

AMENDED IN SENATE JULY 1, 2014  
AMENDED IN ASSEMBLY MAY 23, 2014  
AMENDED IN ASSEMBLY APRIL 10, 2014  
AMENDED IN ASSEMBLY MARCH 27, 2014  
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2332**

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**Introduced by Assembly Member Wieckowski  
(Coauthors: Assembly Members Alejo, Bocanegra, Chau, Dickinson,  
Garcia, Muratsuchi, Rendon, Skinner, Stone, and Williams)**

February 21, 2014

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An act to add Section 71621 to the Government Code, relating to courts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2332, as amended, Wieckowski. Courts: personal services contracts.

The Trial Court Employment Protection and Governance Act establishes a trial court employee personnel system that provides authority to hire trial court personnel, regulates the classification and compensation of trial court employees, labor relations, and personnel files, and requires each trial court to establish a system of employment selection and advancement and an employment protection system.

Existing law authorizes state agencies to use personal services contracts to achieve cost savings if specified standards are satisfied, including, among other things, the contract does not cause the displacement of civil service employees and the contract is awarded through a publicized, competitive bidding process. The State Personnel

Board is required to review a proposed contract upon the request of an employee organization for compliance with those standards.

This bill would establish specified standards if a trial court intends to enter into ~~a new contract, or renew or extend an existing contract,~~ *contract* for any services that are currently or customarily performed by that trial court’s employees. Among other things, the bill would require the trial court to clearly demonstrate that the contract will result in actual overall cost savings to the trial court for the duration of the entire contract as compared with the trial court’s actual costs of providing the same services. ~~The bill would require a contract for services in excess of \$100,000 annually to include specific, measurable performance standards and provisions for audits on performance and cost savings, as specified.~~

This bill would provide that these standards apply to any contract entered into, ~~renewed, or extended~~ on or after January 1, 2015. The bill would provide that its provisions do not apply to a contract under specified circumstances, including when services are incidental to a contract for the purchase or lease of real or personal property.

This bill would require each trial court to provide a report by February 1, 2015, to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the Senate Judiciary Committee and the Assembly Judiciary Committee if the trial court entered into a contract between July 1, 2014, and December 31, 2014, inclusive, for services that were provided or are customarily provided by its trial court employees if the contract has a term extending beyond March 31, 2015. This report would be required to include specified information relating to these contracts, including an analysis of whether the contract resulted in the displacement of trial court employees.

The bill would provide that its provisions are severable.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 71621 is added to the Government Code,
- 2 to read:
- 3 71621. (a) If a trial court intends to enter into ~~a new contract,~~
- 4 ~~or renew or extend an existing contract,~~ *contract* for any services
- 5 that are currently or customarily performed by that trial court’s
- 6 employees, all of the following requirements shall apply:

1 (1) The trial court shall clearly demonstrate that the contract  
2 will result in actual overall cost savings to the trial court for the  
3 duration of the entire contract as compared with the trial court's  
4 actual costs of providing the same services. In comparing costs,  
5 all of the following shall occur:

6 (A) The trial court's additional cost of providing the same  
7 services as proposed by the contract shall be included. These  
8 additional costs shall include the salaries and benefits of additional  
9 staff that would be needed and the cost of additional space,  
10 equipment, and materials needed to perform the services.

11 (B) The trial court's indirect overhead costs shall not be included  
12 unless those costs can be attributed solely to the function in  
13 question and would not exist if that function was not performed  
14 by the trial court. For the purposes of this subparagraph, "indirect  
15 overhead costs" means the pro rata share of existing administrative  
16 salaries and benefits, rent, equipment costs, utilities, and materials.

17 (C) The cost of a contractor providing a service for any  
18 continuing trial court costs that would be directly associated with  
19 the contracted function shall be included. Continuing trial court  
20 costs shall include, but not be limited to, costs for inspection,  
21 supervision, and monitoring.

22 (2) The contract shall not be approved solely on the basis that  
23 savings will result from lower contractor pay rates or benefits.  
24 Contracts shall be eligible for approval if the contractor's wages  
25 are at the industry's level and do not undercut trial court pay rates.

