

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

AB 1004 (Wallis)
Version: April 9, 2025
Hearing Date: June 17, 2025
Fiscal: Yes
Urgency: No
AM

SUBJECT

Tribal financial information: public records: exemption

DIGEST

This bill provides that any record that contains financial information provided by an Indian tribe to a state or local agency as a condition of or requirement for receiving financial assistance to be confidential, not a public record, and not open to public inspection and makes conforming changes.

EXECUTIVE SUMMARY

The California Public Records Act (CPRA) makes all public records of a public agency open to public inspection upon request and grants the public the right to obtain a copy of any public record, unless the records are otherwise exempt from public disclosure. Existing law provides that that the financial and legal records of California Indian tribes and tribal business enterprises provided in relation to tribal-state gaming compacts are records of a sovereign nation and are not subject to disclosure by private citizens or the state. This bill seeks to provide that any record containing financial information of an Indian tribe provided to a public agency as a condition of or requirement for receiving financial assistance is confidential and not a public record. The bill is sponsored by the Soboba Band of Luiseño Indians and supported by the Agua Caliente Band of Cahuilla Indians and the Morongo Band of Mission Indians. The committee did not receive any timely opposition.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Provides, pursuant to the California Constitution, that the people have the right of access to information concerning the conduct of the people's business, and,

therefore, the meetings of public bodies and the writings of public officials and agencies are required to be open to public scrutiny. (Cal. const. art. I, § 3(b)(1).)

- a) Requires a statute to be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access. (Cal. const. art. I, § 3(b)(1).)
 - b) Requires a statute that limits the public's right of access to be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest. (Cal. const. art. I, § 3(b)(1).)
- 2) Governs the disclosure of information collected and maintained by public agencies pursuant to the CPRA. (Gov. Code §§ 7920.000 et seq.)
- a) States that the Legislature, mindful of the individual right 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.)
 - b) Defines "public records" as any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. (Gov. Code § 7920.530.)
- 3) Provides that all public records are accessible to the public upon request, unless the record requested is exempt from public disclosure. (Gov. Code § 7922.525-7922.530.)
- a) Some records are prohibited from being disclosed and other records are permissively exempted from being disclosed. (See e.g. Gov. Code §§ 7920.505 & 7922.200.) There are several general categories of documents or information that are permissively exempt from disclosure under the CPRA essentially due to the character of the information. The exempt information can be withheld by the public agency with custody of the information, but it also may be disclosed if it is shown that the public's interest in disclosure outweighs the public's interest in non-disclosure of the information. (*CBS, Inc. v. Block* (1986) 42 Cal.3d 646, at 652 (*hereafter CBS*)).¹
 - b) Requires a public agency withholding any public record to demonstrate that the record in question is exempt under express provisions of the CPRA or that the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record. (Gov. Code § 7922.000.)

¹ *CBS, Inc. v. Block* (1986) 42 Cal.3d 646, at 652 (stating that "[t]wo exceptions to the general policy of disclosure are set forth in the [CPRA]. Section 6254 lists 19 categories of disclosure-exempt material. These exemptions are permissive, not mandatory. The [CPRA] endows the agency with discretionary authority to override the statutory exceptions when a dominating public interest favors disclosure."). The exemptions in Section 6254 were continued under the reorganization of the CPRA and may be referred to as former Section 6254 provisions. (Gov. Code § 7920.505.)

