Bill No:	SB 420	**Hearing Date:**	8/27/26
Author:	Padilla	**Tax Levy:**	No
Version:	7/1/26 Amended	**Fiscal:**	No
Consultant:	Grinnell		

PROPERTY TAX: WELFARE EXEMPTION: DETENTION FACILITIES

Disqualifies property, or any portion thereof, operated as a detention facility from eligibility for the welfare exemption from property tax.

Background

Welfare exemption. The California Constitution provides that all property is taxable and shall be assessed as a percentage of fair market value. Section 14 of Article XIII additionally requires that all property taxed by a local government be assessed in the county, city, and district in which it's situated. The Constitution also requires a five-member State Board of Equalization (BOE) comprised of four members elected by district and the State Controller to "measure county assessment levels annually and bring those levels into conformity by adjusting entire secured local assessment rolls" (Article XIII, Sections 17 and 18).

The Constitution allows the Legislature to exempt property used exclusively for charitable purposes, so long as it is owned by non-profit entities organized and operated for charitable purposes, such as universities, hospitals, and libraries. The Legislature enacted this exemption, which is commonly known as the "welfare exemption," with a similar policy rationale as tax-exempt status for charitable groups: revenues paid in tax to the government divert needed resources away from the organization's good works.

To qualify for the welfare exemption, the organization's primary purpose and operations must be either religious, hospital, scientific, or charitable activities. Whether its operations are for one of these purposes is determined by its activities. A qualifying organization's property may be exempted fully or partially from property taxes, depending on how much of the property is used for qualifying purposes and activities.

Joint Administration. To receive a welfare exemption, both the *organization* and the *use* of the property must be approved. Before 2004, BOE and county assessors both reviewed initial and ongoing welfare exemption claims, which the property owner initially submitted to the assessor, who then forwarded a copy to BOE. In that year, the Legislature simplified the process by bifurcating responsibilities, directing nonprofit organizations to first apply to BOE for an Organizational Clearance Certificate (OCC) using form BOE-277 and provide specified documentation. Once BOE certifies the OCC, the nonprofit files a claim for a welfare exemption with the county assessor using form BOE-267.

BOE's sole duty is to determine whether the *organization* is organized and operated exclusively for a qualified purpose. BOE staff must complete several tasks as part of this process:

- Verify that the Internal Revenue Service (IRS) or Franchise Tax Board has issued a valid charitable exemption from income taxes.
- Ensure that the articles of incorporation, or other documents, include acceptable irrevocable dedication and dissolution clauses.
- Determine that the organization is organized and operated exclusively for religious, hospital, scientific, or charitable purposes.
- Consider whether the organization's services and expenses are excessive, and whether the operations of the organization, whether directly or indirectly, materially enhance the private gain of any individual.

BOE must notify an applicant if it denies an OCC, which the applicant can appeal to the elected BOE. BOE can also revoke an OCC if it determines that the organization no longer qualifies for the exemption. BOE can audit an organization to determine whether it continues to qualify and also reviews assessors' administration of the exemption as part of its Assessment Practices Survey process.

Assessor review commences when a property owner files an initial claim, which property owners must file on or before February 15th to obtain a full exemption for that year. The assessor reviews the claim form and attached documents to ensure that the organization meets the requirements in the Revenue and Taxation Code (RTC). BOE advice states that the assessor must conduct a field inspection of the property to verify that the information on the claim form is accurate, and the property is *used* exclusively for religious, hospital, scientific, or charitable purposes and activities.

State law explicitly states that assessors can deny an exemption claim based on non-qualifying use of the property, even if BOE has issued an OCC. However, the assessor cannot grant a claim without a valid BOE-issued OCC. Other than property owner appeals, no process currently exists to challenge whether BOE validly issued an OCC or an assessor correctly approved a welfare exemption.

Imperial Regional Detention Facility. On May 13, 2026, KPBS published an extensive article documenting that the Imperial County Assessor had approved welfare exemption claims for the Imperial Regional Detention Facility, currently used as one of eight immigrant jails in California operated by the United States Immigration and Customs Enforcement (ICE).[1] The Brawley Community Foundation (Foundation), a nonprofit organization, owns the building, while the land beneath it is owned through its subsidiary, Imperial Valley Gateway LLC. The Assessor granted the exemption to Imperial Valley Gateway LLC since 2016, resulting in an estimated tax savings of around $6 million to date.

