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THIRD READING

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Bill No: AB 1370  
Author: Patterson (R), et al.  
Amended: 6/23/25 in Senate  
Vote: 21

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SENATE JUDICIARY COMMITTEE: 13-0, 7/1/25

AYES: Umberg, Niello, Allen, Arreguín, Ashby, Caballero, Durazo, Laird, Stern, Valladares, Wahab, Weber Pierson, Wiener

SENATE ELECTIONS & C.A. COMMITTEE: 5-0, 7/15/25

AYES: Cervantes, Choi, Allen, Limón, Umberg

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/29/25

AYES: Caballero, Seyarto, Cabaldon, Dahle, Grayson, Richardson, Wahab

ASSEMBLY FLOOR: 71-0, 5/23/25 (Consent) - See last page for vote

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**SUBJECT:** State Legislature: nondisclosure agreements

**SOURCE:** Author

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**DIGEST:** This bill prohibits members of the Legislature, acting in their official capacity from entering into, or requesting that another individual enter into, a nondisclosure agreement relating to the drafting, negotiation, or discussion of proposed legislation, as specified, and provides that any such nondisclosure agreement entered into or requested by a member of the Legislature, after the effective date of this legislation shall be void and unenforceable, as specified.

**ANALYSIS:**

Existing law:

- 1) Provides that a member of the Legislature, state elective or appointive officer, or judge or justice shall not, while serving as such, have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or

professional activity, or incur any obligation of any nature, that is in substantial conflict with the proper discharge of their duties in the public interest and of their responsibilities as prescribed in the laws of this state. (Government (Gov.) Code § 8920 (a).)

- 2) Provides that an employee of either house of the Legislature shall not, during the time they are so employed, commit any act or engage in any activity prohibited by Article 2, sections 8920 through 8926 of the Government Code. Provides that the provisions of Article 2 and Article 3 (commencing with Section 8940) that are applicable to a member of the Legislature are also applicable to any employee of either house of the Legislature. (Gov. Code § 8924 (a).)
- 3) Provides that the people have the right of access to information concerning the conduct of the people's business and, therefore, the writings of public officials and agencies shall be open to public scrutiny. Specifies that any law or rule that limits the public right of access shall be adopted with findings demonstrating the interest protected by the limitation. (California Constitution, art. I, § 3.)
- 4) Provides that, in enacting the California Public Records Act, the Legislature, mindful of the right of individuals to privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state. (Gov. Code § 7921.000.)

This bill:

- 1) Makes findings and declarations about nondisclosure agreements.
- 2) Provides that a member of the Legislature acting in their official capacity shall not enter into, or request that another individual enter into, a nondisclosure agreement relating to the drafting, negotiation, or discussion of proposed legislation, except as specified.
- 3) Provides that any nondisclosure agreement relating to the drafting, negotiation, or discussion of proposed legislation entered into or requested by a member of the Legislature after the effective date of this bill shall be void and unenforceable, except as specified.

- 4) Provides that members of the Legislature are not prohibited from entering into or requesting a nondisclosure agreement that prevents only the disclosure of trade secrets, financial information, or proprietary information.
- 5) Provides that nondisclosure agreements or portions of nondisclosure agreements that prevent only the disclosure of trade secrets, financial information, or proprietary information are not void and unenforceable.
- 6) Provides that the provisions of this bill only apply to members of the Legislature acting in their official capacity.
- 7) Defines “discussion” as direct or indirect communications engaged in by individuals for the purpose of reaching a decision regarding proposed Legislation.
- 8) Defines “drafting” as developing language for proposed legislation to be considered by the Legislature.
- 9) Defines “negotiation” as any form of direct or indirect communication whereby individuals who have opposing interests discuss the form of any proposed legislation that may resolve a dispute involving those interests.
- 10) Places this bill’s provisions within Article 2 of the Government Code and thus would make the provisions of the bill that are applicable to a member of the legislature also applicable to any employee of either house of the Legislature. However, the bill makes it clear that the provisions of the bill only apply to members of the Legislature.

## Comments

According to the author:

People can only have faith in a government to the extent that they trust it. When elected officials sign non-disclosure agreements (NDAs), it not only creates a barricade to information that should be publicly available, it creates a level of distrust in the foundations of our democracy. This bill offers a simple, common-sense solution: it prevents legislators from signing NDAs pertaining to legislative matters, but permits safeguarding protected information such as trade secrets. AB 1370 provides necessary

transparency for the public when it comes to decisions that impact legislation and the expenditures of tax dollars.

A nondisclosure agreement (NDA) is a provision in a contract that binds the parties to secrecy regarding information specified in the contract. NDAs typically specify that damages will be imposed if a party violates the NDA.

In early 2024, reports surfaced that negotiators of two bills were asked to sign nondisclosure agreements.<sup>1</sup> Although there is no evidence that this actually occurred and counsel is unaware of any instance in which a legislator or staff of the Legislature has requested anyone sign a nondisclosure agreement related to Legislation, the author brings this legislation forward to prohibit the practice.

