



TO: Nick Chiulos, Assistant County Administrative Officer

FROM: Jennifer Capitolo, Senior Policy Advisor
Ashley Waiker, Policy Advisor

DATE: September 13, 2017

RE: AB 1250 (Jones-Sawyer): Background Information

Background:

Bill Sponsors:

- American Federation of State, County and Municipal Employees, AFL-CIO
- California State Council of the Service Employees International Union

Arguments in support: According to the author, *“Current law authorizes county outsourcing when contracting out for ‘special services,’ such as: financial and accounting, engineering, legal, medical, architectural, therapeutic, airport or building security matters, and laundry services. A county may also outsource maintenance or custodial services if the site is remote from available county employee resources. In recent years, some cities and counties have sought to outsource critical public services under the guise of saving money. There have been many well-documented instances of how short-sighted decisions to outsource have had negative impacts on taxpayers. While cheaper services and employee layoffs may appear to save dollars in the short term, the savings are often illusory with hidden costs that are not accounted for and diminished services or contractor failures that require cities and counties to ultimately re-hire and/or re-train staff to provide the outsourced service. In many sectors of government, California requires that due diligence standards be satisfied prior to outsourcing public services. Under current law for instance, state agencies are required to show how outsourcing will achieve savings, not cause the displacement of civil service employees and ensure that contracts are awarded through a publicized competitive bidding process. Cities and counties are currently exempt from these types of accountability measures. Given the scarcity of tax dollars and the right of the public to demand and receive quality public services, cities and counties should be held to meaningful standards of due diligence.”*

Labor organizations worry that current contracting rules allow local officials to misuse and waste taxpayer dollars. They state contracting for services has resulted in losses of efficiency and wasted public money. To improve accountability, the Service Employees International Union and the American Federation of State, County, and Municipal Employees want to extend contracting standards to counties that are similar to those that apply to state departments, schools, community colleges, and county free libraries.

List of supporting organizations (most recent as of June 30 committee analysis): American Federation of State, County and Municipal Employees, AFL-CIO (Sponsor); California State Council of the Service Employees International Union (Sponsor); Association for Los Angeles Deputy Sheriffs; California Association of Professional Employees; California Compost Coalition; California Labor Federation; California Professional Firefighters; California School Employees Association; California Teachers Association; California Teamster Public Affairs Council; International Longshore and Warehouse Union; International Union of Operating Engineers; Los Angeles County Probation Officers Union; LIUNA, Locals 777 & 792; Orange County Employees Association; Professional and Technical Engineers, Local 21; San Diego County Court Employees Association; San Luis Obispo County Employees Association; State Building and Construction Trades Council; The Los Angeles County Professional Peace Officers Association; The Organization of SMUD Employees; UNITE; Utility Workers Union of America.

Arguments in opposition: According to the coalition opposing the bill, they claim “*AB 1250 would impose a de facto prohibition on counties’ ability to contract with nonprofits, licensed experts and community businesses to deliver vital local services. AB 1250 is a transparent political power grab that will jeopardize local services for California’s most vulnerable people and increase costs for taxpayers.*”

Prohibition of contracting for county services will jeopardize health care, social services, mental health and public safety services for our most vulnerable. AB 1250 imposes significant new restrictions and layers of bureaucracy designed to stop counties from contracting with nonprofits, licensed professionals and other providers for local services. Restricting counties’ ability to contract for the expertise and the most efficient delivery of services would result in decreased quality and access to services or even the elimination of some services for our most vulnerable, such as:

- *Safe havens and counseling for children who are victims of sex trafficking*
- *Counseling and support for victims of domestic violence*
- *Medical care and case management for children with special health care needs*
- *9-1-1 and emergency dispatch*
- *Homeless outreach and case management emergency shelters, warming and cooling shelters*
- *Foster care and adoption services*
- *Behavioral health services*
- *Timely emergency and disaster response*
- *Medical care at county safety-net hospitals and clinics*
- *Job-training and employment support for the unemployed*
- *Immigration legal support services*
- *Health care, job training and rehabilitation for county inmates and probation*
- *Private ambulance services*
- *Sober living and rehabilitation services*

AB 1250 Will Increase Costs for Taxpayers and Reduce Funding for Local Services. Restricting counties' ability to provide services in the most cost-effective manner will increase costs for taxpayers and reduce funding available for other local services. AB 1250 also imposes significant new bureaucratic requirements on contractors and counties, which will further divert resources away from the delivery of vital local services.

AB 1250 is a Transparent Political Power Play... at the Expense of our Most Vulnerable. There is no legitimate policy problem that AB 1250 seeks to address. This is a pure political power play at the expense of vital services for our most vulnerable. For instance, AB 1250 requires that private nonprofits and businesses publicly release the names, information and salary data of all private employees providing contracting services (raising significant privacy concerns). Furthermore, the bill now only applies to counties – other local governments were amended out to secure passage in the Assembly. It's clear AB 1250 is about brazen politics at the expense of good policy and services for our most vulnerable."

List of opposing organizations: 52 of 58 California Counties have taken an oppose position on AB 1250 and it is a priority bill which the California State Association of Counties (CSAC) is opposing. Full list of opposing organizations attached.

Attachments:

- AB 1250 language as of September 12.
- List of opposing organizations
- Department of Finance report
- Senate Committee on Appropriations analysis (most recent Committee analysis as of September 12)

Next Steps:

The final day of the Legislative Session is on Friday, September 15. Should the County wish to take a position on the bill, the County would submit a position letter to the Governor's office. The Governor has 30 days, or until October 15, to take action on all bills. The County should submit a position letter as quickly after Session as possible.

AMENDED IN SENATE SEPTEMBER 5, 2017

AMENDED IN SENATE JUNE 21, 2017

AMENDED IN ASSEMBLY MAY 30, 2017

AMENDED IN ASSEMBLY MAY 30, 2017

AMENDED IN ASSEMBLY APRIL 25, 2017

AMENDED IN ASSEMBLY APRIL 17, 2017

AMENDED IN ASSEMBLY APRIL 4, 2017

california legislature—2017–18 regular session

ASSEMBLY BILL

No. 1250

**Introduced by Assembly Member Jones-Sawyer
(Coauthors: Assembly Members Bonta and Gonzalez Fletcher)**

February 17, 2017

An act to add Section 31000.10 to the Government Code, relating to local government.

legislative counsel's digest

AB 1250, as amended, Jones-Sawyer. Counties: contracts for personal services.

Existing law authorizes the board of supervisors of a county to contract for special services on behalf of various public entities with persons who are specially trained, experienced, expert, and competent to perform the special services, as prescribed. These services include financial, economic, accounting, engineering, legal, and other specified services.

