

03_SB 853 Testimony - Sydnor.pdf

Uploaded by: Charles Sydnor III

Position: FAV

CHARLES E. SYDNOR III, ESQ.
Legislative District 44
Baltimore County

DEPUTY MAJORITY WHIP

Judicial Proceedings Committee
Executive Nominations Committee
Legislative Policy Committee

Joint Committees

Administrative, Executive, and
Legislative Review

Children, Youth, and Families

Senate Chair, Legislative Ethics



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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.

NDA 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.

AELP MD SB 853 Support.pdf

Uploaded by: Pat Garofalo

Position: FAV

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,

Pat Garofalo
Director of State and Local Policy
The American Economic Liberties Project
pgarofalo@economicliberties.us

TEDCO Letter FWA SB853 - Economic Development Acti

Uploaded by: Troy LeMaile-Stovall

Position: FWA



Senate Bill 853 – Economic Development Activity - Nondisclosure Agreements

Senate Education, Energy and the Environment Committee

*Favorable with Amendment
March 5, 2026*

The Maryland Technology Development Corporation (TEDCO) respectfully submits this letter of testimony for Senate Bill 853. TEDCO is a public instrumentality of the State of Maryland created to advance technology-based economic development, innovation, and entrepreneurship. Serving Maryland's innovation ecosystem, TEDCO discovers, invests in, and helps build Maryland-based technology companies and is dedicated to economic growth through the fostering of an inclusive entrepreneurial and innovation ecosystem.

TEDCO provides funding, resources and connections that early-stage technology and life sciences companies need to thrive in Maryland. As such, TEDCO regularly engages in grant and investment contracts with a variety of startup businesses, etc.

We believe that, under the bill, TEDCO qualifies as an "entity . . . governed by" the Economic Development Article of the MD Code (since that's where our enabling statute is set out), and would therefore be covered by the language prohibiting entering into nondisclosure agreement with entities involved in "economic development" activities (which the bill does not define, but arguably could include many TEDCO activities).

It may be beneficial to get some clarity around the definition of such "economic development activity", since TEDCO deals in various ways with a variety of Maryland startups and organizations who need nondisclosure agreements from TEDCO, such as potential TEDCO portfolio companies.

TEDCO would greatly appreciate either an amendment to define this broad term or – perhaps more simply – to carve TEDCO out. Carving TEDCO out would be our preference, as TEDCO does not have a concern with the bill itself, just its potential impact on TEDCO and our ability to work with Maryland startup portfolio companies, etc.

For these reasons, TEDCO respectfully amends to SB 853 to remove TEDCO from the scope of the legislation in order to sustain TEDCO's ability to enter into needed nondisclosure agreements with Maryland early-stage start up companies. TEDCO has discussed this potential amendment with the bill sponsor, Senator Sydnor and we appreciate his consideration.

For your information, TEDCO's requested amendments (see underlined, lowercased, section) are provided on the following page. TEDCO thanks the bill sponsor and members of the Senate Finance Committee for your consideration.

Public record” has the meaning stated in [§ 4–101(j)] § 4–101 of the
2 General Provisions Article.
3 Article – Economic Development

4 TITLE 1.5. GENERAL PROVISIONS.

5 1.5–101.

6 (A) THIS TITLE APPLIES TO THE EMPLOYEES OF, CONTRACTORS WITH, AND
7 CONSULTANTS TO THE DEPARTMENT OR ANY OTHER ENTITY OR PROGRAM
8 GOVERNED BY THIS ARTICLE.

1.5-101(A)(1) This title does not apply to the Maryland Technology Development Corporation

9 (B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN INDIVIDUAL
10 MAY NOT ENTER INTO A NONDISCLOSURE AGREEMENT WITH A PERSON INVOLVED
11 IN AN ECONOMIC DEVELOPMENT ACTIVITY, INCLUDING A PERSON INVOLVED IN
12 ESTABLISHING OR OPERATING A DATA CENTER AS DEFINED IN § 11–239 OF THE TAX

Data Center Alliance of MD Letter of Opposition -

Uploaded by: Andrew Zirkle

Position: UNF



**DATA CENTER
ALLIANCE OF MARYLAND**
Powered by the Maryland Tech Council

Senate Budget and Tax Committee
March 5th, 2026

Senate Bill 853 - *Economic Development Activity - Nondisclosure Agreements*

POSITION: OPPOSE

The Data Center Alliance of Maryland (DCA-MD) is a coalition of partners dedicated to responsibly advancing a positive vision of the data center industry in Maryland. The Alliance reflects a broad set of perspectives, including companies that build and operate data centers, labor and workforce organizations, technology and supply chain firms, energy and infrastructure partners, and other civic and community voices focused on responsible development. The Alliance works to improve and align public policies to support a dynamic data center economy, educate Marylanders on the economic and fiscal contributions of data center development, and track industry innovations and advise stakeholders on best practices. DCA-MD respectfully submits this testimony in opposition to SB 853.

