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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Testimony for Senate Bill 853
Economic Development Activity - Nondisclosure Agreements
Before the Education, Energy, and the Environment Committee
March 5, 2026

Good afternoon Chair Feldman, members of the committee.

As modern data and processing needs explode, the physical hardware enabling these advances in technology need to be stored and powered and cooled. Land, energy, and water are all necessary for these data center projects, but they're also necessary for every other form of development, and making decisions about where those resources should be allocated can be polarizing.

In my district, Baltimore County recently passed a moratorium on data centers when, in response to public conversations held by myself and the District 44 team, county lawmakers realized they didn't have a full picture of the resources required to build and operate data centers.¹ Meanwhile, Calvert County is updating its zoning laws and exploring the possibility of offering tax incentives to entice data centers, although county officials have stressed the fact that this exploration is in its early stages.²

Data centers can be an economic boom for towns, but they also consume significant resources, and communities deciding whether the benefits are worth the costs face a difficult enough conversation without their public officials being bound by non-disclosure agreements (NDAs).

In Wisconsin, the company Meta used shell corporations and NDAs to obscure its involvement in building a data center for more than a year, while public officials created a custom tax incentive

¹ Sapna Bansil, "Baltimore County pauses data center development", *Baltimore Banner* (February 3, 2026), <https://www.thebanner.com/economy/growth-development/baltimore-county-data-center-moratorium-EVIJFJDL5VGCDCNC22K52NQBMGI/>.

² Calvert County Economic Development, "Data Centers" (accessed March 3, 2026), <https://www.calvertcountymd.gov/3880/Data-Centers>.

district for the project and signed pre-development agreements.³ In our neighbor Virginia, a 2025 survey conducted via Freedom of Information Act requests found that of 31 localities with existing, approved, or proposed data centers, at least 25 of those localities have non-disclosure agreements in some capacity.⁴

When questioned about the need for secrecy, data center companies and their representatives cite delicate negotiations for tax incentives or competitors vying for a limited number of feasible sites.⁵ In the same breath, however, they strategize to keep water usage projections confidential and suggest “visually reviewing documents... without providing copies” to skirt existing public records laws.⁶ If these projects seek public resources like tax incentives, water, and energy, it is unacceptable to conceal the details that would allow for informed debate. As the authors of the Virginia study point out, if these data center projects “are in the public interest, the projects should be able to withstand scrutiny even as they develop.”⁷

With all of that in mind, with the amendment I’m offering today, Senate Bill 853 prohibits non-disclosure agreements between government officials and people or entities involved in establishing or operating a data center. By “government officials,” I mean employees or contractors, of the Maryland Department of Commerce,⁸ the members and employees of a local government,⁹ and the members and employees of the General Assembly.¹⁰

Senate Bill 853 also subjects public service utility companies to the Public Information Act.¹¹ Transparency regarding data centers’ water and energy usage is vital to reasoned decision-making.

NDAs between data centers and public officials “short-circuit debate in order to arrive at predetermined outcomes.”¹² Senate Bill 853 affirms that informed debate is valuable, whether the project in question is an apartment complex or a data center.

For these reasons, I ask for a favorable report on Senate Bill 853.

³ Tom Kertscher, “At least four Wisconsin communities signed secrecy deals for billion-dollar data centers”, *Wisconsin Watch* (January 26, 2026), <https://wisconsinwatch.org/2026/01/wisconsin-data-center-secrecy-deals-nda-nondisclosure-agreement/> .

⁴ Eric Bonds and Viktor Newby, “Data centers, non-disclosure agreements and democracy”, *Virginia Mercury* (April 30, 2025), <https://virginiamercury.com/2025/04/30/data-centers-non-disclosure-agreements-and-democracy/> .

⁵ Eli Redfern and Sean Byrne, “Public records issues and solutions in data center deals”, *Development Magazine* (Winter 2024/2025), <https://www.naiop.org/research-and-publications/magazine/2024/Winter-2024-2025/development-ownership/public-records-issues-and-solutions-in-data-center-deals/> .

⁶ Redfern and Byrne.

⁷ Bonds and Newby.

⁸ See amended § 1.5-101 of the Economic Development Article.

⁹ See amended § 1-1321 of the Local Government Article.

¹⁰ See amended § 2-1703 of the State Government Article.

¹¹ See proposed § 4-101 of the General Provisions Article.

¹² Bonds and Newby.