This bill would establish specific standards for the use of personal services contracts by counties. ~~Beginning January 1, 2018, the~~ *The* bill

would allow a county or county agency to contract for personal services currently or customarily performed by employees, as applicable, when specified conditions are met. Among other things, the bill would require the county to clearly demonstrate that the proposed contract will result in actual overall costs savings to the county and also to show that the contract does not cause the displacement of county workers. ~~The bill would require a contract entered into under these provisions to specify that it may be terminated upon material breach, if notice is provided, as specified. Additionally, the bill would require the county to conduct an audit of contracts for personal services in excess of \$100,000 annually to determine whether cost savings have been realized and would require the contractor to reimburse the county for the cost of the audit. The bill also would impose additional disclosure requirements for contracts exceeding \$100,000 annually.~~ The bill would exempt certain types of contracts from its provisions, and would exempt a city and county from its provisions. By placing new duties on local government agencies, the bill would impose a state-mandated local program.

The bill also would provide that its provisions are severable.

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

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

SECTION 1. Section 31000.10 is added to the Government Code, to read:

31000.10. The purpose of this section is to establish standards for the use of personal services contracts by counties.

(a) If otherwise permitted by law, a county or county agency may contract for personal services currently or customarily performed by that county's employees when all the following conditions are met:

(1) The board of supervisors or county agency clearly demonstrates that the proposed contract will result in actual overall cost savings to the county for the duration of the entire contract as compared with the county's actual costs of providing the same services, provided that:

(A) In comparing costs, there shall be included the county's additional cost of providing the same service as proposed by a contractor. These additional costs shall include the salaries and benefits of additional staff that would be needed and the cost of additional space, equipment, and materials needed to perform the function.

(B) In comparing costs, there shall not be included the county's indirect overhead costs unless these costs can be attributed solely to the function in question and would not exist if that function was not performed in county service. Indirect overhead costs shall mean the pro rata share of existing administrative salaries and benefits, rent, equipment costs, utilities, and materials.

(C) In comparing costs, there shall be included in the cost of a contractor providing a service any continuing county costs that would be directly associated with the contracted function. These continuing county costs shall include, but not be limited to, those for inspection, supervision, and monitoring.

(2) Proposals to contract out work shall not be approved solely on the basis that savings will result from lower contractor pay rates or benefits. Proposals to contract out work shall be eligible for approval if the contractor's wages are at the industry's level and do not significantly undercut county pay rates.

(3) The contract does not cause the displacement of county employees. "Displacement" includes layoff, demotion, involuntary transfer to a new class, involuntary transfer to a new location

1 requiring a change of residence, and time base reductions.
2 “Displacement” does not include changes in shifts or days off or
3 reassignment to other positions within the same class and general
4 location.

5 (4) The contract does not cause vacant positions in county
6 employment to remain ~~unfilled~~. *unfilled for positions in which*
7 *employees perform the same services.*

8 (5) The contract does not adversely affect any of the county’s
9 nondiscrimination, affirmative action efforts.

10 ~~(6) The savings shall be large enough to ensure that they will~~
11 ~~not be eliminated by private sector and county cost fluctuations~~
12 ~~that could normally be expected during the contracting period.~~

13 ~~(7)~~

14 (6) The amount of savings clearly justifies the size and duration
15 of the contracting agreement.

16 ~~(8)~~

17 (7) The contract is awarded through a publicized, competitive
18 bidding process. The county shall reserve the right to reject any
19 and all bids or proposals.

20 ~~(9)~~

21 (8) The contract includes specific provisions pertaining to the
22 qualifications of the staff that will perform the work under the
23 contract, as well as assurance that the contractor’s hiring practices
24 meet any applicable nondiscrimination, affirmative action
25 standards.

26 ~~(10)~~

27 (9) The potential for future economic risk to the county from
28 potential contractor rate increases is minimal.

29 ~~(11)~~

30 (10) The contract is with a firm. “Firm” means a corporation,
31 *limited liability company*, partnership, nonprofit organization, or
32 sole proprietorship.

33 ~~(12) The potential economic advantage of contracting is not~~
34 ~~outweighed by the public’s interest in having a particular function~~
35 ~~performed directly by county government.~~

36 (13) The contract shall provide that it may be terminated at any
37 time by the county without penalty if there is a material breach of
38 the contract and notice is provided at least 30 days before
39 termination.

1 ~~(14) If the contract is for personal services in excess of one~~
2 ~~hundred thousand dollars (\$100,000) annually, all of the following~~
3 ~~shall occur:~~

4 ~~(A) The county shall require the contractor to disclose all of the~~
5 ~~following information as part of its bid, application, or answer to~~
6 ~~a request for proposal:~~

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

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

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

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

17 ~~(v) The total compensation, including salaries and benefits, the~~
18 ~~contractor provides to workers performing work similar to that to~~
19 ~~be provided under the contract.~~

20 ~~(vi) The total compensation, including salaries, benefits, options,~~
21 ~~and any other form of compensation, provided to the five highest~~
22 ~~compensated officers, directors, executives, or employees of the~~
23 ~~contractor.~~

24 ~~(vii) Any other information the county deems necessary to~~
25 ~~ensure compliance with this section.~~

26 ~~(B)~~

27 ~~(b) The contract shall provide that the county is entitled to~~
28 ~~receive a copy of any records related to the contractor's or any~~
29 ~~subcontractor's performance of the contract, and that, in addition~~
30 ~~to records specifically requested by the county, every month the~~
31 ~~contractor shall furnish the county with: (i) the names of any~~
32 ~~subcontractors providing services under the contract; (ii) the names~~
33 ~~of the employees of the contractor and any subcontractors~~
34 ~~providing services pursuant to the contract and their hourly rates;~~
35 ~~and (iii) the names of any workers providing services pursuant to~~
36 ~~the contract as independent contractors and the compensation rates~~
37 ~~for those workers. The contract shall provide that all records~~
38 ~~provided to the county by the contractor shall be subject to the~~
39 ~~California Public Records Act (Chapter 3.5 (commencing with~~
40 ~~Section 6250) of Division 7 of Title 1). In furtherance of this~~

1 subdivision, contractors and any subcontractors shall maintain
2 records related to performance of the contract that ordinarily would
3 be maintained by the county in performing the same functions.

4 ~~(C) The county shall include in the contract specific, measurable~~
5 ~~performance standards and provisions for a performance audit by~~
6 ~~the county, or an independent auditor approved by the county, to~~
7 ~~determine whether the performance standards are being met and~~
8 ~~whether the contractor is in compliance with applicable laws and~~
9 ~~regulations. The county shall not renew or extend the contract prior~~
10 ~~to receiving and considering the audit report.~~

11 ~~(D) The contract shall include provisions for an audit by the~~
12 ~~county, or an independent auditor approved by the county, to~~
13 ~~determine whether and to what extent the anticipated cost savings~~
14 ~~have actually been realized. The county shall not renew or extend~~
15 ~~the contract before receiving and considering the audit report. The~~
16 ~~contractor shall reimburse the county for the cost of the audit.~~
17 ~~Contractors shall be prohibited from factoring the costs of the audit~~
18 ~~into the contract costs with the county.~~

19 ~~(b) This section does not preclude a county from adopting more~~
20 ~~restrictive rules regarding the contracting of public services.~~

21 ~~(c) When otherwise permitted by law, the absence of any~~
22 ~~requirement of subdivision (a) shall not prevent personal services~~
23 ~~contracting shall also be permissible when any of the following~~
24 ~~conditions are met:~~

25 (1) The contract is for a new county function and the Legislature
26 has specifically mandated or authorized the performance of the
27 work by independent contractors.