SB 853 would prohibit certain individuals from entering into nondisclosure agreements with a person involved in an “economic development activity,” including establishing or operating a data center. The prohibition is drafted broadly and is applied across multiple parts of State law, including to employees, contractors, and consultants supporting State economic development entities, local governing bodies, and even legislators and legislative staff.

DCA-MD opposes SB 853 because it would materially weaken Maryland’s ability to compete for major projects and job creation by eliminating a basic, standard business tool used in virtually every state and locality engaged in business attraction and retention. In economic development, confidentiality is not a preference, it is often a precondition for engagement. Local economic development professionals have emphasized that nondisclosure agreements are a necessary means to business attraction deals, that confidentiality is foundational to their work, and that NDAs are used particularly when a business is publicly traded and or when a product or business model is sensitive.

As written, the bill does not simply increase transparency. It effectively bars public sector participants from agreeing to protect nonpublic, commercially sensitive information during the very period when jurisdictions are competing to attract investment. That is precisely the stage when companies are comparing jurisdictions and controlling information that could affect competition, real estate negotiations, and market signaling. If Maryland cannot offer the basic confidentiality that peer states routinely provide, many companies will not engage with State or local economic development entities at all, and projects will be redirected elsewhere.

Maryland already has transparency mechanisms and disclosure rules through the Public Information Act and related protections for sensitive commercial information. SB 853 takes a blunt approach that substitutes an outright prohibition for a more balanced framework. The predictable result is fewer projects, fewer construction and permanent jobs, and less tax base growth.



The logo for the Data Center Alliance of Maryland features a stylized bar chart with five bars in blue, dark blue, orange, green, and light blue. Below the chart, the text "DATA CENTER ALLIANCE OF MARYLAND" is written in a bold, blue, sans-serif font. Underneath that, "Powered by the Maryland Tech Council" is written in a smaller, black, sans-serif font.

**DATA CENTER
ALLIANCE OF MARYLAND**
Powered by the Maryland Tech Council

SB 853 also expands Public Information Act coverage by specifying that an “instrumentality of the State” includes public service companies. This added uncertainty can further chill information-sharing and coordination that is often needed for major infrastructure planning tied to economic development and large-load projects.

For these reasons, DCA-MD respectfully requests an unfavorable report on SB 853.

For more information contact:

Andrew Zirkle
240-282-1551
andrew@mdtechcouncil.com
DCAMD.com



SB0853_UNF_MTC_Economic Development Activity - Non

Uploaded by: Drew Vetter

Position: UNF



Senate Education, Energy, and the Environment Committee

Senate Finance Committee

March 5, 2026

Senate Bill 853 – *Economic Development Activity – Nondisclosure Agreements*

POSITION: OPPOSE

The Maryland Tech Council (MTC), with over 800 members, is the State's largest association of technology companies. Our vision is to propel Maryland to be the country's number one innovation economy for life sciences and technology. MTC brings the State's life sciences and technology communities into a single, united organization that empowers members to achieve their goals through advocacy, networking, and education. On behalf of MTC, we submit this letter of **opposition** for Senate Bill 853.

Senate Bill 853 would restrict the use of nondisclosure agreements (NDAs) for certain people involved in economic activities in Maryland. The bill includes a specific prohibition on NDAs in the context of establishing or operating a data center.

NDAs are routine and essential business tools used nationwide in economic development negotiations. When companies explore potential expansion or relocation, they frequently evaluate multiple jurisdictions simultaneously. The negotiation process includes sharing highly sensitive information, including proprietary technology and infrastructure plans, financial projections, capital investment strategies, workforce planning, energy usage projections, intellectual property considerations, and other confidential information. Sharing such information publicly, especially during the early stages of negotiations, can harm a company's competitive position and put critically needed economic development projects in jeopardy for location in Maryland.

