SENATE COMMITTEE ON LOCAL GOVERNMENT

Senator María Elena Durazo, Chair

2025 - 2026 Regular

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PUBLIC AGENCIES: APPROVAL: DETENTION FACILITIES

Adds requirements that a city or county must complete before approving a conveyance of land, a permit, or any other document signifying its approval.

Background

The California Constitution allows cities and counties to "make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws." It is from this fundamental power (commonly called the police power) that cities and counties derive their authority to regulate behavior to preserve the health, safety, and welfare of the public—including land use authority.

Planning and Zoning Law. State law provides additional powers and duties for cities and counties regarding land use. The Planning and Zoning Law requires every county and city to adopt a general plan that sets out planned uses for all of the area covered by the plan. A general plan must include seven mandatory elements: land use, circulation, housing, conservation, open space, noise, and safety. The general plan must also either include an eighth element on environmental justice, or incorporate environmental justice concerns throughout the other elements (SB 1000, Leyva, 2016).

Cities' and counties' major land use decisions—including most zoning ordinances and other aspects of development permitting—must be consistent with their general plans. The Planning and Zoning Law also establishes a planning agency in each city and county, which may be a separate planning commission, administrative body, or the legislative body of the city or county itself. Cities and counties must provide a path to appeal a decision to the planning commission and/or the city council or county board of supervisors.

Local governments use their police power to enact zoning ordinances that shape development, including by designating the particular uses that are allowed within the community, distance between various kinds of uses, the physical form of buildings in the community, and others. These ordinances can also include conditions on development to address community or environmental impacts, or other particular site-specific considerations.

Local governments have broad authority to define the specific approval processes needed to satisfy these considerations. Most new land uses require "discretionary" approvals from local governments, such as a conditional use permit or a change in zoning laws. This process requires hearings by the local planning commission and public notice and may require additional approvals.

Open meeting requirements. The Ralph M. Brown Act (Brown Act) provides guidelines for how local agencies must hold public meetings. Among other provisions, the Brown Act requires meetings of the legislative body of a local agency be open and public. The Brown Act generally requires local agencies to notice meetings in advance, including the posting of an agenda, and requires these meetings to be open and accessible to the public.

For a regularly scheduled meeting (regular meeting), the legislative body must post an agenda containing a brief general description of each item at least 72 hours before the meeting. The agenda must specify the time and location of the regular meeting, and be posted in a location that is freely accessible to members of the public and on the local agency's internet website, if the local agency has one.

When a legislative body cannot provide 72-hour notice due to the need to discuss a specific item outside of the regular meeting schedule, it can call for a special meeting that reduces the notice period to 24 hours prior to the meeting. In emergency circumstances, a legislative body can hold an emergency meeting where action is necessary due to the disruption or threatened disruption of public facilities without complying with the 24-hour notice and posting requirements.

Ordinances. Local governments regulate the behavior of their constituents by passing ordinances that spell out what activities are and aren't allowed. The Legislature has established a number of procedural requirements for cities and counties to follow when enacting ordinances, including that ordinances:

- Cannot be passed within five days of their introduction or alteration;
- Must be passed at a regular meeting; and
- Must be read in full twice, unless the title is read and further reading is waived or the title is listed in the agenda for the meeting and the full ordinance is published online.

Depending on the contents of their charter, charter cities may adopt alternative procedures for adopting ordinances.

State law also provides certain notice and hearing requirements when local governments adopt certain types of ordinances, such as zoning ordinances or ordinances establishing fees. Counties don't have to follow the general procedures for adopting an ordinance when state law establishes other notice and hearing requirements for specific types of ordinances, but cities do.

Urgency ordinances for the immediate preservation of the public peace, health, or safety do not have to comply with most of these requirements. Specifically, urgency ordinances can be passed with only one hearing at either a regular or special meeting. However, urgency ordinances must contain a declaration of the facts constituting the urgency and must be approved by a 4/5 vote of the board of supervisors.

