
THIRD READING

Bill No: SB 1367
Author: Cervantes (D)
Amended: 4/16/26
Vote: 21

SENATE LOCAL GOVERNMENT COMMITTEE: 5-2, 4/22/26
AYES: Durazo, Arreguín, Ashby, Cervantes, Laird
NOES: Choi, Seyarto

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Planning and zoning: detention facilities

SOURCE: Author

DIGEST: This bill prohibits cities and counties from approving new private detention facilities.

ANALYSIS:

Existing law:

- 1) Allows, under the California Constitution, 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.”
- 2) 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.
- 3) Requires cities’ and counties’ major land use decisions—including most zoning ordinances and other aspects of development permitting—to be consistent with their general plans.

- 4) 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 3228 (Bonta, Chapter 190, Statutes of 2020)).
- 5) 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 (AB 263 (Arambula, Chapter 294, Statutes of 2021)).
- 6) Authorizes a county or city health officer to investigate a private detention facility (SB 1132 (Durazo, Chapter 183, Statutes of 2024)).

This bill:

- 1) Prohibits, notwithstanding any other law, a city, including a charter city, or county from approving either:
 - a) A new land use in a manner that authorizes construction of a detention facility; or
 - b) A change of use that permits use of an existing building as a detention facility.
- 2) Defines detention facility to mean any structure, whether temporary or permanent, operated by a private entity on behalf of a governmental entity for the temporary holding of persons charged with a criminal offense or detained for civil or administrative purposes.
- 3) Contains a severability clause.

Comments

- 1) *Purpose of this bill.* According to the author, "SB 1367 will prohibit cities and counties from approving new land uses that would allow the construction of detention facilities or permit the conversion of existing buildings into such facilities. The goal of SB 1367 is to protect California residents from the rapid expansion of private detention facilities, particularly those not designed for long-term human habitation.

"Facilities that are unsuitable for holding people, whether for short or long periods, can strain local infrastructure and pose serious risks to the well-being of detainees. Many of these facilities lack essential features such as proper

ventilation, temperature control, sewage and waste management systems, and adequate access to clean water, among other critical deficiencies. These systems of detention which have existed for generations fundamentally transform into something even more sinister and more prone to abuse.”

- 2) *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.”¹ However, generally applicable laws may apply to the federal government, so long as those laws do not discriminate against or directly regulate it.² 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.”³

SB 1367 enters this legal landscape. This bill prohibits cities and counties from approving new land uses or changes of use for private detention facilities holding individuals for civil or criminal matters. Because immigration violations are generally civil offenses, this bill could restrict new construction of, or expansion of, privately-owned facilities that detain immigrants on behalf of the federal government. Currently, the federal government contracts with seven private detention facilities operating in California in four counties—San Bernardino County, Kern County, San Diego County, and Imperial County.

There is reason to believe that SB 1367 may withstand judicial scrutiny. First, SB 1367 treats all private entities operating detention facilities in California uniformly, regardless of whether they are used to detain individuals on behalf of local, state, and federal governments. Second, SB 1367 also 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.⁴ SB 1367, conversely, does not prohibit *operation* of detention

¹ *United States v. Washington*, 596 U.S. 832, 835, 142 S. Ct. 1976, 213 L. Ed. 2d 336 (2022)

² *GEO Group, Inc. v. Inslee*, 151 F.4th 1107 (9th Cir. 2025)

³ *Ibid.*

⁴ *GEO Group, Inc. v. Newsom*, 50 F.4th 745 (9th Cir. 2022)

facilities; this 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, SB 1367 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.⁵ Ultimately, the courts may decide if SB 1367 applies to private detention facilities used for immigration purposes.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

SUPPORT: (Verified 5/6/26)

ACLU California Action
Freedom for Immigrants
Inland Coalition for Immigrant Justice
Inland Empire Cultura Collective
Inland Valley Alliance for Environmental Justice
Pangea Legal Services
San Bernardino Community Service Center, INC.

OPPOSITION: (Verified 5/6/26)

Riverside County Sheriff's Office

Prepared by: Anton Favorini-Csorba / L. GOV. / (916) 651-4119
5/6/26 13:50:33

**** **END** ****

⁵ *Ibid.*