BOE initially deemed Imperial Valley Gateway's application for an OCC "incomplete" on May 20, 2014. Among other reasons, its response stated:

> *The LLC is formed for the specific and exclusive purpose as a correctional facility. This is the only activity proposed on the BOE-277-LLC claim form. Please be advised that according to Revenue & Taxation Code 214, the primary activity of the LLC does not qualify for the welfare exemption.*

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[1] Kori Suzuki "*California calls this company a charity. It's the landlord for an ICE detention center*." KPBS. May 13, 2026. https://www.kpbs.org/news/border-immigration/2026/05/13/california-calls-this-company-a-charity-its-the-landlord-for-an-ice-detention-center

Attorney with the Foundation's law firm, SheppardMullin, argued that a correctional facility should be considered "charitable" as it "lessens the burden of government," pointing to IRS rulings and memorandums that qualified organizations providing detention facilities for tax exemptions. These attorneys also identified the project's economic benefits to Imperial County, one of the state's most impoverished. On September 18, 2015, BOE issued the Foundation an OCC, determining that it met the qualifications in state law, stating:

> *[S]ince running a prison is "peculiarly within the province" of government, and Imperial's purpose is to run a prison for detainees under the jurisdiction of local, state, and federal entities, Imperial's activities aid in an undertaking that the government otherwise would be obligated to provide, and thereby lessens a burden of government. For that reason, we believe Imperial's purpose to acquire, construct and operate the Facility constitutes a charitable purpose within the meaning of [RTC] section 214, subdivision (a).*

With a valid OCC, the Imperial County Assessor approved the exemption claim. Both the Foundation and Imperial Valley Gateway LLC are currently on the active listing for OCC's on BOE's website.[2]

Immigration Enforcement. Beginning in January 2025, ICE launched an interior enforcement campaign with no parallel in recent history in both its scale and its tactics. According to the Brookings Institution, federal immigration policy previously worked through the criminal justice system and remained largely out of public view, and a person generally had to be arrested for something unrelated to their immigration status before ICE decided whether to begin removal proceedings.[3] Recently, however, agents conducted worksite raids, entered private homes, and made arrests outside schools, churches, and hospitals. Of the 115,000 arrests ICE made in the first half of 2025, 55,000 were at large, meaning they took place in the community, rather than in jails or detention facilities. Videos of these encounters spread widely on social media, and news coverage was extensive and sustained.

The Brookings report adds:

> *The consequences of arrest are serious and well-publicized. Detainees report overcrowded, freezing conditions. At least 46 people died in detention. ICE transferred individuals to a maximum-security prison in El Salvador and sent others to South Sudan. Family members have been unable to locate detained relatives. Though unauthorized immigrants were most at risk, legal status offered unreliable protection. ICE deported Kilmar Ábrego García despite a standing court order barring his removal, a case that drew national attention but was not isolated. Additionally, current policy creates a "chilling effect", whereby immigrant households, including those with legal status, withdrew from public life out of fear of interacting with government officials.*

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[2] https://boe.ca.gov/dataportal/dataset.htm?url=SupplementalClearanceCerts

[3] Marcela Escobari, Ian Seyel, and Paul Beach. "*Shock, awe, and economic fallout: The employment effects of ICE enforcement in US cities*." *Brookings*. May 29, 2026. https://www.brookings.edu/articles/ice-enforcement-employment-effects-us-cities/

Private prisons. The federal government contracts with private detention facilities throughout the country to house immigration detainees and federal criminal pretrial detainees. On May 15, 2026, Attorney General Rob Bonta released the Department of Justice (DOJ)'s fifth report on immigration detention facilities operating in California, where noncitizens are detained by ICE, pursuant to a requirement enacted by the Legislature (AB 103, Committee on Budget, 2017).

The DOJ report found that conditions in these facilities had largely worsened as the Trump Administration's mass deportation campaign led to overcrowding and strained resources, especially impacting access to medical care and conditions of confinement. Tragically, there were six deaths of detainees between September 2025 and March 2026 — the highest number since the DOJ started conducting reviews in 2017. These deaths, coupled with DOJ's findings of substandard conditions that fail to meet ICE's own detention standards, raise serious concerns about these facilities' ability to safely detain a growing detainee population and underscore the need for greater accountability and oversight.

The Imperial County Assessor considers the Imperial Valley Detention Facility qualified for use for charitable purposes, pointing to BOE's currently valid OCC, despite the current Presidential administration's immigration enforcement policy, which is far from the "obligatory undertaking" BOE approved.

Seeking to ensure that taxpayers do not subsidize private detention centers, the author wants to clarify that property used as a detention facility does not qualify for the welfare exemption.

Proposed Law

Senate Bill 420 disqualifies from eligibility for the welfare exemption property, or any portion thereof, operated as a detention facility. The bill defines "detention facility" by reference to Section 9500 of the Penal Code. The measure makes a legislative finding and declaration that it does not constitute a change in, but is declaratory of, existing law.

State Revenue Impact

According to BOE, SB 420 would result in an estimated annual revenue gain of approximately $721,000.