28 (2) The contract is between the county and another government
29 entity for services to be performed by employees of the other
30 government entity. *An entity established pursuant to Section 9400*
31 *of the Welfare and Institutions Code shall be deemed a government*
32 *entity for purposes of this section when contracting with the county*
33 *to provide for the delivery of in-home supportive services pursuant*
34 *to Section 12301.6 of the Welfare and Institutions Code.*

35 (3) *The contract is between the county and a local health care*
36 *district, within the meaning of Section 32001 of the Health and*
37 *Safety Code, for services to be provided by the local health care*
38 *district.*

39 ~~(3)~~

1 (4) The services contracted cannot be performed satisfactorily
2 by county employees, or are of such a highly specialized or
3 technical nature that the necessary expert knowledge, experience,
4 *workforce sufficiency*, and ability are not available among county
5 employees.

6 ~~(4)~~

7 (5) The services are incidental to a contract for the purchase or
8 lease of real or personal property. Contracts under this criterion,
9 known as “service agreements,” shall include, but not be limited
10 to, agreements to service or maintain office equipment or
11 computers that are leased or rented.

12 ~~(5)~~

13 (6) The legislative, administrative, or legal goals and purposes
14 cannot be accomplished through the utilization of county
15 employees. Contracts are permissible under this criterion to protect
16 against a conflict of interest or to ensure independent and unbiased
17 findings in cases where there is a clear need for a different, outside
18 perspective. These contracts shall include, but not be limited to,
19 obtaining expert witnesses in litigation.

20 (7) *A contract paid exclusively with taxes, assessments, fees, or*
21 *charges imposed or levied by a county solely for the county’s*
22 *purposes.*

23 ~~(6)~~

24 (8) The nature of the work is such that the standards of this part
25 for emergency appointments apply. These contracts shall conform
26 with Section 31000.4.

27 ~~(7)~~

28 (9) Public entities or officials need private counsel because a
29 conflict of interest on the part of the county counsel’s office
30 prevents it from representing the public entity or official without
31 compromising its position. These contracts shall require the written
32 consent of the county counsel.

33 ~~(8)~~

34 (10) The contractor will provide legal services to the county
35 solely on a contingency fee or hourly basis.

36 ~~(9)~~

37 (11) The contractor will provide equipment, materials, facilities,
38 or support services that could not feasibly be provided by the
39 county in the location where the services are to be performed.

40 ~~(10)~~

1 (12) The contractor will conduct training courses for which
2 appropriately qualified county employee instructors are not
3 available, provided that permanent instructor positions in academies
4 or similar settings shall be filled by county employees.

5 ~~(11)~~

6 (13) The services are of such an urgent, temporary, or occasional
7 nature that the delay incumbent in their implementation by county
8 employees would frustrate their very purpose.

9 (d) This section shall apply to all counties, including counties
10 that have adopted a merit or civil service system, but shall not
11 apply to a city and county.

12 (e) This section does not apply to any of the following contracts:

13 (1) A contract for services described in Section 4525 or 4529.10.

14 (2) A contract for construction, alteration, demolition,
15 installation, repair, or maintenance work that is subject to Chapter
16 1 (commencing with Section 1720) of Part 7 of Division 2 of the
17 Labor-Code. *Code or a contract for highly specialized data,*
18 *software, or services related to that construction, alteration,*
19 *demolition, installation, repair, or maintenance work.*

20 (3) A contract for public transit services, including paratransit
21 services, if the county's transit services are fully funded by Federal
22 Transit Administration assistance and the county is thereby subject
23 to the guidelines established in FTA Circular 4220.1F or any
24 subsequent guidelines or revisions issued by the Federal Transit
25 Administration.

26 (4) A contract for street sweeping services.

27 (5) A contract for solid waste handling services authorized by
28 or made pursuant to Section 40059 of the Public Resources Code.
29 As used in this paragraph, "solid waste handling services" means
30 the collection, transportation, storage, transfer, conversion,
31 processing, recycling, composting, or disposal of solid wastes.

32 (6) *Any contract, regardless of funding source, with a contractor*
33 *that provides health services to any department, agency, unit, or*
34 *other component of a county's integrated health and hospital*
35 *system, including, but not limited to, hospitals and clinics, public*
36 *health, health plans, substance abuse treatment, emergency medical*
37 *services, or behavioral and mental health. This paragraph shall*
38 *broadly apply to those contractors, including contracts with those*
39 *contractors for other services by departments, agencies, units, or*
40 *components separate from a county's integrated health and*

hospital system. This paragraph shall only apply to a county that, on July 1, 2017, operated a health plan as part of the Covered California exchange established pursuant to Title 22 (commencing with Section 100500). This paragraph shall not apply to contracts that would cause the displacement of county employee or loss of county employee positions. For the purposes of this paragraph, "displacement" shall have the same meaning as in paragraph (3) of subdivision (a).

(f) This section shall not be construed to authorize or otherwise permit the contracting out of fire protection services, other than the contracts between public agencies that are explicitly authorized by Chapter 4 (commencing with Section 55600) of Part 2 of Division 2 of Title 5 of this code or by Article 4 (commencing with Section 4141) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code.

~~(g) This section shall apply to contracts for personal services currently or customarily performed by the employees of a county entered into, renewed, or extended on or after January 1, 2018.~~

SEC. 2. The provisions of this act are severable. If any provision of this act 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.

~~SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.~~

SEC. 3. To the extent that this act has an overall effect of increasing certain costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation within the meaning of Section 36 of Article XIII of the California Constitution, it shall apply to local agencies only to the extent that the state provides annual funding for the cost increase. Any new program or higher level of service provided by a local agency pursuant to this act above the level for which funding has been provided shall not require a subvention of funds by the state or otherwise be subject to Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement

- 1 *to local agencies and school districts for those costs shall be made*
- 2 *pursuant to Part 7 (commencing with Section 17500) of Division*
- 3 *4 of Title 2 of the Government Code.*

O



**Stop Attack on Services
for the Vulnerable**

We Oppose AB 1250

(8/28/17)

Health and Human Services

Association of Community Human Service Agencies

California Council of Community Behavioral Health Agencies

California Hospital Association

California Association of Alcohol and Drug Program Executives, Inc. (CAADPE)

California Association of Social Rehabilitation Agencies

California Association of Public Hospitals and Health Systems

California Disability Services Association

County Behavioral Health Directors Association of California

County Health Executives Association of California

County of Los Angeles Workforce Development, Aging and Community Services

County Welfare Directors Association of California

1736 Family Crisis Center

ACT for Mental Health and Wellness Advent Group Ministries

Alameda Council of Community Mental Health Agencies

Alcott Center for Mental Health Services

Alma Family Services

Amanecer Community Counseling Services

American Association for Marriage & Family Therapy CA Division

Health and Human Services (continued)

Anka Behavioral Health

Asian Americans for Community Involvement

Behavioral Health Contractors' Association (BHCA) of Santa Clara County

Bonita House, Inc.