States that compete for major economic development projects commonly use targeted confidentiality agreements during negotiations. Prohibiting NDAs outright for public officials and staff involved in these discussions would put Maryland at a distinct competitive disadvantage. If Maryland becomes one of the only states to prohibit NDAs during negotiations, companies may simply remove Maryland from consideration. Our experience is that site selection consultants would advise clients to avoid states where confidentiality cannot be preserved during negotiations.

Maryland has worked hard to position itself as a leader in cybersecurity, biotechnology, quantum computing, and advanced data center infrastructure. These sectors rely heavily on proprietary research, intellectual property, and sensitive commercial information. A blanket prohibition on NDAs could chill collaboration between the public and private sectors and make Maryland less attractive for the growth of these emerging innovation sectors. For these reasons, we respectfully request an unfavorable report for Senate Bill 853.

For more information call:

Andrew G. Vetter

J. Steven Wise

Danna L. Kauffman

Christine K. Krone

410-244-7000

MDCC_SB 853_Unfavorable.pdf

Uploaded by: Grason Wiggins

Position: UNF



Senate Bill 853

Position: Unfavorable

Committee: Education, Energy, and the Environment

Date: March 5, 2026

Founded in 1968, the Maryland Chamber of Commerce is the leading voice for business in Maryland. We are a statewide coalition of more than 7,000 members and federated partners working to develop and promote strong public policy that ensures sustained economic recovery and growth for Maryland businesses, employees, and families.

Senate Bill 853 (“SB 853”) would create a sweeping prohibition on nondisclosure agreements (NDAs) in connection with economic development activities that would significantly undermine Maryland’s competitiveness in attracting and retaining private investment.

Economic development projects—particularly large-scale, capital-intensive investments such as advanced manufacturing facilities, technology campuses, and data centers—require extensive due diligence, site evaluation, financing negotiations, and proprietary planning. Confidentiality agreements are a critical tool in these processes that protects trade secrets, intellectual property, market-sensitive data, security plans, and other confidential business information that, if prematurely disclosed, could jeopardize a project or place a company at a competitive disadvantage.

By broadly prohibiting NDAs for individuals involved in economic development activities, SB 853 would:

- Discourage companies from considering Maryland for major investments.
- Place Maryland at a competitive disadvantage compared to neighboring states that routinely use confidentiality protections during recruitment efforts.
- Increase the risk of sensitive business information becoming public before a project is finalized.
- Complicate negotiations between private entities and public officials, slowing down or derailing economic opportunities.

Confidentiality during early-stage negotiations does not preclude transparency once agreements are finalized. SB 853 goes beyond reasonable transparency measures and instead eliminates a widely accepted practice used nationwide. **For these reasons, the Maryland Chamber respectfully requests an unfavorable report on SB 853.**

SB 853_Nondisclosure Agreements_Letter of Concern.

Uploaded by: Harry Coker

Position: UNF



Wes Moore | Governor
Aruna Miller | Lt. Governor
Harry Coker, Jr. | Secretary of Commerce

DATE: March 5, 2026
BILL NO: Senate Bill 853
BILL TITLE: Economic Development Activity - Nondisclosure Agreements
COMMITTEE: Senate Education, Energy, and the Environment
POSITION: Letter of Concern

The Maryland Department of Commerce (Commerce) would like to express concerns with Senate Bill 853 Economic Development Activity - Nondisclosure Agreements.

Bill Summary:

Senate Bill 853 prohibits certain individuals, including a governing body and the employee of, contractors with and consultants to a governing body, from entering into a nondisclosure agreement with a person involved in an economic development activity, including establishing or operating a data center.

Rationale:

The current policy of the Department of Commerce is to not enter into nondisclosure agreements initiated by companies it is interacting with. Instead, Commerce refers companies, including data center companies, to Commerce's non-disclosure agreement that references the Public Information Act (PIA). The PIA requires that a State agency deny inspection of the part of the public record that contains information concerning trade secrets, confidential commercial information, or confidential financial information. The determination whether the information constitutes a trade secret, or confidential commercial or financial information, is generally left to the judgment of the business enterprise about which the information relates.

The wording "Nondisclosure Agreement" in the bill provides ambiguity on multiple levels. Commerce technically uses a non-disclosure agreement which, however, only references the PIA. Based on the bill as written, it is unclear whether Commerce would be prohibited from entering into its existing non-disclosure agreement or whether it would be exempt from the bill's requirements given that Commerce's non-disclosure agreement purely references the PIA. Furthermore, it is unclear whether renaming Commerce's existing non-disclosure agreement would exempt it from this provision.

