

Opinion: Murphy may have overreached by seeking caveat on COVID-19 restrictions

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The governor 'opened an avenue for Republican critics to renew and ratchet up their accusations that he was enamored with governing by fiat'



Carl Golden

For the past 15 months, Gov. Phil Murphy has led the state's response to halt the spread of the COVID-19 pandemic, wielding the authority granted him to declare a public health emergency and implement unprecedented restrictions on businesses, schools and social

life.

In the process, he earned and, for the most part, maintained majority public support by framing his actions in the context of protecting the public from an unknown, highly contagious and deadly pathogen until a vaccine was developed for widespread use.

Now, though, he may have overreached and given a path for his political opponents to convince voters his singular decision-making and unilateral approach has run its course and the time has come for greater legislative consultation and involvement.

Murphy's announcement that he will end his 30-day-at-a-time public health emergency declarations by June 30 was accompanied by a crucial and politically fraught caveat: The declarations would cease only if the Legislature enacted a comprehensive bill to codify in law most of the directives he's implemented since March of 2020.

‘Sleight of hand’

It was a textbook case of a “heads, I win; tails, you lose” sleight of hand by Murphy; he’d receive praise for abandoning the emergency declarations while benefiting from new statutory authority to reimpose the restrictions he’d put in place since the onset of the pandemic.

Joined by Senate President Steve Sweeney (D-Gloucester) and Assembly Speaker Craig Coughlin (D-Middlesex), Murphy declared that considering the steady and dramatic decline in new infections, hospitalizations and fatalities, his emergency directives wouldn’t be required after June 30 — a pledge accepted by the Legislature’s presiding officers along with a commitment to quickly consider the legislation the governor requested.

It was not the system critics had in mind when they insisted the administration seek legislative approval before schools and businesses could be closed, for instance, or when social gatherings could be prohibited or limited.

The accelerated strategy collapsed within days and Speaker Coughlin announced action would be delayed to provide time to consider “refinements.”

Murphy had hoped that by striking quickly, there’d be inadequate time for opposition to coalesce and his protect-the-public rationale would continue to overcome objections.

Uneasiness in Democratic ranks

Coughlin’s decision to postpone Assembly consideration is an unmistakable sign of a restiveness in the Democratic ranks and a sufficiently serious concern that continuing to cede to the governor the unfettered power to implement policy could become a campaign weapon against them.

The criticism leveled against Murphy over the pace of reopening businesses and schools, for instance, gained minimal traction and muted resonance.

As conditions improved and vaccination rates increased, critics charged the governor's cautious approach resulted in needless economic damage to small businesses and the service industry in particular.

By conditioning ending his emergency orders on maintaining control through statutory authority, though, Murphy reframed the debate, moving away from his protecting public health and safety message to preserving the concentration of power in his office.

There is a crucial difference between the two approaches. While the public may accept — even grudgingly — one-person rule in the greater interest of keeping them safe, any effort to establish what could be perceived as dictatorial rule will be met with resistance.

Legislature, less than coequal?

His demand for legislative empowerment opened an avenue for Republican critics to renew and ratchet up their accusations that he was enamored with governing by fiat rather than treating the Legislature as a coequal body whose support and approval should be sought as policy is developed and implemented.

Republican legislators and Murphy's presumed Republican opponent, former Assemblyman Jack Ciattarelli of Somerset County, were quick to pounce on the agreement between Murphy and the Democratic leadership as irrefutable evidence that they shared a desire for partisan power and intended to weaponize the pandemic.

For a gubernatorial and legislative election campaign in which the administration's handling of the pandemic will play the central role, turning

the debate into one over a partisan power grab could produce an anti-Murphy backlash and force Democratic candidates to defend the attempt.

In dealing with the pandemic, Murphy described his actions as consistent with the best scientific and public health experts' advice and counsel to avert a disaster of overcrowded hospitals and health care facilities and a possible denial of care for the ill.

With science as his foundation, he reached difficult and costly decisions, arguing the state and the nation had been plunged into uncharted territory for which there was no history to fall back on or prior experience to guide them through the worst public health crisis in a century.

His five-day-a-week briefings — later reduced to three — were hours-long exercises in crafted messaging to portray the governor as a resolute leader engaged daily in a life-or-death struggle with the highest possible stakes. He spoke of the difficulties that lay ahead and what his administration had planned to deal with them. He never failed to include a “we’re all in this together” pitch, implying that New Jerseyans stood by his side in the struggle. It worked.

Murphy hands his critics an issue

With the trend lines in recent weeks all favorable, the pressures gradually eased. Businesses reopened, public events were scheduled, restaurants took dinner reservations, students returned to classrooms, and masked faces steadily became a bit less ubiquitous.

With it, though, growing pandemic fatigue has set in, an increased restiveness and a spreading belief — partly wishful thinking, to be sure — that the worst has passed and near normalcy restored.

Rather than ride that wave of optimism and celebrate steering the state successfully through a dark and frightening period, Murphy reignited the possibility of a resurgence and insisted he retain the exclusive authority to impose restrictions and prohibitions on life once again.

In doing so, he handed his critics and his Republican opposition an issue which will resonate because it no longer is a difference of expert opinions over what steps to take — an environment which benefited Murphy — but a more clear-cut argument over whether one person will make those decisions.

Republicans will be in a position to introduce Murphy to voters with sarcasm: “Meet the new boss; same as the old boss.”