Buckelew Programs

Caminar for Mental Health

Center for Human Development

Community Clinic Consortium

Community Family Guidance Center

Community Solutions

Contra Costa Crisis Center

Contra Costa Health Services

County of Glenn Health & Human Services Agency

Crisis Support Services of Alameda County

Didi Hirsch Mental Health Services

Eisner Pediatric & Family Medical Center

Empower Yolo

Extraordinary Families

Exodus Foundation

Family & Children Services of Silicon Valley

Families Uniting Families

Foothill Family Service

Fresno American Indian Health Project

Gardner Family Health Network and Gardner Family Care

HeathRIGHT 360

Health and Human Services (continued)

Henrietta Weill Memorial Child Guidance Clinic
Hillview Mental Health Center, Inc.
Human Services Alliance of Contra Costa County
Porita Bell Hume Behavioral Health & Rehabilitation Center
Providence Saint John's Child and Family Development Center
Independent Living Center of Kern County
Kedren Community Mental Health Center, Inc.
Kern County Behavioral Health & Recovery Services
Kings View
Koreatown Youth & Community Center
La Clínica de La Raza
Los Angeles LGBT Center
Maxim Healthcare Group
Masada Homes and Foster Family Services
Marjaree Mason Center
Mental Health America of Los Angeles
Mental Health Systems, inc
Mental Wellness Center
Momentum for Mental Health
Pacific Clinics
Pathway Society Inc.
Peninsula HealthCare Connection
Putnam Clubhouse
Prototypes
San Fernando Valley Community Mental Health Center, Inc.
San Francisco Human Services Network
Shasta Community Health Center
Silicon Valley Independent Living Center

Health and Human Services (continued)

South Coast Community Services
Southern California Health & Rehabilitation Program
SPIRITT Family Services
Star View Children & Family Services
Tarzana Treatment Centers
Tehama County Department of Social Services
Telecare Corporation
Turning Point Community Programs
Ujima Adult and Family Services
VIP Community Mental Health Center, Inc.
West End Family Counseling Services
Yolo Community Care Continuum

Public Safety

California District Attorneys Association
California State Sheriffs' Association
Chief Probation Officers of California
LA County Probation Department
Monterey County Sheriff's Office

Nonprofit Organizations

California Court Appointed Special Advocates Association
California Foundation for Independent Living Centers
California Library Association
California Partnership to End Domestic Violence
California State Alliance of YMCAs
California Workforce Association (CWA)
Abode Services
Advent Group Ministries
Almanson Center
Alum Rock Counseling Center (ARCCC)
Asian Law Alliance

Nonprofit Organizations (continued)

Behavioral Health Services, Inc.
BRIDGES, Inc.
Catholic Charities of California United
Catholic Charities of Santa Clara County
Catholic Charities of Stockton
Centro La Familia Advocacy Services
Children's Hospital Los Angeles
Clinica Sierra Vista
Community Health Partnership (CHP)
ConXion to Community
Community Recovery Resources (CoRR)
Davis Community Meals & Housing
Enki Health and Research Systems, Inc.
Family Services of Tulare County
Felton Institute
Fresno County Economic Development Corporation
Gateways Hospital & Mental Health Center
Goodwill of Silicon Valley
Greater Antelope Valley Economic Alliance
Hiland and Associates
Hispanic Foundation of Silicon Valley
Homes for Life Foundation
Institute for Multicultural Counseling & Education Services, Inc. (I.M.C.E.S.)
International Children Assistance Networks (ICAN)
Jewish Family and Community Services of the East Bay
Jewish Family Service of Los Angeles
Jewish Family Services of Silicon Valley
Journey Out
Law Foundation of Silicon Valley
Local Government Commission
Los Angeles County Economic Development Corporation

Nonprofit Organizations (continued)

National Council on Alcoholism and Drug Dependence, Tulare County, Inc. (NCADD)
Next Door Solutions to Domestic Violence
Operation SafeHouse
Parisi House on the Hill
Peace-It-Together Counseling Agency
Personal Involvement Center, Inc.
Portuguese Organization for Social Services and Opportunities
Project Sentinel
Rainbow Community Center Reading and Beyond
Rancho San Antonio Boys Home, Inc.
San Jose Day Nursery
Santa Clarita Valley Economic Development Corporation
Sanctuary Centers of Santa Barbara
Services, Immigrant Rights & Education Network (SIREN)
Shasta County Chemical People, Inc.
Silicon Valley Council of Nonprofits (SVCN)
Social Model Recovery Systems, Inc.
SOMOS Mayfair
Southern California Health & Rehabilitation Program (S.C.H.A.R.P.)
Special Service for Groups (SSG)
STAND! For Families Free of Violence
Suicide Prevention and Crisis Services of Yolo County
Tessie Cleveland Community Services Corp.
The Guidance Center
Thrive, The Alliance of Nonprofits for San Mateo County
Tobinworld
Valley Medical Center Health Foundation
Vietnamese Voluntary Foundation
Westside Family Health Center
WISE & Healthy Aging

Nonprofit Organizations (continued)

Worksite Wellness LA

YWCA Silicon Valley

Children and Youth

California Alliance of Child and Family Services

California Coalition for Youth

Children's Bureau of Southern California

California Anchor Residents

First 5 Association of California

Aaron's Boys Home

A Better Way

A Coming of Age

Agape Villages Foster Family Agency

Aldea Children & Family Services

Alfa Homes

Alliance Human Services

Alternative Family Services

Aspiranet

Aviva Family and Children's Services

Bay Area Youth Center, a division of Sunnyhill Services

Bayfront Youth & Family Services

Berhe Group Home

Bethany Christian Services

Bill Wilson Center

Boys Republic

Boys Town California

Breakout Prison dba California Youth Outreach (CYO)

Brighter Beginnings

CASA of Contra Costa County

CASA of Kern County

CASA of Mendocino and Lake Counties

CASA of Monterey County

Children and Youth (continued)

CASA of San Joaquin County

CASA of Santa Cruz County

CASA of Solano County

CASA of Stanislaus County

Casa Pacifica Centers for Children & Families

Chamberlain's Children Center

Changing Tides Family Services

Charis Youth Center

Child & Family Center

Child & Family Guidance Center

Child Abuse Prevention Council of Contra Costa County

Child Advocates of El Dorado County

Child Advocates of Silicon Valley, Inc.

