democrats and Republicans in the Democratic-controlled Legislature — will help update and streamline public-records requests for the 21st century and save taxpayers money.

A [Fairleigh Dickinson University poll](#) from April found 81% of registered New Jersey voters opposed the legislation.

Murphy clearly didn't like the criticism of his actions.

"I think the headlines have been somewhere between hysterical and irresponsible," he said during [his most recent radio show on WBGO](#).

"It's not perfect. It's the subject of compromise. Folks' concerns were real. But the headlines — 'Murphy kills transparency' — I don't buy it. Netting everything else, I stick by my statement: It's relatively modest."

THE DEAL?

The [original OPRA law](#) was launched in 2002, and chatter about reworking it has been around for years — though the lightning rod nature of the issue meant an actual proposal never moved forward.

But two years ago, [Nick Scutari](#), D-Union, took over [as state Senate president](#) in the wake of [Stephen Sweeney's shocking election loss](#). As he ascended to the post, Scutari appeared on a panel at the New Jersey League of Municipalities conference, an annual confab in Atlantic City of local officials from across the state. There, he was struck by the stream of mayors who urged leaders to “modernize” OPRA, two sources said.

“That was a transition point,” said Michael Cerra, the League’s executive director.

Mayor and county officials have long claimed that clerks are inundated with sometimes frivolous records requests, especially from commercial firms, and that towns are forced to pay excessive attorney fees — funded by taxpayer money — if they lose court cases over denied documents.

John Donnadio, executive director of the New Jersey Association of Counties, said his group worked “in lockstep” with the League to press for changes.

Last year, some lawmakers began [pushing a bill](#) that would revamp the law, though they faced immediate backlash from the press and advocates. The measure was shelved.

But the idea never went away. Discussions picked up again in [the lame duck session](#) at the end of last year, with the governor and top lawmakers discussing the potential changes alongside the proposals to increase the gas tax and overhaul affordable housing, five sources said.

Murphy wanted the gas tax. State Assembly Speaker [Craig Coughlin](#), D-Middlesex, wanted affordable housing. And Scutari wanted OPRA, according to the sources.

One source said all three “needed something” and “came to the table” with those three “major priorities.”

The goal was to get this all done in lame duck, when it’s easier to pass tough legislation because some lawmakers are set to leave office and won’t face voters again. But that period [came and went](#), and none of the bills passed before a new Legislature was sworn in this January.

Coughlin, though, never agreed to tie the three proposals together, one legislative source said. While he wanted to “get something on OPRA done,” he wanted it to be “reasonable,” the source said.

But the source noted Scutari, the Senate president, believed the proposals were “very much tied” and he “wanted there to be a grand bargain.”

Coughlin, who is also [the partner at a law firm](#) that represents several towns in the state, had said publicly as early as last year there was a need to “modernize” OPRA, especially with how much technology has changed in the two decades since it was enacted.

Two legislative sources said a partner at Coughlin’s firm, Lou Rainone, was involved in helping draft the bill. Rainone said he “did not have a hand in writing” it.

In March, both [the gas tax](#) and [affordable housing bills](#) became law. That same month, a planned Assembly committee vote on OPRA [was canceled](#) as the pushback reached a fever pitch, with a heated four-hour hearing.

Coughlin said in a statement at the time he was “inspired” by how many people spoke out and that lawmakers would work on amendments to “ensure we get the bill right.”

One legislative source said Coughlin was “happy to update” OPRA, but the hearing led him to “pull it down.”

Scutari kept pushing for the measure, five sources said.

Meanwhile, a few high-profile politicians came out against the proposal. That included Murphy’s wife, First Lady [Tammy Murphy](#), then a candidate for U.S. Senate. In March, two weeks before she [dropped out](#) of the race, she announced on social media she [“absolutely” opposed](#) the legislation, saying it would “gut New Jersey’s OPRA laws.”

The Democratic mayors of the state’s two largest cities — [Ras Baraka](#) of Newark and [Steve Fulop](#) of Jersey City — [also spoke against it](#). Both are candidates to succeed Murphy as governor next year.

Amendments were ultimately made, and the vote was back on, but opponents weren’t mollified by the alterations and warned the measure was being fast-tracked.

