

SENATE THIRD READING
SB 1367 (Cervantes)
As Amended August 21, 2026
Majority vote

SUMMARY

Prohibits cities and counties from approving new private detention facilities or changes of use that permit use of an existing building as a detention facility. Requires, on or before July 1, 2027, cities and counties to adopt and amend a zoning ordinance to regulate detention facilities, as specified.

Major Provisions

- 1) Makes finding and declarations relating to the regulation of land use, including finding and declaring that regulation of detention facilities as a land use classification serves legitimate planning objective of statewide concern, independent of the government occupant or the legal status of any person detained within those facilities.
- 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) Prohibits, notwithstanding any other law, a city or county from approving either of the following:
 - a) A new land use in a manner that authorizes construction of a detention facility.
 - b) A change of use that permits use of an existing building as a detention facility.
- 4) Requires, on or before July 1, 2027, cities and counties to adopt or amend a zoning ordinance to regulate detention facilities as a separate institutional land use classification consistent with the following:
 - a) Prohibits a detention facility from being a principally permitted use in any zoning district.
 - b) Provides, notwithstanding 3), that a detention facility may only be considered pursuant to a discretionary conditional use permit expressly authorized by the jurisdiction's zoning ordinance.
 - c) Requires the reviewing authority to conduct at least one duly noticed public hearing prior to approving any entitlement for a detention facility.
- 5) Provides that the provisions of the bill are severable. If any provision of this bill or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.
- 6) Finds and declares that protecting California residents from the negative impacts of private detention centers is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this bill applies to all cities, including charter cities.

- 7) Provides that no reimbursement is required by the bill pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this bill, within the meaning of Section 17556 of the Government Code.

COMMENTS

- 1) *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.
- 2) *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 areas 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, Levy, 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.

- 3) *Previous Legislation on Private Detention Facilities in California.* The Legislature has enacted several laws in recent years related to the conditions of private detention facilities, including:
 - a) AB 32 (Bonta), Chapter 739, Statutes of 2019, prohibited the California Department of Corrections and Rehabilitation (CDCR) from entering into or renewing contracts with private for-profit prisons after January 1, 2020, and eliminated their use by January 1, 2028. Also prohibited the operation of a private detention facility within the state, except as specified

- b) AB 3228 (Bonta), Chapter 190, Statutes of 2020, required private detention facilities to comply with the detention standards of care and confinement agreed upon in the facility's contract for operations. AB 3228 also established a civil cause of action against private detention facilities that violate the requirement to comply with the detention standards of care and confinement.
 - c) AB 263 (Arambula), Chapter 294, Statutes of 2021, required a private detention facility operator to comply with, and adhere to, all local and state public health orders and occupational safety and health regulations.
 - d) SB 1132 (Durazo), Chapter 183, Statutes of 2024, authorized a county or city health officer to investigate the health and sanitary conditions of a private detention facility. This is in addition to a health officer's authority to investigate a county jail, a publicly operated detention facility in the county, and a private work furlough facility.
- 4) *Prison Closures and Private Prison Contract Exits.* Since 2009, California has acted to close several prisons, ended operation in all out-of-state facilities, and exited all for-profit contract prisons. According to the CDCR the state ended its contract with out-of-state facilities by June 2019 to reduce the state's reliance on out-of-state and private prisons. Since 2019, CDCR reports that it has exited all for-profit contract prisons and public-private contract facilities to phase out private prisons in California.

California outlined plans to close two prisons and multiple under-capacity conservation fire camps in the 2021 budget. In 2024, as outlined in the 2022-23 budget, CDCR closed Chuckawalla Valley State Prison, ceased operations of the California City Correction Facility under lease with CoreCivic, and deactivated some facilities within six prisons. As part of the 2025–26 State Budget, CDCR and the California Correctional Health Care Services will close the California Rehabilitation Center by fall of 2026.

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."

Arguments in Support

ACLU California Action writes in support of this bill, "SB 1367 would prohibit cities and counties from approving new land for the construction of detention facilities and prohibit changing existing buildings into detention facilities. These facilities have proven to be unnecessary and extremely harmful, even deadly environments, to those individuals who are detained. These facilities are a clear violation of human rights. Abuse runs rampant as detainees lack access to proper medical care, must endure unsanitary conditions, and even face retaliation when advocating for themselves. Since 2021, the ACLU of Northern California ("ACLU"), CCIJ, and other local partners have filed multiple complaints with the OCRCL on behalf of

detained people, documenting mistreatment of people detained at Mesa Verde Detention Facility and Golden State Annex in Kern County. In many circumstances, these complaints are met with a resistance to reform from ICE. While ICE also argues that these detention facilities are necessary to ensure detainees aren't fleeing and present for their proceedings, the data indicates otherwise. In fact, out of the detainees who obtained lawyers, 96 percent of them attend all of their court hearings. "Immigration detention is not safe. The ACLU continues to see the system as unnecessary and a clear human rights violation. The system must be dismantled, and SB 1367 is a step in the right direction."

Arguments in Opposition

The Riverside County Sheriff's Office writes in opposition, "SB 1367 undermines local control over public safety infrastructure. Riverside County is one of the largest geographic counties in California, with unique operational demands driven by population growth, regional geography, and custody needs. Decisions regarding the placement, expansion, or modification of detention facilities require direct coordination with local law enforcement, county planning authorities, and community stakeholders. Removing the county's ability to approve or adapt facilities based on local conditions will hinder the Sheriff's Office's ability to safely and effectively manage its custodial responsibilities."

FISCAL COMMENTS

According to the Assembly Appropriations Committee:

"No state costs. Potential one-time costs to cities and counties of an unknown but likely minor amount to revise policies and procedures to prohibit new or changed land uses that allow for a new private detention facility. These costs, if any, are not reimbursable by the state because local agencies have general authority to charge and adjust planning and permitting fees to cover these activities."

VOTES

SENATE FLOOR: 29-8-3

YES: Allen, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Cortese, Durazo, Grayson, Hurtado, Laird, Limón, McGuire, McNerney, Menjivar, Padilla, Pérez, Reyes, Richardson, Rubio, Smallwood-Cuevas, Stern, Umberg, Wahab, Weber Pierson, Wiener

NO: Alvarado-Gil, Choi, Grove, Jones, Ochoa Bogh, Seyarto, Strickland, Valladares

ABS, ABST OR NV: Dahle, Gonzalez, Niello

ASM LOCAL GOVERNMENT: 8-2-0

YES: Carrillo, Pacheco, Ramos, Ransom, Blanca Rubio, Stefani, Ward, Wilson

NO: Ta, Johnson

ASM APPROPRIATIONS: 11-4-0

YES: Wicks, Arambula, Calderon, Caloza, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache

NO: Hoover, Dixon, Ta, Tangipa

UPDATED

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