Childhelp, Inc.

ChildNet Youth and Family Services

Children First Foster Agency

Children's Health Council

Children's Institute, Inc.

Children's Home of Stockton

Children's Receiving Home of Sacramento

Community Child Care Council of Santa Clara County

Community Solutions for Children, Families and Individuals

Concept 7

Contra Costa ARC

Corbett Group Homes

Counseling4Kids, Inc.

Courage to Change

Covenant House California

Crittenton Services for Children & Family

D'Veal Family and Youth Services

Dangerfield Institute

David & Margaret Youth and Family Services

Dependency Advocacy Center

Children and Youth (continued)

Dimondale Adolescent Care Facility
Early Childhood Mental Health Program
East Bay Agency for Children
East Palo Alto Teen Home
Edgewood Center for Children & Families
Elite Family Systems
Ettie Lee Youth & Family Services
Exceptional Children's Foundation/Kayne Eras Center
Families for Children, Inc.
Family Builders By Adoption
Family Care Network, inc.
Family Service Agency of Santa Barbara
Fields Comprehensive Youth Services
First Place for Youth
Five Acres
Foster Children Safe Haven
FosterHope Sacramento
Fred Finch Youth Center
Fresh Lifelines For Youth, Inc. (FLY)
Go Kids, Inc
Golden State Family Services, Inc.
Grail Family Services
Greater Hope Foundation
Greater New Beginnings Youth Services
Harrison Homes
Hathaway – Sycamores Child and Family Services
Haven of Hope
Haynes Family of Programs
Hillsides
Inland Empire Residential Centers
Inner Circle Foster Care & Adoption Services
JT Residential Care Facilities, Inc.
Junior Blind of America
Kamali'l Foster Family Agency

Children and Youth (continued)

Lighthouse Mentoring Center
Lilliput Families
Lincoln
Los Angeles Child Guidance Clinic
Los Angeles Youth Network
LT's Group Home, Inc.
MAC's Children & Family Services
Mary's Shelter
Maryvale
McKinley Children's Center
Mile High Group Homes
Milestone House
Mountain Valley Child and Family Services
Nalls Foundation
Napa CASA
New Families
North Star Family Center
Northern Valley Catholic Social Services
Nuevo Amanecer
Oak Grove Center
Oakendell Facility
Olive Crest
Optimist Youth Homes & Family Services
Pacific Asian Counseling Services
Pacific Lodge Youth Services
Para Los Niños
Paradise Oaks
Parents By Choice
Penny Lane Centers
Rebekah's Children's Services
Plan It Life, Inc.
Plumfield Academy
Progress Ranch
Promesa Behavioral Health
Rancho San Antonio

Children and Youth (continued)

Redwood Community Services, inc.
Remi Vista Inc.
River Oak Center for Children
River Stones Residential Services Inc.
Rosemary Children's Services
Sacramento Children's Home
San Diego Center for Children
San Gabriel Children's Center, Inc.
School Health Clinics of Santa Clara County
Seneca Family of Agencies
Sierra Child and Family Services
Sierra Forever Families
Sierra Vista Child and Family Services
Smiles and Tears Child and Family Services Inc.
St. Andrew's Residential Programs for Youth, Inc.
St. Anne's
St. Vincent's School for Boys
Stanford Youth Solutions
Stars Behavioral Health Group
Summitview Child & Family Services
Sunny Hills Services
Tahoe Turning Point
Teenforce
The Raise Foundation
The REFUGE
The Village Family Services
The Whole Child
Thunder Road Adolescent Treatment Centers, Inc.
TLC Child & Family Services
Transitions Children's Services
Triad Family Services
Trinity Youth Services
Tulare Youth Service Bureau, Inc.

Children and Youth (continued)

Turning Point of Central California, inc.
United Advocates for Children and Families
Unity Care Group, Inc.
Uplift Family Services
Valley Oak Residential Treatment Program
Valley Teen Ranch
Victor Treatment Centers
Vista Del Mar Child & Family Services
Walden Family Services
We Care Services for Children
WestCoast Children's Clinic Youth Homes, Inc.
Westside Children's Center
Woodland Youth Services
Youth For Change
Youth Homes, Inc.
Youth Leadership Institute
Youth Services Network

Senior Services

Avenidas
Bay Area Older Adults Fruitful Living, Inc.
Heritage Clinic
La Comida de California Senior Nutrition Program
Live Oak Senior Nutrition and Service Center
Respite and Research for Alzheimer's Disease
Sunnyvale Senior Nutrition Program

Homeless/Low income Services

Housing California
Community Services Agency of Mountain View and Los Altos
Contra Costa Interfaith Housing
Corporation for Supportive Housing
Downtown Streets Team
Downtown Women's Center

**Homeless/Low income Services
(continued)**

Families in Transition of Santa Cruz County,
inc.

Interim, Inc.

LifeMoves

LifeSTEPS – Life Skills Training and
Educational Programs

Peninsula Family Service Project WeHOPE

Rubicon Programs

Sacred Heart Community Service

Second Harvest Food Bank of Orange County

Second Harvest Food Bank of Santa Clara
and San Mateo Counties

Shelter, Inc.

St. Joseph Center

St. Joseph's Family Center

Sunnyvale Community Services

West Valley Community Services

Technology

Computing Technology Industry Association
(CompTIA)

Information Technology Alliance for Public
Sector (ITAPS)

TechNet

Emergency

California Ambulance Association

EMS Medical Directors' Association of
California, Inc. (EMDAC)

Emergency Medical Service Administrators'
Association of California (EMSAAC)

Education

Yolo County Office of Education

Transportation & Logistics

California Trucking Association

Local Government

California State Association of Counties

Local Government (continued)

California Association of Joint Powers
Authorities (CAJPA)

California Association for Local Economic
Development (CALED)

Rural County Representatives of California
Urban Counties of California

Association of Bay Area Governments

Alameda County Board of Supervisors

Alpine County Board of Supervisors

Amador County Board of Supervisors

Butte County Board of Supervisors

Calaveras County Board of Supervisors

Colusa County Board of Supervisors

Contra Costa County Board of Supervisors

Del Norte County Board of Supervisors

El Dorado County Board of Supervisors

Fresno County Board of Supervisors

Glenn County Board of Supervisors

Humboldt County Board of Supervisors

Imperial County Board of Supervisors

Inyo County Board of Supervisors

Kern County Board of Supervisors

Kings County Board of Supervisors

Lassen County Board of Supervisors

Los Angeles County Board of Supervisors

Madera County Board of Supervisors

Marin County Board of Supervisors

Mariposa County Board of Supervisors

Mendocino County Board of Supervisors

Merced County Board of Supervisors

Modoc County Board of Supervisors

Mono County Board of Supervisors

Napa County Board of Supervisors

Nevada County Board of Supervisors

Orange County Board of Supervisors

Placer County Board of Supervisors

Local Government (continued)