26 (3) The contract shall not cause an existing trial court employee  
27 to incur a loss of his or her employment or employment seniority,  
28 a reduction in wages, benefits, or hours, or an involuntary transfer  
29 to a new location requiring a change in residence.

30 (4) The contract shall not be approved if, in light of the services  
31 provided by trial courts and the special nature of the judicial  
32 function, it would be inconsistent with the public interest to have  
33 the services covered by the contract performed by a private entity.

34 (5) The contract shall be awarded through a publicized,  
35 competitive bidding process.

36 (6) The contract shall include specific provisions pertaining to  
37 the qualifications of the staff that will perform the work under the  
38 contract, as well as assurances that the contractor's hiring practices  
39 meet applicable nondiscrimination standards.

1 (7) The contract shall provide that it may be terminated at any  
2 time by the trial court without penalty if there is a material breach  
3 of the contract and notice is provided within 30 days of termination.

4 ~~(8) If the contract is for services in excess of one hundred  
5 thousand dollars (\$100,000) annually, all of the following shall  
6 occur:~~

7 ~~(A) The trial court shall require the contractor to disclose all of  
8 the following information as part of its bid, application, or answer  
9 to a request for proposal:~~

10 ~~(i) A description of all charges, claims, or complaints filed  
11 against the contractor with a federal, state, or local administrative  
12 agency during the prior 10 years.~~

13 ~~(ii) A description of all civil complaints filed against the  
14 contractor in a state or federal court during the prior 10 years.~~

15 ~~(iii) A description of all state or federal criminal complaints or  
16 indictments filed against the contractor, or any of its officers,  
17 directors, or managers, at any time.~~

18 ~~(iv) A description of any debarments of the contractor by a  
19 public agency or licensing body at any time.~~

20 ~~(B) The trial court shall include in the contract specific,  
21 measurable performance standards and provisions for a  
22 performance audit by the trial court, or an independent auditor  
23 approved by the trial court, to determine whether the performance  
24 standards are being met and whether the contractor is in compliance  
25 with applicable laws and regulations. The audit shall be made  
26 available to the public upon request within 10 calendar days from  
27 receipt of the request. A charge per page, per copy, may be charged  
28 representing the direct costs of equipment, supplies, and staff  
29 required to duplicate or produce the requested audit. The trial court  
30 shall not renew or extend the contract prior to receiving and  
31 considering the audit report.~~

32 ~~(C) The contract shall include provisions for an audit by the  
33 trial court, or an independent auditor approved by the trial court,  
34 to determine whether and to what extent the anticipated cost  
35 savings have actually been realized. The audit shall be made  
36 available to the public upon request within 10 calendar days from  
37 receipt of the request. A charge per page, per copy, may be charged  
38 representing the direct costs of equipment, supplies, and staff  
39 required to duplicate or produce the requested audit. The trial court~~

1 ~~shall not renew or extend the contract before receiving and~~  
2 ~~considering the audit report.~~

3 (9)

4 (8) The term of the contract shall not be more than five years  
5 from the date on which the trial court approves the contract.

6 (b) This section does not preclude a trial court or the Judicial  
7 Council from adopting more restrictive rules regarding the  
8 contracting of court services.

9 (c) This section does not apply to a contract in any of the  
10 following circumstances:

11 (1) The contract is between a trial court and another trial court  
12 or a local government entity for services to be performed by  
13 employees of the other trial court or employees of the local  
14 government entity.

15 (2) The contract is for a new trial court function and the  
16 Legislature has specifically mandated or authorized the  
17 performance of the services by independent contractors.

18 (3) The services contracted for are of such a highly specialized  
19 or technical nature that the necessary expert knowledge, experience,  
20 and ability cannot be obtained from the court's trial court  
21 employees.

22 (4) The services are incidental to a contract for the purchase or  
23 lease of real or personal property. Contracts described in this  
24 paragraph, known as "service agreements," shall include, but not  
25 be limited to, agreements to service or maintain office equipment  
26 or computers that are leased or rented. Contracts described in this  
27 paragraph shall not include agreements to operate equipment or  
28 computers, except as necessary to service or maintain that  
29 equipment.