- 4) Authorizes any person to institute proceedings for injunctive or declarative relief or writ of mandate in any court of competent jurisdiction to enforce the public's right to inspect or to receive a copy of any public record or class of public records under the CPRA. (Gov. Code § 7923.000.)
 - a) The court shall decide the case after examining the record in camera if permitted by subdivision (b) of Section 915 of the Evidence Code, papers filed by the parties, and any oral argument and additional evidence as the court may allow. (Gov. Code § 7923.100-7923.105.)
 - b) If the court finds that the public official's decision to refuse disclosure is not justified, the judge will order the public official to make the record public. (Gov. Code § 7923.110.)
 - c) If the judge determines that the public official was justified in refusing to make the record public, the judge will return the item to the public official without disclosing its content with an order supporting the decision refusing disclosure. (Gov. Code § 7923.110.)
 - d) Requires the court to award court costs and reasonable attorney's fees to the requester should the requester prevail in litigation filed pursuant to the CPRA, and requires the costs and fees to be paid by the public agency. Requires the requester to pay the agency's costs and attorney fees if the court finds that the requester's case is clearly frivolous. (Gov. Code § 7923.115(a)-(b).)

- 5) Provides, in relation to tribal-state gaming compacts, that the financial and legal records of California Indian tribes and tribal business enterprises are records of a sovereign nation and are not subject to disclosure by private citizens or the state. This is explicitly recognized in amendments to tribal-state gaming compacts ratified by the Legislature, which provide for the securitization of annual payments to be received from the Indian tribes by the state or by an agency, trust, fund, or entity specified by the state. (Gov. Code § 63048.63(a)(1).)
 - a) Specifies that neither the CPRA or any other provision of law permits the disclosure of any records of an Indian tribe received by the state, or by an agency, trust fund, or entity specified by the state, in connection with the sale of any portions of the designated tribal-state gaming compact assets or the issuance of bonds, or any summaries or analyses thereof. (*Id.* at subd. (b).)

This bill:

- 1) Provides that, notwithstanding any other law, any record that contains financial information provided by an Indian tribe to a public agency, as a condition of or requirement for receiving financial assistance, is confidential, is not a public record, and is not open to public inspection and makes conforming changes.

- 2) Requires each public agency agreement or contract with an Indian tribe related to financial assistance to contain a provision stating that any financial information disclosed pursuant to the agreement or contract shall remain confidential, shall not be a public record, and shall not be open to public inspection.
- 3) Provides that the Legislature finds and declares that the financial and legal records of Indian tribes and tribal business enterprises are records of a sovereign nation and are not subject to disclosure by private citizens or the state.
- 4) Defines the following terms for these purposes:
 - a) "Indian tribe" means a federally recognized Indian tribe and any department, division, subdivision, agency, or arm or instrumentality thereof.
 - b) "Financial assistance" means grants, cooperative agreements, noncash contributions or donations of property, direct appropriations, food commodities, and other financial assistance provided by a public agency.
 - c) "Public agency" has the same meaning as the term is defined in Section 7920.525 of the Government Code.

COMMENTS

1. Stated need for the bill

The author writes:

As sovereign nations, California Indian Tribes maintain their own legal frameworks for handling financial information. Yet, when Tribes apply for or receive state or local financial assistance -such as grants, loans, or cooperative agreements – they are often required to submit detailed financial records. Because current law does not provide explicit protections for these non-gaming financial disclosures, the records risk exposure under the California Public Records Act (CPRA), which undermines tribal sovereignty and self-governance.

AB 1004 clarifies that any record containing financial information provided by an Indian Tribe to a public agency as a condition of receiving financial assistance is confidential, is not a public record, and is not open to public inspection. The bill further requires that all such agreements contain provisions acknowledging and reinforcing this confidentiality. This bill closes a critical gap in current law. While tribal gaming compacts already benefit from statutory confidentiality protections, there is no comparable safeguard for other tribal financial information submitted for public assistance programs. AB 1004 addresses this inconsistency and ensures that California respects the sovereignty of its tribal partners. By doing so, AB 1004 upholds government-to-government relationships, promotes equitable participation in public programs, and protects sensitive information from improper disclosure. It

is a targeted, common-sense measure that reinforces tribal self-determination and honors longstanding state policy.