Plumas County Board of Supervisors
Riverside County Board of Supervisors
Sacramento County Board of Supervisors
San Bernardino County Board of Supervisors
San Diego County Board of Supervisors
San Joaquin County Board of Supervisors
San Luis Obispo County Board of Supervisors
San Mateo County Board of Supervisors
Santa Barbara County Board of Supervisors
Santa Cruz County Board of Supervisors
Shasta County Board of Supervisors
Sierra County Board of Supervisors
Siskiyou County Board of Supervisors
Solano County Board of Supervisors
Sonoma County Board of Supervisors
South Bay Cities Council of Governments
Stanislaus County Board of Supervisors
Sutter County Board of Supervisors
Tehama County Board of Supervisors
Tulare County Board of Supervisors
Tuolumne County Board of Supervisors
Ventura County Board of Supervisors
Yolo County Board of Supervisors
Yuba County Board of Supervisors

Business

California Chamber of Commerce
CalAsian Chamber of Commerce
American Staffing Association
Associated Builders and Contractors, Inc. –
Central Valley Chapter
Associated Builders and Contractors, Inc. -
Northern California Chapter
Associated Builders and Contractors, Inc. –
San Diego California Chapter
Associated Builders and Contractors, Inc. -
Southern California Chapter

Business (continued)

Bay Area Council
California Building Industry Association (CBIA)
California Building Officials
County Building Officials Association of
California
California Business Properties Association
California Manufacturers & Technology
Association (CMTA)
California Retailers Association
California Staffing Professionals
Camarillo Chamber of Commerce
Carpenter/Robbins Commercial Real Estate,
Inc.
Chambers of Commerce Alliance of Ventura
and Santa Barbara Counties
Fresno Area Chamber of Commerce
Greater Bakersfield Chamber of Commerce
Greater Riverside Chambers of Commerce
Hub Cities Consortium – America's Job
Center of California
Library System Services, LLC
Los Angeles Area Chamber of Commerce
Los Angeles County Business Federation (LA
BizFed)
MuniServices
National Federation of Independent Business
(NFIB)
Orange County Business Council
ResCare Workforce Services
San Gabriel Valley Economic Partnership
The Silicon Valley Organization
Valley Industry & Commerce Association
(VICA)
Workforce Homebuilders LLC

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: 06/21/2017

POSITION: Oppose

BILL NUMBER: AB 1250

AUTHOR: Jones-Sawyer, Reginald
Byron

BILL SUMMARY: Counties: contracts for personal services.

Effective January 1, 2018, this bill requires counties to satisfy specified standards before executing new contracts or renewing existing contracts for personal services that are currently or customarily provided by county employees.

This bill does not apply to the City and County of San Francisco. We also understand that amendments were accepted in the Senate Committee on Governance and Finance, but not yet placed in print, that will exempt Santa Clara County's health system from the bill's requirements.

FISCAL SUMMARY

Many counties contract for a variety of services where it is cost-prohibitive or impractical to hire county employees to perform them. In these cases, counties will have little choice but to comply with this bill's requirements if they want to maintain the contracted services.

If this bill is enacted and a test claim is filed with the Commission on State Mandates, the Commission may determine those counties are "practically compelled" to perform the contract cost analysis required by this bill, even though the decision to contract for those services is itself discretionary. If these counties do not perform the contract cost analysis required by this bill, they will either have to cancel the contracts and suffer reduced service levels, or cancel the contracts and incur the added cost to hire county staff with the requisite expertise to perform the services previously provided via contract.

Although the potential mandated costs are unknown, we estimate they can easily range from \$1 million to \$10 million per year.

COMMENTS

Finance is opposed to this bill because it applies a one-size-fits-all approach to contracting for personal services that could severely restrict the ability of counties to provide services in an efficient manner. It is unclear if all county contracts for personal services should be limited or if a certain type of contract is problematic. This bill makes a sweeping change—potentially affecting hundreds of contracts—when the extent of the problem is unknown. Additionally, the bill uses ambiguous phrases that are open to interpretation, will be difficult to implement, and may lead to significantly higher costs. Specifically, Finance is opposed to this bill for the following reasons:

- The bill potentially imposes a reimbursable state mandate.

Counties often find it is most cost-effective to contract with private vendors for a host of public services. Depending on its unique situation, a county may find it fiscally or operationally challenging (if not impossible) to hire county employees to provide certain services. Despite the fact that it may

Analyst/Principal (0811) C.Hill	Date	Program Budget Manager Justyn Howard	Date
Department Deputy Director		Date	
Governor's Office:	By:	Date:	Position Approved _____ Position Disapproved _____
BILL ANALYSIS			Form DF-43 (Rev 03/95 Buff)

BILL ANALYSIS--(CONTINUED)

Form DF-43

AUTHOR**AMENDMENT DATE****BILL NUMBER**

Jones-Sawyer, Reginald Byron

06/21/2017

AB 1250

COMMENTS (continued)

be extremely difficult for a county to provide a service using its own employees, this bill requires the county to nevertheless perform the required contract cost analysis. Furthermore, if the county chooses to renew a contract that costs over \$100,000, it must pay for an audit to ascertain whether the contract actually resulted in county savings.

The practical compulsion implicit in requiring counties to perform the contract cost analysis and the contract cost audit may form the basis for state mandate claims.

The California Supreme Court has ruled that while local agencies may not be legally compelled to perform certain functions, it is possible for them to be practically compelled to perform those functions, and to thereby incur state-reimbursable costs. In *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, the Court did not uphold the claimant's argument that it was practically compelled to perform the activities in question. However, the Court did say that "...we do not foreclose the possibility that a reimbursable state mandate might be found in circumstances short of legal compulsion - for example, if the state were to impose a substantial penalty (independent of the program funds at issue) upon any local entity that declined to participate in a given program..." As that ruling pertains to this bill, a local agency that contracts for services could make a compelling case that it has no choice but to perform the required contract cost analysis, because it is cost-prohibitive or operationally impractical to pay county staff to perform the contracted services.

- The bill makes it difficult for counties to provide public services in the most cost-efficient manner, and in a way that best meets their unique needs.

This bill places significant hurdles before counties that have determined the optimum way to provide essential public services is via contracts with non-profit organizations or private firms. The bill makes it extremely difficult for counties to contract for a host of public services including health care services, mental health services, substance use services, social services, transportation projects, and security and maintenance services. Of particular concern are the following issues:

- This bill may disproportionately affect small or rural counties that already experience higher vacancy rates and have difficulty recruiting employees for hard-to-fill or technical assignments.
- The required contract cost analysis places private contractors at a disadvantage, thus making it likely counties will incur added costs to hire new staff to perform services that it would otherwise be more cost-effective and practical to contract out.