Among the changes the law makes:

- Ending the mandate that towns must pay legal fees to attorneys who win court cases for withheld documents. Supporters say that especially will save taxpayer money, while critics say stopping so-called fee-shifting could dissuade residents and media outlets from challenging record denials.
- Allowing government to sue requestors they believe are using OPRA to interrupt government operations.
- Permitting governments to post more documents online, though there is no clear directive on which documents must be posted.
- Shielding personal identifying information from disclosure on

documents.

Three legislative sources said attorneys and advocates were offered a compromise on fee-shifting — to put a cap on how much lawyers could recoup from towns, with no cap if there was an unreasonable records denial — but were rebuffed.

State Sen. Paul Sarlo, D-Bergen, a main sponsor and also the mayor of Wood-Ridge, [said during a Senate hearing on the bill](#) in May there has been a “cottage industry” of attorneys who have made “a lot of money” from fee-shifting.

“I’m not sure how we could ever resolve that,” Sarlo said. “We’ve done our best.”

Advocates countered at the hearing that they weren’t given a big enough role in crafting the policy. Joe Johnson, policy counsel for the ACLU of New Jersey, said it was “all meaningless negotiation” to “add credibility to this terrible bill and terrible process.”

At the same time, opponents note the law’s final version removed provisions that would address one of the reported main concerns of local officials: cutting down on companies using records requests to mine data.

Ultimately, one legislative source said, Coughlin agreed to the amended OPRA bill so leaders could move on and not jeopardize state budget talks.

This all unfolded as Murphy, Scutari, and Coughlin were about to begin [the heated final weeks of negotiations over a new state government budget](#) due June 30 — a period when deals are often forged, leverage is crucial, and the government could shut down if one side gets angry.

This cycle, Murphy is seeking approval from lawmakers to install [a fee on large corporations](#) to help fund cash-strapped NJ Transit. There are discussions about possibly increasing the state's sales tax, too. Meanwhile, Coughlin has been trying to ensure funding for his [Stay NJ property tax cut](#) for seniors, which critics say may be difficult to pay for.

But even on the day of the vote in the Legislature, it was uncertain whether there would be enough support for the OPRA bill to pass either the Senate or Assembly.

Two legislative sources said it was implied — though not overtly said — that Scutari would [not hold a vote on a school funding bill](#) if the OPRA measure didn't pass. Two other sources denied there was a threat.

Meanwhile, Democrats needed some Republicans on board to finalize passage, and one GOP source said some Republican lawmakers “traded” their votes in return for assurance other legislation they wanted would pass in the future.

“There are very few times when the Republican minority caucus matters,” the Republican source said. “This is one of those times. We had individual members fold like a deck of cards. For nothing.”

When the bill passed, some people in the gallery at the Statehouse booed and shouted “Shame!”

A handful of lawmakers even [had their votes changed](#) after the tally, though that didn't stop the measure from heading to Murphy's desk.

Scutari told reporters afterwards this “isn't about anything other than saving taxpayers money” and brushed aside worries about

eroding government accountability.

“There won’t be one piece of public records that you cannot get today that you couldn’t get yesterday,” he said.

As votes were secured that day, Murphy — a term-limited governor set to leave office in 2026 — was already prepared to sign the legislation into law, three sources said. They noted it wouldn’t have gotten to this point unless the governor’s office was involved in negotiations.

Murphy, though, didn’t rush to sign it. He was largely in “listen mode” as he hosted advocates in the meeting at his office, one attendee said. Another noted Murphy’s staff seemed as if they were “still grappling” with a decision.

Miles, the Working Families director, said she believed Murphy “took us seriously.”

“But I think, frankly, the Legislature was hanging a lot over his head and allowed this bill to be pushed forward,” she said.

Miles said she tried to emphasize to Murphy there was an “anti-democratic, anti-transparency pattern taking place in Trenton” in the last year. That, she said, included a law the governor signed to [revamp New Jersey’s campaign finance](#) rules, as well as moves to [curb the power of the state comptroller](#) and change the process for [how appellate judges are selected](#) in the state.

“We are asking ourselves: What the hell is going on in Trenton?” Miles said.

