

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

AB 1652 (Patterson)
Version: January 28, 2026
Hearing Date: June 16, 2026
Fiscal: Yes
Urgency: No
ME

SUBJECT

State agencies: regulations and legislation: nondisclosure agreements

DIGEST

This bill prohibits an elective or appointive officer of a state agency, 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 a proposed regulation or legislation, except as specified. This bill provides that any nondisclosure agreement relating to the drafting, negotiation, or discussion of a proposed regulation or legislation entered into, or requested by an elective or appointive officer of a state agency acting in their official capacity after the effective date of this legislation, shall be void and unenforceable, except as provided.

EXECUTIVE SUMMARY

Last year, the Legislature enacted AB 1370 (Patterson, Ch. 191, Stats. 2025), to prohibit members of the Legislature from entering into nondisclosure agreements related to legislative negotiations. 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 has requested anyone sign a nondisclosure agreement related to legislation, the author brought AB 1370 forward to prohibit the practice.

This year, the author is expanding this prohibition to apply to elective or appointive officers of a state agency. Specifically, this bill prohibits an elective or appointive officer of a state agency 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 a proposed regulation or legislation, except if it prevents

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 June 21, 2025].

only the disclosure of trade secrets, private financial information, or proprietary information. Any nondisclosure agreement relating to the drafting, negotiation, or discussion of a proposed regulation or legislation entered into or requested by an elective or appointive officer of a state agency acting in their official capacity after the effective date of this legislation shall be void and unenforceable, except if it prevents only the disclosure of trade secrets, private financial information, or proprietary information.

This bill is author sponsored and supported by the California Business Roundtable, California Civil Advocacy, and Oakland Privacy. It has no known opposition. If AB 1652 passes this Committee it will then be referred to the Senate Governmental Organization Committee.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Prohibits Members of the Legislature from entering into, or requesting that another party enter into, a nondisclosure agreement relating to the drafting, negotiation, or discussion of proposed legislation, and makes any nondisclosure agreement relating to the drafting, negotiation, or discussion of proposed legislation void and unenforceable. (Gov. Code § 8923 (a)-(b).)
- 2) Provides an exception for nondisclosure agreements, or portions thereof, that prevent only the disclosure of trade secrets, financial information, or proprietary information, as specified. (Gov. Code § 8923 (c).)
- 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) Prohibits an elective or appointive officer of a state agency 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 a proposed regulation or legislation, except as specified.

- 2) Specifies that any nondisclosure agreement relating to the drafting, negotiation, or discussion of a proposed regulation or legislation entered into or requested by an elective or appointive officer of a state agency acting in their official capacity after the effective date of this bill shall be void and unenforceable, except as provided.
- 3) Specifies that 1), above, does not prohibit an elective or appointive officer of a state agency from entering into or requesting a nondisclosure agreement that prevents only the disclosure of trade secrets, private financial information, or proprietary information.
- 4) Specifies that 2), above, does not make void and unenforceable a nondisclosure agreement, or portion of a nondisclosure agreement, that prevents only the disclosure of trade secrets, private financial information, or proprietary information.
- 5) Defines “discussion” as direct or indirect communications engaged in by individuals for the purpose of reaching a decision regarding a proposed regulation or legislation.
- 6) Defines “drafting” as developing language for a proposed regulation or legislation pursuant to this chapter.
- 7) Defines “negotiation” as any form of direct or indirect communication whereby individuals who have opposing interests discuss the form of any proposed regulation or legislation that may resolve a dispute involving those interests.

COMMENTS

1. Stated need for the bill

According to the author:

Last year the legislature unanimously approved AB 1370 which prohibited members of the legislature from entering or requesting another party to enter into non-disclosure agreements related to the drafting, negotiations, and discussions on legislation. The reason is because we believe in transparency and we wanted to clear up the obvious: NDAs simply don't belong in government; in the same vein, it should apply to the Governor's Office and administrative agencies.

2. Nondisclosure agreements

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

In early 2024, reports surfaced that negotiators of two bills were asked to sign nondisclosure agreements.² 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, legislation was introduced to prohibit the practice.

AB 2654 (Fong, 2024) was introduced in response to the news reports of the use of nondisclosure agreements. That bill would have prohibited lobbyists and certain public officials and employees from entering into, or requesting that another party enter into, a nondisclosure agreement relating to the drafting, negotiation, discussion, or creation of legislation. AB 2654 would also have made any nondisclosure agreement relating to the drafting, negotiation, discussion, or creation of legislation entered into after the effective date of the bill void and unenforceable. Because the bill would have amended the Political Reform Act of 1974, the violation of the provisions of the bill would have been punishable as a misdemeanor. AB 2654 failed passage in the Assembly Elections Committee.

AB 1370 was introduced last year 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 and to provide 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. AB 1370 was signed into law by the Governor.

3. Support

Oakland Privacy writes the following in support:

While there can be appropriate uses for non-disclosure agreements in certain circumstances, specifically to protect legitimate proprietary information, we agree that legislative debate around bills and significant regulatory rules are almost never going to be one of those appropriate uses.

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

² 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 June 21, 2025].

[. . .]

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 legislative and rule-making processes. 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. These processes are not backroom deals.

We would also add that the Administrative Procedure Act allows and has relatively transparent procedures for holding some materials confidential or filing under seal when necessary and compelling reasons are publicly articulated and ruled on by an administrative law judge. There really should be no need for ad-hoc non disclosure agreements.

SUPPORT

Oakland Privacy

OPPOSITION

None known

RELATED LEGISLATION

Pending legislation: SB 994 (Cabaldon, 2026) 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. SB 994 is currently pending in the Assembly Local Government Committee.

Prior legislation:

AB 1370 (Patterson, Ch. 191, Stats. 2025) prohibited members of the Legislature from entering into, or requesting that another party enter into, a nondisclosure agreement relating to the drafting, negotiation, or discussion of proposed legislation, and made any nondisclosure agreement relating to the drafting, negotiation, or discussion of proposed legislation void and unenforceable. The bill also provided an exception for nondisclosure agreements, or portions thereof, that prevent only the disclosure of trade secrets, financial information, or proprietary information, as specified. See comment 2.

AB 2654 (Fong, 2024) would have prohibited lobbyists and certain public officials and employees, as specified, from entering into, or requesting that another party enter into, a nondisclosure agreement relating to the drafting, negotiation, discussion, or creation of legislation. The bill would also have made any nondisclosure agreement relating to the drafting, negotiation, discussion, or creation of legislation entered into after the effective date of the bill void and unenforceable. Because the bill would have amended the Political Reform Act of 1974, the violation of the provisions of the bill would have been punishable as a misdemeanor. AB 2654 failed passage in the Assembly Elections Committee. See Comment 2.

PRIOR VOTES:

Assembly Floor (Ayes 68, Noes 0)

Assembly Appropriations Committee (Ayes 14, Noes 0)

Assembly Judiciary Committee (Ayes 12, Noes 0)