Public input on zoning decisions. The Planning and Zoning Law requires, when a local government is considering amending a general plan or zoning ordinance, that the planning commission in that city or county hold a public hearing on the proposed general plan amendment or zoning ordinance, after:

- Publishing notice in the newspaper or posting in three public places; and

- Mailing notices to affected property owners if the notice affects the permitted uses of real property.

After the hearing, the planning commission must provide a recommendation to the legislative body (the city council or board of supervisors), which the legislative body must hear at a separate public hearing subject to the notice requirements above before adopting the ordinance.

The Planning and Zoning Law also spells out specific requirements that must be followed to provide public notice for hearings. Notice must include the date, time, and place of a public hearing, the identity of the hearing body or officer, a general explanation of the matter to be considered, and a general description, in text or by diagram, of the location of the real property, if any, that is the subject of the hearing. Additional procedures apply depending on the type of action the city or county proposes to take, including publication in a newspaper of general circulation, or if none is available, in three public places, for 10 days prior to the hearing.

Private detention facilities in California. Almost all immigration detention centers in the United States, and all detention centers currently operating in California, are owned and operated by private companies that contract with the federal government to provide immigration detention. Currently, the federal government contracts with eight private detention facilities operating in California in four counties—San Bernardino County, Kern County, San Diego County, and Imperial County. While private detention centers are required to meet a variety of health and safety standards, they regularly fail to meet those standards.[1] The Attorney General's 2025 report on the conditions of confinement in private detention facilities in the state found deficiencies in suicide prevention practices, excessive use of force, poor mental health care, due process issues, and multiple violations of detention standards at all of the immigration detention centers in the state.[2]

Responding to concerns regarding private detention facilities, the Legislature has enacted several laws in recent years. AB 3228 (Bonta, 2020) requires any private detention facility operator to comply with, and adhere to, the detention standards of care and confinement agreed upon in the facility's contract for operations, and allows individuals to sue if a private detention facility violates the requirement to comply with detention standards of care and confinement. AB 263 (Arambula, 2021) requires a private detention facility operator to comply with, and adhere to, all local and state public health orders and occupational safety and health regulations. Finally, SB 1132 (Durazo, 2024) authorizes a county or city health officer to investigate a private detention facility.

The Legislature also imposed some requirements on local approval procedures for civil immigration detention facilities in 2017 (SB 29, Lara). SB 29 prohibits a city, a county, or a local law enforcement agency from entering into a contract to detain individuals for immigration enforcement. It also prohibits a city or county or public agency from approving or signing a deed or issuing a permit for the construction of or use of an existing building for private immigration detention facilities, unless the city, county, or agency has provided notice to the public at least

[1] Akash Pillai et al., "Health issues for immigrants in detention centers," Kaiser Family Foundation (Sept. 30, 2025), https://www.kff.org/racial-equity-and-health-policy/health-issues-for-immigrants-in-detention-centers.
[2] Office of the Attorney General, *2025 Report: Immigration Detention in California*, Dept. of Justice (Apr. 2025), available at https://oag.ca.gov/news/press-releases/attorney-general-bonta-sounds-alarm-releases-fourth-immigration-detention.

180 days before execution of the action, and has solicited and heard public comments about the proposed action in at least two separate public meetings.

In late 2019, the private detention facility company GEO Group applied to the city of McFarland for an operational use permit for the Golden State Annex and Central Valley detention facilities in McFarland. The Planning Commission for McFarland initially provided public notice of the application for a permit on January 10, 2020, and held two hearings on the proposal in January and mid-February. At the Commission's February meeting, the Commission denied the permit application. However, GEO Group, the operator of the facility, appealed to the city council, which ultimately held a hearing on April 23, 2020 regarding the proposal, at which the city council approved the permit, to be effective July 15, 180 days after the public notice.