30 (5) The legislative, administrative, or legal goals and purposes  
31 cannot be accomplished through the utilization of trial court  
32 employees because of the need to protect against a conflict of  
33 interest or to ensure independent and unbiased findings in situations  
34 where there is a clear need for an independent, outside perspective.

35 (6) Due to an emergency, a contract is necessary for the  
36 immediate preservation of the public health, welfare, or safety.

37 (7) The contractor will conduct training courses for which  
38 appropriately qualified trial court employee instructors are not  
39 available from the court, provided that permanent instructor

1 positions shall be filled through the process for hiring trial court  
2 employees.

3 (8) The services are of such an urgent, temporary, or occasional  
4 nature that the delay incumbent in their implementation through  
5 the process for hiring trial court employees would frustrate their  
6 very purpose. This paragraph shall not apply to the services of  
7 official court reporters, except individual official reporters pro  
8 tempore may be used by a trial court when the criteria of this  
9 paragraph are met.

10 (9) The contract is a personal services contract developed  
11 pursuant to rehabilitation programs in accordance with Sections  
12 19403 and 19404 of the Welfare and Institutions Code, pursuant  
13 to habilitation programs in accordance with Chapter 13  
14 (commencing with Section 4850) of Division 4.5 of the Welfare  
15 and Institutions Code, or pursuant to a program vendored or  
16 contracted through a regional center or the State Department of  
17 Developmental Services in accordance with the Lanterman  
18 Developmental Disabilities Services Act (Division 4.5  
19 (commencing with Section 4500) of the Welfare and Institutions  
20 Code), and the contract will not cause an existing trial court  
21 employee to incur a loss of his or her employment or employment  
22 seniority; a reduction in wages, benefits, or hours; or an involuntary  
23 transfer to a new location requiring a change in residence.

24 (10) The contract is for the services of any court interpreter.  
25 Contracts for the services of any court interpreter, and restrictions  
26 on contracting out interpreter services, shall be governed by the  
27 Trial Court Interpreter Employment and Labor Relations Act  
28 (Chapter 7.5 (commencing with Section 71800)) and any  
29 memorandum of understanding or agreement entered into pursuant  
30 to that act, or by the other provisions of this chapter, the Trial Court  
31 Employment Protection and Governance Act, and any  
32 memorandum of understanding or agreement entered into pursuant  
33 to that act, as applicable.

34 SEC. 2. Section 71621 of the Government Code, as added by  
35 Section 1 of this act, shall apply to any contract entered into;  
36 ~~renewed, or extended~~ on or after January 1, 2015.

37 SEC. 3. (a) Each trial court shall provide a report by no later  
38 than February 1, 2015, to the chairperson of the Joint Legislative  
39 Budget Committee and the chairpersons of the Senate Judiciary  
40 Committee and Assembly Judiciary Committee if the trial court

1 entered into a contract between July 1, 2014, and December 31,  
2 2014, inclusive, for services that were provided or are customarily  
3 provided by its trial court employees and that contract has a term  
4 extending beyond March 31, 2015. The report shall provide all of  
5 the following information for each of these contracts:

6 (1) A copy of the contract.

7 (2) An analysis of whether the contract would have been  
8 permissible under the standards set forth in Section 71621 of the  
9 Government Code, as added by Section 1 of this act.

10 (3) An analysis of whether the contract resulted in the  
11 displacement of trial court employees.

12 (4) An analysis of whether the contract involves the use of  
13 contractors to perform the type of services that were customarily  
14 performed by trial court employees.

15 (b) It is the intent of the Legislature to consider the reduction  
16 of future budget appropriations to each trial court by the amount  
17 of any contract analyzed pursuant to subdivision (a) if the  
18 Legislature concludes that the contract would not have been  
19 permissible under the standards provided in Section 71621 of the  
20 Government Code, as added by Section 1 of this act.

21 SEC. 4. The provisions of this act are severable. If any  
22 provision of this act or its application is held invalid, that invalidity  
23 shall not affect other provisions or applications that can be given  
24 effect without the invalid provision or application.