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Subject: We don't need another study of OPRA, says Senate Majority Leader Loretta Weinberg
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Hope you and your family are doing well.

Below is an Op-Ed Senator Weinberg wrote for the Atlantic City Press.

We don't need another study of OPRA, says Senate Majority Leader Loretta Weinberg

- Sen. Loretta Weinberg For The Press
- 10 hrs ago

A March 1 story reported on the potential reform to the Open Public Records Act (OPRA), the law that provides for public access to government records. In it, several municipal clerks and a representative of the League of Municipalities called on the Legislature to create a commission to study OPRA.

What the article did not mention was that the Legislature has undertaken serious efforts to reform OPRA over recent years. The concerns raised by individuals quoted in the article have animated the discussions I and others have been having for years. Their concerns are the focus of my bill (S380), which reforms OPRA.

Indeed, in the testimony submitted to the Legislature, neither the League of Municipalities nor the Municipal Clerks Association focused on the issues raised in the article: burdensome commercial requests; the privacy concerns of residents; and increasing costs to taxpayers.

Rather, in a public letter to the New Jersey Senate dated June 20, 2019, the League of Municipalities laid out its two main arguments against S380.

First, S380 does not abolish "attorney fee shifting" in the law. They are right, and the reason being that taking it out would be a disaster for transparency in this state.

Under current law, when a party wins an OPRA lawsuit against a government body, the government body is obligated to pay that party's attorney's fees.

This is crucial because no private citizen, and even most news organizations, would be able to afford constant legal challenges to their requests. And there is no avenue for the Attorney General's Office to pursue OPRA violations.

Second, S380 does not put the same requirements on the Legislature as it does other public bodies. This is a feature of the current law, and it is unlikely that a majority of the Legislature would vote to put these obligations on their offices. Bodies of 40 and 80 need different rules

from official bodies of five, seven or nine. Also, unlike in many towns, our subcommittee meetings are open to the public and available for viewing online in real time.

Again, you will notice that high cost, burdensome commercial requests were not mentioned in this letter. Why? The answer is that S380, being the product of years of stakeholder meetings, addresses this concern.

Per recommendations received from the League of Municipalities and Municipal Clerks Association, S380 offers records custodians several avenues of relief when it comes to voluminous and costly commercial requests. Unlike current law, S380 allows records custodians to direct requesters to view records online if the records are so available.

The bill appropriates some state monies to set up a centralized open data website on which records custodians could post their records cost-free to the municipality. And once online a records custodian might never have to produce a physical copy of that record again.

S380 also creates a "special administrative charge" for commercial entities which would cover the ongoing operational expenses of producing a record. Commercial entities would then pay the high costs referenced in the article, not the taxpayers.

Finally, S380 would allow municipal governments to seek protective orders from the courts in the case of "harassing" records requests. There does need to be some recourse when the nature and volume of requests is more than a custodian could reasonably handle. Current law offers no such recourse, but S380 does.

What would be accomplished by a new study commission that has not already been accomplished by years of negotiations other than kicking the can down the road? The removal of fee shifting under OPRA would be the death of government transparency in New Jersey. All of us who have worked on OPRA reform — the League included — know the progress that's been made.

The burden being borne today by municipal clerks and other records custodians is real and concerning: There is no reason to let the League of Municipalities dictate terms to the rest of us when well-considered solutions and compromises are at hand.

As has been the case for several years, I will continue to work to improve OPRA for requesters and custodians alike.

And as has been true the entire time I have worked on this issue, I welcome the input of the Municipal Clerks Association, the League of Municipalities, as well as individual clerks and local elected officials.

State Senate Majority Leader Loretta Weinberg, D-Bergen, is the sponsor of S380, the OPRA reform bill.

https://www.pressofatlanticcity.com/opinion/commentary/we-don-t-need-another-study-of-opra-says-senate-majority-leader-loretta-weinberg/article_3a4c2c44-8237-569a-8d35-be83fb232eb7.html

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