

THIRD READING

Bill No: SB 994
Author: Cabaldon (D), et al.
Amended: 4/23/26
Vote: 21

SENATE JUDICIARY COMMITTEE: 12-0, 3/24/26

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

NO VOTE RECORDED: Ashby

SENATE LOCAL GOVERNMENT COMMITTEE: 7-0, 4/22/26

AYES: Durazo, Choi, Arreguín, Ashby, Cervantes, Laird, Seyarto

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Local government: nondisclosure agreements

SOURCE: Author

DIGEST: This bill prohibits a local government official acting in their official capacity from entering into, or requesting that another individual enter into, a nondisclosure agreement relating to public business that precludes their ability to share information with fellow local government officials serving on the same council, board, commission, district, or agency, as specified.

ANALYSIS:

Existing law:

- 1) 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.)

- 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. (Government (Gov.) Code § 8923 (a).)
- 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, as specified, shall be void and unenforceable, except as provided. (Gov. Code § 8923 (b).)
- 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. (Gov. Code § 8923 (c)(1).)
- 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. (Gov. Code § 8923 (c)(2).)
- 6) Provides that 2)-6), above, only apply to members of the Legislature acting in their official capacity. (Gov. Code § 8923 (c)(3).)
- 7) Defines: “discussion” as direct or indirect communications engaged in by individuals for the purpose of reaching a decision regarding proposed Legislation; “drafting” as developing language for proposed legislation to be considered by the Legislature; and “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. (Gov. Code § 8923 (d).)

This bill:

- 1) Prohibits a local government official acting in their official capacity from entering into, or requesting that another individual enter into, a nondisclosure agreement relating to public business that precludes their ability to share information with fellow local government officials serving on the same council, board, commission, district, or agency.

- 2) Requires a local government official in violation of 1) to, among other things, disclose the existence of the nondisclosure agreement, as specified, and provides that the requirements imposed on a local government official also apply to a local government official acting in their official capacity who entered into, or requested that another individual enter into, a nondisclosure agreement described above before January 1, 2027.
- 3) Makes any nondisclosure agreement relating to public business that precludes the ability of a local government official to share information with fellow local government officials serving on the same council, board, commission, district, or agency and that is entered into after January 1, 2027, void and unenforceable.
- 4) Prohibits staff of a local government official acting in their official capacity from entering into, or requesting that another individual enter into, a nondisclosure agreement relating to public business that precludes their ability to share information with the local government official who they serve under.
- 5) Makes any nondisclosure agreement relating to public business that precludes the ability of any staff of a local government official acting in their official capacity to share information with the local government official who they serve under and that is entered into after January 1, 2027, void and unenforceable.
- 6) Provides an exception for nondisclosure agreements, or portions thereof, that prevent only the disclosure of trade secrets, financial information, or proprietary information, as specified.
- 7) Defines “local government official” to mean any public official serving on behalf of a city, county, local agency formation commission, special district, or local educational agency, as specified, and would exempt from its provisions a local government official serving on behalf of a charter city or charter county.

Comments

According to the author:

The act of collective deliberation based on information in the public record is the foundation of representative government. That responsibility is undermined when officials sign NDAs that prevent them from sharing information with the very governing body they serve, the very governing

board vested with public authority. SB 994 extends to local government the same principle the Legislature adopted for itself in 2025. No elected or appointed official, nor their staff, should have a legally enforceable monopoly on information that is not available to their fellow members; such NDAs break the chain of democratic legitimacy from the people to the officials they elect. SB 994 voids any such agreement entered into after its effective date and requires officials who entered into one before that date to disclose its existence and recuse themselves from related decisions.

At the same time, SB 994 is carefully crafted to protect legitimate interests while preserving the public's right to open government when there is a genuine and narrowly tailored need for confidentiality, a governing body can still enter into an NDA permissible under existing law. An agency executive or mayor could also do so, but only if the NDA does not preclude the sharing of all information covered by the agreement with the governing body itself.

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.¹ 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 had requested anyone sign a nondisclosure agreement related to Legislation, AB 1370 was chaptered in 2025 to prohibit 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 provided 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.

Organizations in support of SB 994 assert that there have been instances where local government officials have abused the use of NDAs. For example, Solano Together writes:

Local government officials have been asked to sign NDAs that prevent them from discussing public business with members of the agency

¹ 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 March 18, 2026].

governing board, which is vested with legal authority and accountability to the public. This practice undermines the constitutional right of the people to access information concerning the conduct of the people's business and prevents officials from fulfilling their duty to deliberate collectively on behalf of their constituents.

No appointed staff member or policymaker should be permitted to withhold information from the governing body, and no individual member should have a legally enforceable monopoly on information which is not available to other governing body members. Such NDAs break the chain of democratic legitimacy from the people to the officials they elect.

In 2025, the Legislature prohibited state legislators from entering into similar agreements through AB 1370. SB 994 extends that same protection to local government officials, ensuring that democratic accountability is not compromised at any level.

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

SUPPORT: (Verified 5/18/26)

CalNonprofits
Center for Biological Diversity
ClimatePlan
Community Alliance with Family Farmers
Greenbelt Alliance
Leadership Counsel for Justice & Accountability
League of Women Voters of California
Northern Solano Democratic Club
Oakland Privacy
Planning and Conservation League
Progressive Democrats of Benicia
Solano County Democratic Central Committee
Solano County Orderly Growth Committee
Solano Together
United Democrats of Southern Solano County
Western Center on Law and Poverty

OPPOSITION: (Verified 5/18/26)

None received

Prepared by: Margie Estrada / JUD. / (916) 651-4113
5/18/26 15:45:55

****** END ******