The bill requires counties to exclude indirect overhead costs when calculating the cost of having county employees perform a service, unless the cost is solely attributable to the service in question and would not otherwise exist. The rationale for excluding the county's indirect costs from the contract cost analysis is unclear, particularly because most contracts include the vendors' indirect overhead costs.

The bill also precludes counties from contracting with vendors—including non-profit organizations—whose pay rates "significantly undercut" county pay rates. Because the bill does not define "significantly undercut," this provision will likely result in costly litigation for counties that perform the contract cost analysis in good faith, and whose decision to contract is subsequently challenged by parties who believe the contractor's pay rates "significantly undercut" county pay rates. Because non-profits are likely to offer lower wages, this bill may effectively block counties from contracting with non-profit organizations to perform vital

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AB 1250

COMMENTS (continued)

services.

- The bill does not define the phrase "customarily performed by," as the phrase relates to county employees' duties.

Per subdivision (g) of Section 31000.10, the required contract cost analysis applies whenever a county seeks to execute a new contract, or to renew an existing contract, for personnel services "...currently or customarily performed by the employees of a county." Based on both a plain reading, and on previous court rulings in cases dealing with duties "customarily" performed by civil service employees, this provision likely means a county cannot avoid the required contract cost analysis simply because it has customarily contracted for a certain activity. Instead, if a court determines that counties in general use county employees to perform a certain activity, the court may rule that a county that has customarily contracted for that same activity for years or decades must perform the required contract cost analysis before renewing that contract. The contract cost analysis will likely also apply when a county uses a mix of county employees and contract staff to perform a certain activity.

This provision almost guarantees that counties which choose to contract, despite this bill's many roadblocks, will be embroiled in costly litigation concerning the definition of "customarily performed by."

- The bill is ambiguously drafted and may lead to significant litigation.

In addition to the aforementioned legal ambiguity concerning the definition of "customarily performed by" and "significantly undercut," we note the following ambiguities that may result in litigation if this bill is enacted:

- Whether the contract "adversely affects" any of the county's nondiscrimination, affirmative action efforts.
- Whether savings from contracting are "large enough to ensure" they will not be eliminated by contractor or county cost fluctuations "that could normally be expected" during the contract period.
- Whether the savings "clearly justifies" the contract size and duration.
- Whether the "potential for future economic risk to the county from potential contractor rate increases is minimal."
- Whether "the potential economic advantage of contracting is not outweighed by the public's interest in having a particular function performed directly by county government."
- Whether "the services contracted cannot be performed satisfactorily by county employees, or are of such a highly specialized or technical nature that the necessary expert knowledge, experience, and ability are not available among county employees."
- It is an open question whether the bill will force counties to reduce services under the 2011 realignment.

In 2011, the state realigned responsibility for administering several public safety and human

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COMMENTS (continued)

services programs to the counties. Counties frequently rely on contracts to provide services in support of these programs.

Under Proposition 30 of 2012, counties are not required to implement any future state laws that increase the overall local costs to administer the respective program responsibilities transferred in 2011, unless the state provides additional money to pay for the increased costs. Under the Proposition the state also is not required to provide reimbursement for these costs. Counties will either not provide the increased service, or will provide it and correspondingly reduce other services.

Because this bill applies to county contracts for the provision of realigned services, and results in increased costs to administer those contracts, it is an open question whether counties will claim exemption from compliance with this bill under Proposition 30 for those particular contracts. However, to the extent that they cannot or do not self-exempt, and without an ability to obtain reimbursement from the state, counties will be forced to absorb these costs within existing funding, resulting in diminished service levels.

- The contracting restrictions in this bill are generally modeled on standards that apply to state government. However, the restrictions in this bill are more comprehensive. Of particular note is the requirement that counties arrange for independent audits to determine whether they achieved the anticipated cost savings by contracting.

We understand some proponents of this bill argue that it merely applies to counties the same contracting standards that apply to the state. This argument fails to acknowledge that the state, with a workforce of more than 229,000 employees (excluding the University of California and the California State University), has less need to contract for personal services. Furthermore, with the fiscal resources at its command, the state is better able than counties to bear the salary, overhead, and pension costs of hiring new employees.

Generally speaking, the state has a somewhat collaborative relationship with its labor organizations on this issue and has an ongoing dialogue with public employee unions about the need to contract for certain services of a complex or time-sensitive nature. The extent to which counties enjoy similar relationships their labor organizations is unclear.

- This bill applies much more broadly than does other legislation pertaining to local agency contracting authority.

In 2011 the Governor signed AB 438 (Chapter 611, Statutes of 2011). While AB 438 imposed contracting restrictions very similar to those imposed by this bill, AB 438 applies only to very specific instances when a city or library district seeks to achieve cost savings by turning their library operations over to private companies. As is discussed in this analysis, this legislation applies much more broadly than does AB 438.

- This bill does not apply uniformly to all counties.

San Francisco is fully exempt from this bill's provisions, and we understand it will soon be amended to also exclude Santa Clara County's health services. This indicates that at least some of the bill's supporters recognize the bill places unnecessary and burdensome new requirements on counties. Were this not so, there would be willingness to apply the bill to all

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AB 1250

COMMENTS (continued)

counties.

ANALYSIS**1. Programmatic Analysis**

Existing law authorizes a county board of supervisors to contract for services on behalf of the county, county officers or departments, and district courts in the county, and requires that the contract be with persons specially trained, experienced, and with expertise and competence to perform the services, among other provisions.

This bill prohibits a county, other than the City and County of San Francisco, from executing new contracts or renewing existing contracts for personal services currently or customarily performed by that county's employees, unless the county demonstrates the contract will result in actual overall cost savings, and the county makes numerous findings, the most significant of which are as follows:

- In comparing costs, the county's indirect overhead costs for providing the service itself shall not be included unless those costs can be attributed solely to the function in question, and would not exist if that function was not performed in county service. Indirect overhead costs are defined as the pro rata share of existing administrative salaries and benefits, rent, equipment costs, utilities, and materials.
- In comparing costs, the county must include costs directly associated with the contracted function. These costs include, but are not limited to, those for inspection, supervision, and contract monitoring.
- Contracting out shall not be approved solely on the basis that savings will result from lower contractor pay rates or benefits. However, proposals to contract out shall be eligible for approval if the contractor's wages are at the industry's level and do not significantly undercut county pay rates.
- The contract does not cause vacant positions in county employment to remain unfilled.
- The contract does not cause the displacement of county employees, including layoffs, demotion, involuntary transfers to a new class, involuntary transfers to a new location requiring a change of residence, or time base reductions.
- The savings shall be large enough to ensure that they will not be eliminated by private sector and county cost fluctuations that can normally be expected.

The cost comparison criteria appears weighted towards favoring county employees over contracted services, especially as it relates to the exclusion of indirect costs from the county calculation. The requirement that counties contract with vendors who pay industry-level wages could make it difficult for small counties and those located in rural areas to contract for services that they cannot afford to hire classified staff to perform.