A number of organizations and the California Attorney General sued the city of McFarland regarding this approval, claiming that it failed to comply with SB 29's requirements. The complaint alleged that because the Planning Commission's hearings were early in the 180-day period and because the city council only held one hearing. Moreover, the City Council approved the permits, but dated the effectiveness of that approval to be after the 180-day period to comply with SB 29, even though the permits were actually approved before the 180-day period ran.

However, while the trial court issued a temporary restraining order and preliminary injunction finding that the city likely violated SB 29's requirements, the Ninth Circuit reversed, finding that the process the city's process complied with the requirements of SB 29.[3] After the decision, GEO Group moved forward with opening the Golden State Annex.

The Immigrant Legal Resource Center wants the Legislature to require additional public input on approvals of detention facilities.

Proposed Law

Assembly Bill 1801 adds new requirements that a city or county must complete before approving a conveyance of land, a permit, or any other document signifying its approval. Specifically, the city or county must, for 180 days before an approval:

- Comply with the requirements in existing law for publishing notices of hearings on land use decisions;
- Date and post the notice on the agency's website and at the agency's headquarters;
- Publish the notice in at least one local newspaper of general circulation, or, if there is no newspaper, in three public places;
- Translate the written public notices into the top five languages spoken in the jurisdiction;
- Broadcast weekly over local radio stations in the top five languages spoken in the jurisdiction; and
- Provide access to any documents related to the action being considered.

The city or county must promptly provide access to any documents related to the proposed action, except as prohibited from being disclosed under the California Public Records Act, and make them available online and in hard copy format at the agency's headquarters during business hours.

[3] .*Immigrant Legal Resources Ctr. v. City of McFarland* (2020) 472 F. Supp. 3d 779; *Immigrant Legal Resources Ctr. v. City of McFarland* (2020) 827 Fed. Appx. 749.

The city or county must also take public comment on the proposed action in at least two separate meetings that are noticed as a stand-alone item on a meeting agenda. The first meeting must be held at least 30 business days after the notice, and the second meeting must be held at least 30 business days after the first meeting. The city or county must offer translation for public comment in the most widely spoken language other than English in the jurisdiction.

AB 1801 applies the bill's requirements to cities and counties, including any board, commission, or agency, and to action whether approved by the legislative body, an advisory body, or administrative staff.

Comments

1. Purpose of the bill. According to the author, "AB 1801 is essential to ensuring transparency, accountability, and meaningful public engagement in decisions that can shape communities for decades. Too often, major detention facility decisions have occurred with little public awareness or input. This bill closes loopholes that allow local agencies to circumvent meaningful community engagement by requiring that public notice be provided a full 180 days before any approval, ensuring hearings are properly spaced and noticed, and clarifying that all contracts and agreements related to detention facilities are subject to these transparency requirements."

2. Goose and gander. State law generally lets cities and counties determine what kinds of uses to allow within their jurisdiction, and to specify the conditions that must be met in order for new uses to be approved. AB 1801 imposes new requirements on local governments that want to permit private entities to build privately-owned immigration detention facilities. These requirements are more stringent than for other types of uses that may have more direct impacts to the public, such as warehouses that increase traffic near sensitive receptors. The Committee may wish to consider whether some of AB 1801's provisions should apply to other types of land uses.

3. Law of the land. "The Constitution's Supremacy Clause generally immunizes the Federal Government from state laws that [1] directly regulate or [2] discriminate against it."[4] However, generally applicable laws may apply to the federal government, so long as those laws do not discriminate against or directly regulate it.[5] Determining whether a particular law discriminates against or directly regulates the federal government is nuanced. For example, courts have found that laws that merely increase the cost or difficulty of federal operations are not necessarily direct regulations, and a state has greater ability to regulate a contractor of the federal government than to regulate the government itself. In *GEO Group v. Inslee*, the Ninth Circuit Court of Appeals upheld a Washington State law regulating health and safety at private detention facilities. The Court noted that Washington's law does not "require [Immigration and Customs Enforcement] to entirely transform its approach to detention in the state or else abandon its facilities."[6]

