

March 5, 2026

Education, Energy and the Environment Committee
Maryland General Assembly
90 State Circle, Annapolis, MD

Dear Chair Feldman, Vice Chair Kagel, and Members of the Committee,

My name is Pat Garofalo, and I'm the director of state and local policy at the American Economic Liberties Project, a research and advocacy organization dedicated to reducing the power dominant corporations wield over our economy and democracy, in pursuit of economic liberty for all. We strongly support SB 853, a bill to ban nondisclosure agreements in economic development deals, and commend Sen. Sydnor for its introduction.

Nondisclosure agreements are expressly intended to cut key stakeholders – including local residents and local business owners – out of economic development decisions that affect the communities in which they live, work, and raise families. NDAs degrade local democracy by ensuring that discussions regarding how and on whom state and local resources are spent occur out of the public eye and without public input.

There is no national or state data on how often non-disclosure agreements are used in economic development projects, but our organizations' tracking has shown they are aggressively employed everywhere, including in Maryland.

Nondisclosure agreements in economic development deals cause several specific harms. First, they violate a fundamental principle of local democracy: That community members should be able to provide input into the use of public resources and receive information allowing them to evaluate the work of elected officials and public servants. By hiding the details of economic development deals – *often including the identity of the company that will be receiving public*

money or access to public resources – NDAs prevent this flow of information and democratic feedback. Corporations such as Google have admitted that preventing public input into deals is the explicit goal of NDAs.¹

Nondisclosure agreements also harm local businesses. Economic development incentives and other regulatory favors disproportionately flow to larger, national or multinational businesses, including chain restaurants, big box stores, and, increasingly, AI data centers.² This puts local Maryland businesses at a disadvantage, forcing them to subsidize their dominant competitors. NDAs make it functionally impossible for local businesses to voice their opposition to these subsidy arrangements until it is too late to prevent them.

Finally, NDAs harm taxpayers. Academic research shows that most economic development incentives do not actually sway corporate location decisions³, not do they result in the promised economic benefits across a host of metrics.⁴ NDAs eliminate the opportunity for outside parties to improve or eliminate deals that won't benefit the state or locality, thus costing taxpayers money.

The use of NDAs is especially concerning in data center development deals, as those can have profound impacts on public resources, including power and water, as well as quality of life impacts in local communities, while creating few permanent jobs for local workers. Residents deserve to know what sort of impact a proposed data center will have, and which data center end

¹ Caroline O'Donovan, "When Cities Sign Secret Contracts With Big Tech Companies, Citizens Suffer," BuzzFeed, Nov. 20, 2018 <https://www.buzzfeednews.com/article/carolineodonovan/amazon-hq2-google-foxconn-secret-nda-real-estate-deals>

² LeRoy, Greg, Carolyn Fryberger, Kasia Tarczynska, Thomas Cafcas, Elizabeth Bird and Philip Mattera, "Shortchanging Small Business How Big Businesses Dominate State Economic Development Incentives," Good Jobs First, Oct. 2015 <http://www.goodjobsfirst.org/sites/default/files/docs/pdf/shortchanging.pdf>

³ Bartik, Timothy J., "'But For' Percentages for Economic Development Incentives: What percentage estimates are plausible based on the research literature?" Upjohn Institute Working Paper 18-289. July 1, 2018 <https://doi.org/10.17848/wp18-289>

⁴ See: Garofalo, Pat, "The Billionaire Boondoggle: How Our Politicians Let Corporations and Bigwigs Steal Our Money and Jobs," Thomas Dunne Books, March 2019; LeRoy, Greg, "The Great American Jobs Scam: Corporate Tax Dodging and the Myth of Job Creation," Berrett-Koehler Publishers July 2005; Florida, Richard, "The Uselessness of Economic Development Incentives," CityLab, Dec. 7, 2012 <https://www.bloomberg.com/news/articles/2012-12-07/the-uselessness-of-economic-development-incentives>; and Slattery, Cailin, and Owen Zidar, "Evaluating State and Local Business Tax Incentives," Journal of Economic Perspectives 34.2. Spring 2020, among many works. <https://scholar.princeton.edu/zidar/publications/evaluating-state-and-local-business-tax-incentives>

user is planning to enter their neighborhood.

Opponents of this bill will tell you that NDAs are normal, and required to protect proprietary information. That is false. These agreements almost always cover far more than proprietary information and trade secrets, again, often including the literal identity of the corporation in question. And to be clear, no one is asking that trade secrets be made public for economic development planning.

There is also nothing normal about requiring elected officials and public servants to withhold significant amounts of information from their constituents, even if directly asked. Taxpayers and local communities benefit from transparency in economic development; it is only corporate CEOs who benefit from a closed, private process in which they hold all the information, while the public, and even elected officials themselves, are operating in the dark.

At a minimum, if an economic development deal is as beneficial for the local community as proponents generally claim it will be, they should be not just willing to discuss it publicly, but eager to do so, so they can sell those benefits to the community. Instead, they rely on NDAs because they know that public input means they'll have to defend, in the open, the often too-generous economic development they give and receive, as well as the unfair utility deals and other regulatory favors that are on the table.

Banning these agreements – thus ensuring that state officials are not complicit in the secrecy corporations employ in order to extract resources from communities without public debate – would be a major step toward bringing transparency and accountability to Maryland's economic development system. So we reiterate our support for SB 853 and hope it swiftly passes the legislature and is signed into law.

Sincerely,

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