Companies may request that a nondisclosure agreement be signed for a variety of reasons when discussing potential economic development projects with a state or local governing body. Publicly traded companies in particular have strict requirements on when certain information such as expansions or relocations are made public and reported to the SEC. Despite Commerce's belief that its existing practice would not violate the requirements of this legislation, the passage of Senate Bill 853 may have a chilling effect on interest in Maryland from site selection consultants and companies considering an expansion or relocation. The legislation sends a message to the business community that the State may not protect confidentiality of certain information.

Prince George's County Government Opposition to SB

Uploaded by: Julian Perez

Position: UNF



THE PRINCE GEORGE'S COUNTY GOVERNMENT

OFFICE OF THE COUNTY EXECUTIVE

BILL: Senate Bill 0853

SPONSOR: Senator Sydnor III

HEARING DATE: March 5, 2026

COMMITTEE: Education, Health, and Environmental Affairs

CONTACT: Intergovernmental Affairs Office, 301-780-8411

POSITION: **OPPOSE**

The Office of the Prince George's County Executive **OPPOSES Senate Bill 0853**, which prohibits certain individuals from entering into a nondisclosure agreement with a person involved in an economic development activity.

Non-disclosure agreements (NDAs) are essential to economic development in any jurisdiction. NDAs foster trust, protect intellectual property, and serve as a catalyst to local government obtaining sensitive, competitive information during negotiations. They enable businesses to share proprietary data with local government officials without fear of public leaks or exploitation by competitors.

If passed, Senate Bill 0853 would undoubtedly apply to, and stifle economic development in, Prince George's County because the proposed law applies to "any other entity or program governed by" the Economic Development Article. A substantial number of provisions in the Article govern County economic development programs, including but not limited to, County Payment in Lieu of Tax agreements and Tax Increment Financing, all of which the County's use to incentivize and attract new development within its borders.

Confidentiality is essential to attracting new development to Maryland's local governments, and Prince George's County in particular. Given the County's budget deficit as well as its unfortunate yet necessary imposition of one of the highest property tax rates in the region, increasing Prince George's County's commercial tax base is of critical importance at this time. Such increase in its commercial tax base cannot occur if NDAs between the County and prospective developers are disallowed.

In sum the County's continuing utilization of NDAs are necessary to foster strong relationships that ultimately create high-paying jobs, significant capital investments, and a thriving local economy.

For the reasons stated above, the Office of the Prince George's County Executive OPPOSES Senate Bill 0853 and asks for an UNFAVORABLE report.

SB0853-EEE_MACo_OPP.pdf

Uploaded by: Karrington Anderson

Position: UNF



Senate Bill 853

Economic Development Activity - Nondisclosure Agreements

MACo Position: **OPPOSE**

To: Education, Energy, and the Environment and
Finance Committees

Date: March 5, 2026

From: Karrington Anderson

The Maryland Association of Counties (MACo) **OPPOSES** SB 853. This bill would prohibit an individual, governing body, legislator, or employee from entering into a nondisclosure agreement (NDA) with a person involved in an economic development activity.

NDAs are legally binding contracts that create a confidential relationship between parties to protect sensitive, proprietary, or competitive information from public disclosure. In the economic development context, these agreements are not unusual. Counties may execute NDAs when working with prospective businesses for economic development.

By broadly prohibiting the use of NDAs in economic development activity, SB 853 would materially undermine local business attraction and retention efforts. Businesses considering relocation or expansion often evaluate multiple states simultaneously. If Maryland is unable to offer the same confidentiality protections as competing states, companies may simply choose not to engage here. The result could be fewer opportunities for job creation, capital investment, and local tax base growth.

Counties share the State's commitment to transparency and accountability. However, economic development negotiations frequently require confidentiality at preliminary stages to protect both the business and the public interest. Once projects are finalized, many aspects appropriately become public through existing disclosure and procurement requirements. A blanket prohibition on NDAs removes a practical tool without regard to context or competitive realities.

Economic development strategies vary by region, industry, and local market conditions. Decisions about when and how to use confidentiality agreements should remain a local operational choice.

For these reasons, MACo urges an **UNFAVORABLE** report on SB 853.

