SENATE COMMITTEE ON APPROPRIATIONS
Senator Sabrina Cervantes, Chair
2025 - 2026 Regular Session

AB 1633 (Haney) - Taxation: private detention facilities

Version: June 16, 2026
Urgency: No
Hearing Date: August 3, 2026

Policy Vote: REV. & TAX. 4 - 0
Mandate: Yes
Consultant: Robert Ingenito

Bill Summary: AB 1633 would impose an annual tax on “private detention facility operators” equal to 50 percent of the operator’s gross receipts derived from the operation of each “private detention facility” in California.

Fiscal Impact:

- The California Department of Tax and Fee Administration (CDTFA) estimates that this bill would result in a revenue gain of $177 million in 2027-28 (Due Process for All Fund). Annual revenue gains thereafter would likely be similar, to the extent such contracts continue in the State.

- CDTFA indicates that it would incur administrative costs of $257,000 in 2026-27, $1.5 million in 2027-28, $131,000 in 2028-29, $115,000 in 2029-30, and $126,000 annually thereafter, to implement the provisions of the bill. Cost drivers would include identifying and notifying taxpayers, creating a new tax return, programming computer systems, revising publications, developing special notices and tax guides, developing regulations, preparing guidelines for staff, and answering numerous from operators and the public (Due Process for All Fund).

Background: California generally taxes corporations on their apportioned net business income, rather than on gross receipts, at a rate of 8.84 percent or the $800 minimum franchise tax, whichever is greater. Under the state's combined reporting system, unitary affiliated corporations generally file a single combined report that eliminates intercompany transactions, such as dividends between related entities, in determining taxable income. Corporations may elect to file on a "water's-edge" basis, which generally excludes the income and expenses of foreign affiliates from the combined report, subject to specified exceptions.

California imposes excise taxes on a variety of products and activities, including tobacco, alcoholic beverages, motor vehicle fuels, cannabis, and firearms and ammunition. These taxes are often enacted both to generate revenue and to discourage activities associated with public health or societal costs. Depending on the tax, administration is governed either by statutes specific to the tax or by the Fee Collection Procedures Law, which provides CDTFA with general authority for registration, collection, enforcement, penalties, and appeals.

The federal government contracts with private operators to house immigration detainees and certain federal criminal detainees in California. Pursuant to legislative reporting requirements, the Department of Justice (DOJ) periodically reviews these facilities and, in its May 2026 report, found that conditions had deteriorated as detention populations increased, citing overcrowding, reduced access to medical care, and six detainee deaths between September 2025 and March 2026—the highest number reported since reviews began in 2017. The DOJ concluded that these findings raised significant concerns regarding facility conditions and oversight.

Federal spending on California's privately operated detention facilities has increased substantially in recent years, reflecting expanded federal detention activity. According to federal spending data, the federal government contracts with 12 privately operated detention facilities in California, and annual expenditures have grown significantly since 2023. Industry projections indicate that revenues for California's private detention facilities are expected to remain elevated in the near term.

In 2019, the Legislature enacted AB 32 (Bonta) to phase out the state's use of privately operated prisons and detention facilities and prohibit the operation of most private detention facilities in California. However, the United States Court of Appeals for the Ninth Circuit subsequently held that the law could not be applied to federally operated immigration detention facilities because it impermissibly discriminated against the federal government in violation of the Supremacy Clause under the doctrine of intergovernmental immunity.

Proposed Law: This bill, among other things, would do the following:

- Impose an annual tax upon all “private detention facility operators,” as specified, equal to 50 percent of the operator’s gross receipts (as defined) derived from the operation of each “private detention facility” in California, commencing January 1, 2027. The bill provides that the tax would apply regardless of whether the contracting agency is federal, state, or local.

- Direct CDTFA to administer and collect the tax imposed by this bill, as specified, and authorize CDTFA to issue regulations to implement the bill, including emergency regulations.

- Require CDTFA to deposit revenues from the tax into the Due Process for All Fund, which the bill creates in the State Treasury. The Legislature can appropriate money from the Fund for immigration-related services.

Related Legislation:

- AB 1675 (Lee) would enact the No Tax Breaks for ICE Contractors Act of 2026, which would make any corporation that provides goods or services pursuant to contracts with DHS, either directly or through subcontracts, ineligible for tax against the Corporation Tax. The bill is currently pending in the Senate Committee on Revenue and Taxation.

- AB 2465 (Ortega) would make ineligible for any tax credit under the Personal Income Tax or Corporation Taxes any business entity that is directly invested in, owns, manages, or profits from a private detention facility or contracts with a private detention facility or agency engaging in immigration enforcement for the purpose of aiding in or furthering immigration enforcement. The bill is currently pending in this Committee.

Staff Comments: CDTFA's administrative costs to implement the bill would begin in the fiscal year before the revenues are deposited into the Due Process for All Fund. Consequently, the department would likely need an initial loan, potentially from the General Fund.

Any local government costs resulting from the mandate in this measure are not state-reimbursable because the mandate only involves the definition of a crime or the penalty for conviction of a crime.

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