AB 1370 prohibits members of the Legislature, acting in their official capacity, from entering into, or requesting that another individual enter into, a nondisclosure agreement relating to the drafting, negotiation, or discussion of proposed Legislation, as specified, and provides that any such nondisclosure agreement entered into or requested by a member of the legislature, after the effective date of this legislation shall be void and unenforceable, as specified. Instead of amending the Political Reform Act of 1974, AB 1370 places this bill's provisions within Article 2 of the Government Code. Current Government code section 8924 (a) operates together with this bill to make the provisions of the bill that are applicable to a member of the Legislature also applicable to any employee of either house of the Legislature. However, this bill specifies that the provisions of the bill only apply to the members of the Legislature and not staff.

Oakland Privacy writes the following in support of the bill:

[ . . . ] In much of the advocacy work that we do, governmental transparency is a crucial ingredient. It is simply not possible to protect privacy rights if the activities of governmental bodies are shielded from public scrutiny. So while we may be accidental open government acolytes, we have seen first-hand the importance of rigorous governmental transparency. Non-disclosure agreements have played a significant role in several of our concerns, perhaps most famously in the non-disclosure agreements that concealed the use of cell site simulators or stingrays from the public and the courts for more than a decade.

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<sup>1</sup> Zavala, Ashley, *Non-disclosure agreements were used in negotiations of California's landmark fast food worker law* (March 7, 2024), available at: <https://www.kcra.com/article/california-fast-food-law-panera-newsom-nda/60117858> [as of Aug 29, 2025].

[ . . . ] By its very nature, the legislative process is intended to be an open airing of issues and concerns to arrive at the best possible policy approach. And how legislative bodies and their members engage in that process is the material evidence that voters use to decide if they wish to return those members to office. When that process is invisible or obscured, there is a significant democracy deficit that harms both parties and the integrity of government.

We want to be clear that in choosing to support this bill, we are not opining on various politically-motivated charges and countercharges whose veracity we do not know, nor are we stating that there is or isn't evidence that members of the Legislature have or haven't signed, or caused to be signed, non-disclosure agreements on legislative matters.

It is simply that as a matter of public policy, non-disclosure agreements outside of a very narrow window relating to specific proprietary business information, have no place in the legislative process. We acknowledge that negotiations, especially on controversial issues and under time pressure, can be difficult to hammer out in the bright light of an audience, but it is exactly that spotlight that ensures that stakeholders are heard and issues are aired out. The legislative process is not a back room deal.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee the fiscal effect is as follows:

- Unknown, potentially significant costs to the state funded trial court system (Trial Court Trust Fund, General Fund) to adjudicate the new crime created by this bill. Defendants are constitutionally guaranteed certain rights during criminal proceedings, including the right to a jury trial and the right to counsel (at public expense if the defendants are unable to afford the costs of representation). Increasing penalties leads to lengthier and more complex court proceedings with attendant workload and resource costs to the court. The fiscal impact of this bill to the courts will depend on many unknowns, including the numbers of people charged with an offense and the factors unique to each case. An eight-hour court day costs approximately \$10,500 in staff in workload. This is a conservative estimate, based on the hourly rate of court personnel including at minimum the judge, clerk, bailiff, court reporter, jury administrator,

administrative staff, and jury per-diems. If court days exceed 10, costs to the trial courts could reach hundreds of thousands of dollars. While the courts are not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure on the General Fund to fund additional staff and resources and to increase the amount appropriated to backfill for trial court operations.

- Unknown, potentially significant costs (local funds, General Fund) to the counties to incarcerate people for the crime created by this bill. The average annual cost to incarcerate one person in county jail varies by county, but likely ranges from \$70,000 to \$90,000 per year. For example, in 2021, Los Angeles County budgeted \$1.3 billion for jail spending, including \$89,580 per incarcerated person. Actual incarceration costs to counties will depend on the number of convictions and the length of each sentence. Generally, county incarceration costs are not reimbursable state mandates pursuant to Proposition 30 (2012).
- Unknown, potentially significant costs (General Fund) to the Department of Corrections and Rehabilitation (CDCR) to incarcerate people for the felony expanded by this bill. The Legislative Analyst's Office (LAO) estimates the average annual cost to incarcerate one person in state prison is \$133,000. If even if just one person is sentenced to state prison for one year under this bill, it will add significant costs pressures to CDCR.

**SUPPORT:** (Verified 8/29/25)

California Alliance of Family Owned Businesses  
Oakland Privacy

**OPPOSITION:** (Verified 8/29/25)

None received

**ASSEMBLY FLOOR:** 71-0, 5/23/25

**AYES:** Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Calderon, Caloza, Carrillo, Castillo, Connolly, Davies, DeMaio, Dixon, Elhawary, Flora, Fong, Gabriel, Gallagher, Garcia, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Kalra, Krell, Lackey, Lee, Lowenthal, Macedo, McKinnor, Muratsuchi, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Celeste

Rodriguez, Michelle Rodriguez, Rogers, Blanca Rubio, Schiavo, Solache, Soria,  
Stefani, Ta, Tangipa, Valencia, Wallis, Ward, Wilson, Zbur, Rivas  
NO VOTE RECORDED: Bryan, Chen, Ellis, Nguyen, Sanchez, Schultz, Sharp-  
Collins, Wicks

Prepared by: Margie Estrada / JUD. / (916) 651-4113  
8/30/25 17:34:15

\*\*\*\* **END** \*\*\*\*