2. This bill limits access to public records under the CPRA

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.) In 2004, the right of public access was enshrined in the California Constitution with the passage of Proposition 59 (Nov. 3, 2004, statewide general election),² which amended the California Constitution to specifically protect the right of the public to access and obtain government records: "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." (Cal. Const., art. I, sec. 3 (b)(1).) In 2014, voters approved Proposition 42 (Jun. 3, 2014, statewide direct primary election)³ to further increase public access to government records by requiring local agencies to comply with the CPRA and the Ralph M. Brown Act⁴, and with any subsequent statutory enactment amending either act, as provided. (Cal. Const., art. I, sec. 3 (b)(7).)

Under the CPRA, public records are open to inspection by the public at all times during the office hours of the agency, unless they are exempt from disclosure. (Gov. Code § 7922.525.) A public record is defined as any writing containing information relating to the conduct of the public's business that is prepared, owned, used, or retained by any public agency regardless of physical form or characteristics. (Gov. Code § 7920.530.) There are several general categories of documents or information that are permissively exempt from disclosure under the CPRA essentially due to the character of the information. The exempt information can be withheld by the public agency with custody of the information, but it also may be disclosed if it is shown that the public's interest in disclosure outweighs the public's interest in non-disclosure of the information. (CBS (1986) 42 Cal.3d 646, at 652.). Additionally, some records are prohibited from disclosure or are specifically stated to not be public records. (*see* Gov. Code § 7924.110(a).)

California generally recognizes that public access to information concerning the conduct of the people's business is a fundamental and necessary right.⁵ At the same time, the state recognizes that this right must be balanced against the right to privacy.⁶ The

² Prop. 59 was placed on the ballot by a unanimous vote of both houses of the Legislature. (SCA 1 (Burton, Ch. 1, Stats. 2004))

³ Prop. 42 was placed on the ballot by a unanimous vote of both houses of the Legislature. (SCA 3 (Leno, Ch. 123, Stats. 2013))

⁴ The Ralph M. Brown Act is the open meetings laws that applies to local agencies. (Gov. Code §§ 59450 et. seq.)

⁵ Cal. Const., art. I, § 3; Gov. Code, § 7921.000.

⁶ Cal. Const., art. I, § 1.

general right of access to public records may, therefore, be limited when records include personal or sensitive information.

Native American tribes are “nations that exercise inherent sovereign authority over their members and territories.” (Cal. Jur. 3d. Indians Sec. 2.) State law recognizes this sovereignty by making financial information provided by Indian tribes to the state for the purposes of negotiating tribal-state gaming compacts confidential and exempt from disclosure in response to a CPRA request. (Gov. Code § 63048.63(a)-(b).) This bill seeks to ensure that any financial information provided by an Indian tribe to a state or local agency as a condition of or requirement for receiving financial assistance receives the same confidentiality protection and is protected from public disclosure. The bill states that the Legislature finds and declares that the financial and legal records of Indian tribes and tribal business enterprises are records of a sovereign nation and are not subject to disclosure by private citizens or the state.

3. Statements in support

The Soboba Band of Luiseño Indians, the sponsor of the bill, writes:

By clarifying the confidentiality of Tribal financial information, AB 1004 fosters a more equitable, respectful partnership between Tribes and the State of California – one that honors sovereignty while promoting responsible participation in state programs.

SUPPORT

Soboba Band of Luiseño Indians (sponsor)
Agua Caliente Band of Cahuilla Indians
Morongo Band of Mission Indians

OPPOSITION

None received

RELATED LEGISLATION

Pending Legislation:

AB 370 (Carrillo, 2025) adds an additional unusual circumstance under which the initial response time to a public records request may be extended by an agency for an additional 14 days to include the inability of the agency, because of a cyberattack, to access its electronic servers or systems in order to search for and obtain a record that the agency believes is responsive to a request and is maintained on the servers or systems

in an electronic format. AB 370 is pending before this Committee and is set to be heard on the same day at this bill.

Prior Legislation: None known.

PRIOR VOTES

Assembly Floor (Ayes 76, Noes 0)
Assembly Appropriations Committee (Ayes 15, Noes 0)
Assembly Judiciary Committee (Ayes 12, Noes 0)