Comments

1. Purpose of the bill. According to the author, "Protecting the integrity of California's tax system requires ensuring that charitable tax exemptions truly serve the public good. A recent investigation found that the Brawley Community Foundation, a nonprofit in my district, avoided at least $6 million in property taxes by claiming the welfare exemption for a property tied to a for-profit ICE detention facility in Imperial County. Although structured as a nonprofit, the foundation's primary activity and revenue are connected to a privately operated detention center that has faced reports of poor conditions, inadequate medical care, and deaths in custody, when these funds could have been directed towards, schools, essential services, and community benefit. 420 closes this loophole by clarifying that properties connected to for-profit immigration detention operations are not eligible for the Welfare Exemption, ensuring taxpayers are not indirectly subsidizing private detention centers."

2. Pointing fingers. BOE issued Gateway LLC an OCC in 2015, which made it eligible to claim the welfare exemption with the Assessor, who granted it for every year since 2016. BOE has statutory authority to revoke Imperial Valley Gateway LLC's OCC if it finds it is no longer qualified, which would result in a revocation of its property tax exemption, an action which the property owners could appeal to the elected BOE. However, state law is clear that BOE only qualifies the organization's nonprofit status when issuing an OCC; should BOE deny or revoke an OCC, the applicant cannot claim an exemption for any property it owns in the state, regardless of its use. State law and BOE guidance direct the assessor to independently determine whether a property's use qualifies for the welfare exemption under state law; the Assessor could also revoke the exemption at any time, which the property owner could appeal to the Assessment Appeals Board or Superior Court. However, the Assessor reported at the BOE's June 22, 2026, hearing that staff was recently granted access to the Detention Center, who found that the facility was "clean and safe and well-maintained," and continued to qualify for the exemption as it was "being used as intended" in its OCC. The Assessor added that Imperial Valley Gateway LLC does pay some property tax because the entire parcel is not used as a detention facility. To the extent that neither BOE nor the Assessor change course, SB 420 would ensure that the welfare exemption would no longer apply to private prisons.

3. Privatization. The property tax does not apply to property owned by federal, state, or local authorities regardless of its use, with some exceptions. There seems no policy or public interest reason to exempt otherwise taxable property owned by private firms operating prisons that facilitate the current administration's immigration policy at the cost of property tax revenue which funds local public services. The private prison business model has grown significantly in recent years: private prison populations in the United States have grown by 1600 percent between 1990 and 2005 according to the Brennan Center for Justice.[4] NPR reported earlier this month that America's two largest private prison companies, CoreCivic and GEO Group, while not affected by this bill, are reporting a combined $1.4 billion in quarterly revenue over the spring as immigration detention closes in on record levels.[5] However, the NPR also stated that CoreCivic sold four of its facilities to the Department of Homeland Security. Should its owner sell the Imperial Valley Detention Facility to the federal government, it will again be exempt from taxation.

4. Related legislation. Earlier this year, the Committee approved:

- AB 1633 (Haney), currently pending on the Senate Floor, imposes an annual tax on "private detention facility operators" based on operator's gross income derived from the operation of each "private detention facility" in California.
- AB 2465 (Ortega), approved by both house of the Legislature this week, makes business entities with specified relationships to private prisons or immigration enforcement agencies ineligible for state-provided loans, grants, or tax credits.

5. 29.10(d). As introduced in February 2025, SB 420 regulated the use of "high-risk automated decision systems" including requirements on developers and deployers to perform impact assessments on their systems. On June 3, 2026, the author amended the bill to remove those contents and insert its current ones relating to the welfare exemption from property tax. Because

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[4] Brennan Center for Justice. *"Accountable Private Prisons."* https://www.brennancenter.org/topics/criminal-justice/changing-incentives/accountable-private-prisons

[5] Vanessa Romo, "*Private Prisons announce $1.4 billion in revenue as immigrant detentions climb.*" NPR. August 8, 2026. https://www.npr.org/2026/08/08/nx-s1-5923881/geo-group-corecivic-immigration-detention

this topic was never heard in the Senate, the Senate Rules Committee referred the amended bill under Senate Rule 29.10(d) to the Committee for a hearing on the Assembly's amendments. At its hearing, the Committee has four choices:

- Send the bill back to the Senate Floor, recommending concurrence;
- Send the bill back to the Senate Floor, recommending nonconcurrence;
- Send the bill back to the Senate Floor, without recommendation; or
- Hold the bill.

Assembly Actions

Assembly Revenue & Taxation Committee:	5-2
Assembly Appropriations Committee:	11-3
Assembly Floor:	62-10

Support and Opposition (8/26/26)

Support: California Assessors' Association
California Association of Nonprofits
California Community Foundation
California Immigrant Policy Center
California State Board of Equalization
Ella Baker Center for Human Rights
Immigrant Defenders Law Center
Immigrant Defense Advocates
Justice2Jobs Coalition
La Cooperativa Campesina de California
La Defensa
Los Amigos de la Comunidad, Inc.
Organización de Líderes Campesinas en California, Inc.
Riverside Sheriffs' Association
Rubicon Programs
Services, Immigrant Rights and Education Network

Opposition: None received.

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