She called Murphy’s signature on the OPRA law “simply indefensible.”

THE AFTERMATH

Murphy said the meeting was a “good discussion” and the arguments against the bill weighed on him.

When he ultimately approved the law, he defended the move in [a five-page signing statement](#) that he joked was “longer than the Declaration of Independence.”

“What you’re trying to balance here is: This needed to be updated, without question,” Murphy told reporters in Trenton last week. “But you also wanted to continue to deliver transparency, and getting that balance right was important. That meeting was a real meeting with real people at the table, including yours truly coming mostly to listen.”

“If this was something that I thought was protecting corruption, there’s no way I would have signed it.”

Murphy downplayed the notion that his action was the result of a deal with lawmakers over the gas tax and affordable housing.

“Not specifically to that question, but more generally you want to get to a place where everybody feels good about things, and this is part of a broader tapestry, for sure,” he said. “But again, you have to make the decision on the merits. That’s not reason enough to sign something or to take an action. It has to be on the merits.”

One question was whether Murphy would sign the bill as is or conditionally veto it and ask the Legislature for changes.

But one source said Scutari would have “rightfully” been “furious” if Murphy didn’t approve the law. And that could have damaged budget negotiations, possibly leading to a government shutdown, as well as risking other policy getting through the Senate, another

source said.

A big mystery, three sources said, is why reworking OPRA was so important to Scutari.

“Nobody can tell,” one legislative source said. “What is that one-line provision in there that he wants?”

Another source said Scutari’s interest is simple: Towns felt “overburdened” and he truly believes this will update the law, helping mayors he is “pretty close to.” Scutari is chairman of the Union County Democratic Party.

Supporters of the measure also stress that the Legislature itself is exempted from OPRA and doesn’t directly benefit from the new law.

Scutari did not return a message seeking comment for this story.

Coughlin’s office declined to comment, saying the speaker wouldn’t discuss “private conversations among leadership.”

Senate Minority Leader [Anthony Bucco](#), R-Morris, argued the law will actually make it easier to access records online.

“You’re going to get your documents a heck of a lot quicker than you ever did before,” Bucco said.

Critics are still stunned the law happened and say its defenders are repeatedly twisting the truth about what it does. Former Senate Majority Leader Loretta Weinberg, a Bergen County Democrat, called the measure “disappointing on so many levels.”

“The state should make it easier for (residents) to know what their local and county and state governments are doing, not harder,” Weinberg said. “We, the Democrats, are supposed to be fighting

for democracy. ... To watch Democrats leading this charge for no reason? They're not even improving what needed improving."

Amol Sinha, executive director of the ACLU of New Jersey, said this comes when "trust in government is at all-time lows," as former President [Donald Trump](#) runs for the White House again, and amid more allegations of political corruption in the state, including [the high-profile bribery trial](#) of U.S. Sen. [Robert Menendez](#).

"No one can point to a principled, values-based reason why we needed this law at this moment," Sinha said.

CJ Griffin, an attorney and a vocal opponent of the law, said she worries about the precedent this sets.

"What I think New Jersey has done, I think, is just showed other states that it's OK to callously roll back transparency even when the public overwhelmingly opposes the rollback," said Griffin, director of the Justice Gary S. Stein Public Interest Center at the law firm of Pashman Stein Walder Hayden in Hackensack. "We have seen this in red states, but this will likely give blue states ideas."

Murphy argued even supporters of the law aren't happy with the final result, noting they "wanted more" from it. Both Cerra, the League of Municipalities director, and Donnadio, the director of the Association of Counties, said local officials believe more restrictions are needed to reduce commercial requests.

Asked how he could believe this won't embolden corruption in the state, the governor said: "Well, we're gonna watch it, clearly." He pointed to how the law gives more authority and funding to the state Government Records Council.

“You can be both vigilant about corruption and bad behavior and you can respect local mayors and public servants,” Murphy said.

A reporter then asked Murphy if he believes OPRA is now a stain on his legacy.

“I haven’t thought about legacy for one second,” Murphy replied.

NJ Advance Media staff writers [Jelani Gibson](#) and [Susan K. Livio](#) contributed to this report.

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