

SENATE THIRD READING
SB 994 (Cabaldon)
As Amended August 13, 2026
Majority vote

SUMMARY

Prohibits local agency officials, when acting in their official capacity, from entering into nondisclosure agreements relating to public business that precludes their ability to share information with fellow local public officials.

Major Provisions

- 1) Prohibits a local agency official, acting in the 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 agency officials serving on the same council, board, commission, district, or agency.
- 2) Provides that, notwithstanding any other law, a local agency official that violates the provision of 1) is subject to both of the following:
 - a) The local agency official is to be disqualified from voting on, participating in deliberations on, or attempting to influence decisions related to the subject matter of the nondisclosure agreement; and
 - b) The local agency official must disclose the existence of the nondisclosure agreement, but not its contents to the extent that disclosure of the contents would violate the agreement, and recuse themselves from related matters.
- 3) Provides that any nondisclosure agreement relating to public business, adopted on or after January 1, 2027, that precludes the ability of a local agency official to share information with fellow local agency official serving on the same council, board, commission, district, or agency and that is entered into or requested by a local agency official acting in their official capacity is void and unenforceable.
- 4) Prohibits an employee of a local agency or a local agency official acting in their official capacity from entering into, or request that another individual enter into, a nondisclosure agreement relating to public business that precludes their ability to share information with the local agency official who they serve or the governing body of the local agency that employs them.
- 5) Provides that any nondisclosure agreement violating 4) entered into on or after January 1, 2027 is void and unenforceable.
- 6) Defines the following:
 - a) "Local agency" means a city, county, city and county, local agency formation commission, special district, school district, county office of education, or charter school; and

- b) "Local agency official" means any elected or appointed official of a local agency, any employee of a local agency, or any person serving on a board or commission of a local agency.
- 7) Provides that nothing in the bill is to be construed to imply that local agency officials are authorized or advised to enter into nondisclosure agreements precluding information from the public.
- 8) *Exempts the following type of agreements from the bill's provisions:*
 - a) *A nondisclosure agreement that is unanimously approved by all of the local agency's governing body before the agreement is fully executed;*
 - b) *A nondisclosure agreement between a local agency official and the governing board or agency pertaining to a matter for which the official's interest is adverse to that of the board or agency; or*
 - c) *A nondisclosure agreement between a member agency and a joint powers authority pertaining to a matter for which the member agency's interest is adverse to that of the joint powers authority.*
- 9) *Provides that nothing in the bill waives attorney-client privilege or mandate disclosure of confidential attorney work product, including, but not limited to, between allied parties.*

COMMENTS

Following the enactment of AB 257 (Holden) Chapter 246, Statutes of 2022, which authorized the Fast Food Council within the Department of Industrial Relations for the purpose of establishing sector-wide minimum standards, a coalition of franchisors sought to repeal the bill through a ballot initiative. According to investigative reports, allegations surfaced that those involved in negotiating subsequent amendments to AB 257, in return for removing the referendum measure from the ballot, signed nondisclosure agreements. (Ashley Zavala, *Non-disclosure agreements were used in negotiations of California's landmark fast food worker law*, KCRA News (Mar. 7, 2024), available at <https://www.kcra.com/article/california-fast-food-law-panera-newsom-nda/60117858>.)

Those allegations spurred legislation designed to limit the use of nondisclosure agreements in state government. This bill builds on those efforts by eliminating the use of nondisclosure agreements for local elected officials and local agency staff.

A nondisclosure agreement is a provision in a contract that binds the parties to secrecy regarding information specified in the contract. These agreements generally prohibit parties from disclosing the specified information to anyone who is not a party to the agreement and often provide for contract damages to be imposed if a party shares information in violation of the nondisclosure agreement. Traditionally, these agreements are used to protect sensitive and confidential information, including trade secrets, proprietary information, and negotiation tactics, as well as potentially embarrassing information that is, or could be, the subject of a civil lawsuit.