For contracts over \$100,000, the bill also requires that the contractor must provide:

- A description of all civil and criminal charges, claims, and complaints against them.

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ANALYSIS (continued)

- A description of any debarments by public agencies.
- Information on the total compensation provided to workers under contract.
- The names and compensation of individual employees, should the county request it, which information shall be subject to the California Public Records Act.
- An independent audit to determine whether, and to what extent, the anticipated costs savings were actually realized.

These requirements may be onerous for small firms or non-profit organizations that do not have staff to provide the information readily, potentially resulting in the best qualified providers not bidding for the work and forcing counties to hire county staff without sufficient expertise.

The bill provides several exemptions from its requirements. These include the following:

- When the contract is for a new function for which the Legislature has mandated or authorized the use of private contractors.
- When the contract is for services to be performed by another government entity.
- When the contracted services cannot be performed satisfactorily by county employees, or are of a highly specialized or technical nature.
- When the contracted services are incidental to the purchase or lease of real or personal property.
- When legislative, administrative, or legal goals and purposes cannot be achieved by county employees. A specific example provided by the bill is contracts for expert witnesses in litigation.
- When the work is such that the standards for emergency appointments apply.
- Contracts for private counsel, when the county counsel has a conflict of interest.
- Contracts for legal services, solely on a contingency or fee basis.
- Contracts for equipment, materials, facilities, or support services that the county cannot feasibly provide at the required location.
- Training contracts for which county trainers are not available.
- Contracts for services of such an urgent, temporary, or occasional nature that delays would result from using county employees, and thereby frustrate the desired goals.

The bill also exempts contracts for the following services from its provisions:

- Architecture, engineering, land surveying, and construction project management.
- Construction, alteration, demolition, installation, or repair work related to public works as defined in the Labor Code.
- Public transit and paratransit services, if fully funded by Federal Transit Administration

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Jones-Sawyer, Reginald Byron

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AB 1250

ANALYSIS (continued)

assistance.

- Street sweeping.
- Solid waste hauling.

We understand that amendments were accepted in the Senate Committee on Governance and Finance, but not yet placed in print, that will exempt Santa Clara County's health system from the bill's requirements.

2. Fiscal Analysis

Many counties contract for a variety of services that it is cost-prohibitive or impractical to hire county employees to perform. In these cases, counties will have little choice but to comply with this bill's requirements if they want to maintain the contracted services.

If this bill is enacted and a test claim is filed with the Commission on State Mandates, the Commission may determine those counties are "practically compelled" to perform the contract cost analysis required by this bill, even though the decision to contract for those services is itself discretionary. If these counties do not perform the contract cost analysis required by this bill, they will either have to cancel the contracts and suffer reduced service levels, or cancel the contracts and incur the added cost to hire county staff with the requisite expertise to perform the services previously provided via contract.

Although the potential mandated costs are unknown, we estimate they can easily range from \$1 million to \$10 million per year.

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)							
	LA	(Dollars in Thousands)							
	CO	PROP							Fund
	RV	98	FC	2017-2018	FC	2018-2019	FC	2019-2020	Code
0001/Major Rev	LA	No	C	1,000-10,000	C	1,000-10,000	C	1,000-10,000	0001

SENATE COMMITTEE ON APPROPRIATIONS

Senator Ricardo Lara, Chair
2017 - 2018 Regular Session

AB 1250 (Jones-Sawyer) - Counties: contracts for personal services

Version: June 21, 2017

Policy Vote: GOV. & F. 4 - 2

Urgency: No

Mandate: Yes

Hearing Date: September 1, 2017

Consultant: Mark McKenzie

***** **ANALYSIS ADDENDUM – SUSPENSE FILE** *****

The following information is revised to reflect amendments
adopted by the committee on September 1, 2017

Bill Summary: AB 1250 would establish various standards for the use of personal services contracts by counties. These standards include specific conditions and requirements that would apply when a county enters into a new contract or renews or extends an existing contract on or after January 1, 2018, and also specifies the conditions that must be met in order to permit a personal services contract.

Fiscal Impact:

- Unknown, potentially major local cost increases or service reductions. The bill could impact a broad array of services, including some state services that have been realigned to counties, that are currently provided by private firms, including nonprofits that provide services on the community level on behalf of counties. The bill would require counties that wish to contract for specified non-exempt services to conduct cost/benefit analyses prior to entering into a contract, and ongoing contract performance evaluations. It is unlikely that the Commission on State Mandates (Commission) would deem many of the requirements in the bill to be state-reimbursable, since the mandatory activities are typically associated with an inherently discretionary action (contracting for personal services), but the Commission may find that counties are “practically compelled” to perform some mandated functions (which would be subject to state-reimbursement). At a minimum, the bill would likely result in significant reimbursable mandate costs for counties to draft and adopt revised personal services contracting procedures. Ultimately, however, the Commission would determine what local mandated costs imposed by the bill are reimbursable. (General Fund)
- Unknown, significant costs and cost pressures on state funds that support services realigned to counties, including public safety programs, child welfare services, foster care and adoption assistance, specialty mental health services, and adult protective services, among others. (General Fund, special funds, federal funds)

Author Amendments:

- Revise the conditions under which a county may contract for personal services to:
 - Delete a provision that requires contract savings to be large enough to ensure that they will not be eliminated by private sector and county cost fluctuations that could normally be expecting during the contracting period.

- Delete a provision that requires the potential economic advantage of contracting is not outweighed by the public interest in having a function performed directly by county government.
- Delete a provision that requires a contract must contain provisions that authorize termination by the county without penalty for material breaches of the contract, with specified notice.
- Delete specified additional conditions that would apply for contracts in excess of \$100,000 annually, including disclosure of specified previous adverse actions, a requirement that contracts include specified measurable performance standards, and a requirement that contracts provide for an audit that is paid for by the contractor.
- Require all contracts (not just those for over \$100,000 annually) to provide that the county is entitled to a copy of any records related to the performance of any contractor and any subcontractor, and require the contractor to provide the county with specified information on a monthly basis, including the names and compensation of any workers on a contract.
- Revise the exemptions to the contracting limitations to:
 - Clarify that an area agency established to provide for the delivery of in-home supportive services is deemed a government entity, and therefore exempt from the contract limitations.
 - Provide that contracts between a county and a local health care district for services provided by the district are expressly permissible.
 - Provide that contracts paid exclusively with taxes, assessments, fees, or charges imposed or levied by a county solely for the county's purposes are expressly permissible.
- Specify that the bill does not apply to contracts for specialized data, software, or services related to specified work.
- Specify that the bill does not apply to contracts in Santa Clara County for health services related to a county's integrated health and hospital system, as specified.
- Delete a provision that requires the bill to apply to personal services contracts entered into, renewed or extended on or after January 1, 2018 that are currently or customarily performed by county employees.
- Make several clarifying changes.

-- END --