SB 853 - Non Disclosure Agreements - NAIOP -UNF -

Uploaded by: Tom Ballentine

Position: UNF



March 3, 2026

The Honorable Brian J. Feldman, Chair
Senate Education, Energy, and the Environment Committee
2 West Miller Senate Office Building
Annapolis, Maryland 21401

The Honorable Pamela Beidle, Chair
Senate Finance Committee
3 East Miller Senate Office Building
Annapolis, Maryland 21401

Unfavorable: SB 853 – Economic Development Activity - Nondisclosure Agreements

Dear Chair, Feldman, Chair Beidle and Committee Members:

The NAIOP Maryland Chapters represent approximately 700 companies involved in all aspects of commercial, industrial, and mixed-use real estate. On behalf of our member companies, I am writing to recommend your unfavorable report on SB 853.

Overview of SB 853

SB 853 would prohibit State and local officials, legislators, and their staff from entering into nondisclosure agreements (NDAs) with any entity engaged in an economic development activity—including companies seeking to establish or expand facilities such as data centers, logistics hubs, manufacturing operations, life-science facilities, or headquarters projects.

SB 853 would severely weaken Maryland’s economic competitiveness by eliminating the standard confidentiality tools used in every state to evaluate potential projects. Companies cannot share proprietary information without NDAs, and economic development officials cannot perform due-diligence without access to that information.

By prohibiting NDAs, the bill will stop many projects before they ever reach a publicly transparent stage—resulting in lost jobs, lost tax base, and fewer opportunities for communities across the State.

Rationale for NAIOP’s Position

- While transparency in government is essential, SB 853 eliminates the primary mechanism that allows businesses to share proprietary information, market-sensitive data, and site-specific requirements necessary for Maryland to compete for major investment. Without the ability to secure confidential discussions, companies will be forced to exclude Maryland from consideration long before a project becomes public.
- Companies must disclose highly proprietary information during site evaluation. To evaluate a project, firms must share details such as: customer contracts and demand forecasts; supply-chain vulnerabilities; intellectual property; workforce and automation strategies; risk assessments and regulatory exposure; and capital expenditure structures not yet reported to shareholders. This information cannot be shared without enforceable confidentiality protections. Without NDAs, most companies cannot legally or competitively disclose the data needed for due-diligence with State or local officials.
- Economic development officials rely on NDAs to perform accurate site analysis. State and local practitioners routinely need precise power, water, and infrastructure requirements; confidential site layouts and engineering drawings; prospective job classifications and wage modeling; anticipated land acquisition or lease terms; and scenario planning rooted in competitively sensitive data. Without NDAs, Maryland officials will be

unable to model incentives, infrastructure upgrades, permit sequencing, or workforce programs with accuracy—placing the State at a structural disadvantage.

- Removing confidentiality will eliminate Maryland from competitive project pipelines. Most major corporate site searches—particularly for data centers, advanced manufacturing, logistics operations, or R&D facilities—require signed NDAs before the first conversation. Multi-state searches already move at high speed and with strict confidentiality protocols. A statutory ban would send a clear message to site selectors and corporate decision-makers that Maryland cannot protect proprietary information. Companies will simply eliminate Maryland at the outset rather than risk public disclosure.
- Transparency is already preserved at the appropriate stage. NDAs apply only during early exploratory discussions. Once a company selects a community and moves into permitting, incentive agreements, and final approvals, project terms become public under the Public Information Act and open-meeting requirements. SB 853 does not improve public transparency at the decisive stage of a project—it only blocks Maryland officials from doing the due-diligence necessary to win projects in the first place.
- Data centers and other high-demand industries require even greater confidentiality. SB 853 specifically references data centers, which operate under strict security and cybersecurity requirements. These companies must disclose: electrical distribution and resiliency designs; fiber routing details; security postures and vulnerabilities; vendor procurement chains; and server load profiles. These materials cannot be legally released publicly and cannot be shared absent an NDA. Maryland has already struggled to compete for large-scale digital infrastructure projects; this bill would effectively remove the State from consideration.
- Economic harm to local jurisdictions would be immediate and significant. Counties and municipalities depend on confidential negotiations to: assemble land; coordinate infrastructure upgrades; negotiate PILOT agreements; secure interconnection commitments; and prevent speculator activity that drives up land prices. SB 853 would deprive local governments of the tools they need to responsibly manage project-level economic development.

For these reasons, NAIOP respectfully requests your unfavorable report on SB 853.

Sincerely,



Tom Ballentine, Vice President for Policy

NAIOP – Maryland Chapters, *The Association for Commercial Real Estate*

cc: Education, Energy, and the Environment Committee Members
Finance Committee Members
Nick Manis – Manis, Canning Assoc.