Following the revelations of the #MeToo movement, it became clear that nondisclosure agreements were being utilized to silence survivors and protect abusers. Notably, many of the

#MeToo era's worst offenders including Harvey Weinstein and Larry Nassar, relied on the use of nondisclosure agreements to shield abuse allegations from the public. Largely in response to these revelations, the Legislature enacted SB 820 (Leyva) Chapter 953, Statutes of 2018, which prohibited any provision in a settlement agreement that prevents disclosure of factual information related to a cause of action alleging sexual abuse, sexual harassment, or any workplace harassment or discrimination based on sex. Following SB 820, the Legislature adopted SB 331 (Leyva) Chapter 638, Statutes of 2021, to prohibit the use of nondisclosure agreements to settle employment and housing-related legal claims involving unlawful harassment, discrimination, or related retaliation of any kind, with limited exceptions when requested by the complainant. Accordingly, the existing law now prohibits the inclusion of a nondisclosure agreement within a settlement agreement of a civil action if the action is based upon an act that could be prosecuted as a felony sexual assault, child abuse, or elder abuse because of the threat that secrecy would pose to particularly vulnerable groups, including sexual assault survivors, children, and the elderly.

The #MeToo era efforts to reign in nondisclosure agreements took on renewed energy following the above-mentioned controversy surrounding AB 257. Seeking to ensure that nondisclosure agreements could not shield legislative deliberations, in 2025, the Legislature enacted AB 1370 (Patterson) Chapter 191, Statutes of 2025, to prohibit members and staff of the Legislature from entering into nondisclosure agreements related to legislative negotiations. This year, the author of that measure is seeking to expand AB 1370 to cover state agency staff and deliberations surrounding the regulatory process. To that end, AB 1652 (Patterson) of the current legislative session would generally prohibit nondisclosure agreements across state government.

This bill builds upon AB 1370 and prohibits the use of nondisclosure agreements by local government officials when acting in their official capacity on public business. The bill requires a public official to disclose previously signed nondisclosure agreements, and mandates recusal on matters subject to the agreement, while simultaneously banning new nondisclosure agreements starting in January 2027. *The bill provides for several small exceptions to the blanket ban on nondisclosure agreements for agreements in which various local agencies may have adverse interests in potential litigation. Further the bill clarifies that nothing is to be construed to waive attorney-client privilege or mandate disclosure of information subject to the privilege.*

This bill advances the spirit of the existing law, most notably the Ralph M. Brown Act, which requires state and local agencies to conduct the public's business in public. This bill simply prevents a nondisclosure agreement from seeking to circumvent the spirit of the Brown Act.

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.

Arguments in Support

This bill enjoys support from several government transparency organizations and public interest advocates. In support of the measure, the League of Women Voters writes:

SB 994 reinforces a basic principle of democratic governance: local officials should not be cut off from information they need to carry out public business. Like state legislators under last year's AB 1370 (Patterson), local officials have a constitutional duty to conduct the people's business openly and to deliberate collectively with their colleagues on matters of public concern. When NDAs are used in connection with public business, they can obstruct collective deliberation, limit informed decision-making, and undermine the transparency the public is entitled to expect from local government - preventing governing bodies from fulfilling their responsibility to inform the public.

The League has long supported both the public's right to know and meaningful participation in government. Those principles depend not only on public access to information, but also on the ability of members of a governing body to receive information relevant to the decisions before them. A local official should not be able to use a private confidentiality agreement to withhold information about public business from fellow officials who share responsibility for governing.

Arguments in Opposition

None on file

FISCAL COMMENTS

According to the Assembly Appropriations Committee, no state costs. Administrative costs to local agencies for compliance and legal review are likely minor, but are potentially reimbursable by the state, subject to a determination by the Commission on State Mandates, should a local agency submit a claim.

VOTES

SENATE FLOOR: 39-0-1

YES: Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Grove, Hurtado, Jones, Laird, Limón, McGuire, McNerney, Menjivar, Ochoa Bogh, Padilla, Pérez, Reyes, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener

ABS, ABST OR NV: Niello

ASM JUDICIARY: 12-0-0

YES: Kalra, Macedo, Bauer-Kahan, Bryan, Connolly, Dixon, Harabedian, Pacheco, Papan, Sanchez, Stefani, Zbur

ASM LOCAL GOVERNMENT: 9-0-1

YES: Carrillo, Ta, Pacheco, Ramos, Ransom, Blanca Rubio, Stefani, Ward, Wilson

ABS, ABST OR NV: Johnson

ASM APPROPRIATIONS: 15-0-0

YES: Wicks, Hoover, Arambula, Calderon, Caloza, Dixon, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache, Ta, Tangipa

UPDATED

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CONSULTANT: Nicholas Liedtke / JUD. / (916) 319-2334

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