AB 1801 enters this legal landscape. The bill requires cities and counties to take additional steps before approving a private detention facility to be used for holding individuals for civil immigration custody. Although it could affect local approvals of private detention facilities, there is reason to believe that AB 1801 may withstand judicial scrutiny. First, AB 1801 builds off SB 29, which was upheld by the trial court as being constitutional before being overturned on

[4] *United States v. Washington*, 596 U.S. 832, 835, 142 S. Ct. 1976, 213 L. Ed. 2d 336 (2022)
[5] *GEO Group, Inc. v. Inslee*, 151 F.4th 1107 (9th Cir. 2025)
[6] *Ibid.*

other grounds. Second, AB 1801 avoids direct regulation of the federal government, in contrast to previous legislative efforts. In *GEO Group v. Newsom*, the Ninth Circuit struck down AB 32 (Bonta, 2019) because it directly prohibited the operation of private detention facilities statewide.[7] AB 1801, conversely, does not prohibit *operation* of detention facilities; the bill only restricts local government actions to approve *new* land uses or changes of use. Those facilities that are currently in operation in the state could continue in existence, and the federal government can continue to contract with those facilities. Additionally, AB 1801 regulates local land-use approvals, an area historically controlled by state and local governments. Courts apply a presumption against preempting a state law when a state regulates an area of historic state power.[8] Ultimately, the courts may decide if AB 1801's requirements can be enforced.

4. Charter city? The California Constitution allows cities that adopt charters to control their own "municipal affairs." In all other matters, charter cities must follow the general, statewide laws. Because the Constitution doesn't define "municipal affairs," the courts determine whether a topic is a municipal affair or whether it's an issue of statewide concern. AB 1801 doesn't say it applies to charter cities, so a charter city that establishes a different procedure for approving a private detention center wouldn't have to comply with the bill. The Committee may wish to consider amending AB 1801 to say that its statutory provisions apply to charter cities and includes a legislative finding that ensuring that public input on potential approvals of private detention centers is a matter of statewide concern.

5. Incoming! The Senate Rules Committee has ordered a double referral of AB 1801: first to the Committee on Judiciary, which approved AB 1801 at its June 9th meeting on a vote of 10-2, and second to the Committee on Local Government.

Assembly Actions

Assembly Judiciary Committee:	9-3
Assembly Floor:	54-17

Support and Opposition (6/26/26)

Support: The Immigrant Legal Resource Center (Sponsor)
ACLU California Action
All of US or None (HQ)
Buen Vecino
California Coalition for Women Prisoners
California Immigrant Policy Center
California Rural Legal Assistance Foundation, INC.
Center for Human Rights and Constitutional Law
Central American Resource Center of California (CARECEN-LA)
Centro Binacional Para El Desarrollo Indigena Oaxaqueño (CBDIO)
Chinese for Affirmative Action
Community Legal Services in East Palo Alto
Disability Rights California
Empowering Marginalized Asian Communities
Freedom for Immigrants

[7] *GEO Group, Inc. v. Newsom*, 50 F.4th 745 (9th Cir. 2022)
[8] *Ibid.*

Imperial Valley Equity & Justice Coalition
Indivisible CA Statestrong
Inland Coalition for Immigrant Justice
Inland Empire Immigrant Youth Collective
Jakara Movement
Justice2jobs Coalition
LA Defensa
Law Foundation of Silicon Valley
Legal Services for Prisoners With Children
Moreno Institute
New Light Wellness
Oakland Privacy
Orange County Equality Coalition
Orange County Justice Fund
Orange County Rapid Response Network
Pangea Legal Services
San Diego Immigrant Rights Consortium
Secure Justice
Services, Immigrant Rights and Education Network (SIREN)
Souls Offering Loving and Compassionate Ears Solace
South Bay People Power
Southeast Asia Resource Action Center
Western Center on Law & Poverty, INC.

Opposition: None Submitted

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