

**SENATE JUDICIARY COMMITTEE**  
**Senator Thomas Umberg, Chair**  
**2021-2022 Regular Session**

SB 569 (Umberg)  
Version: April 19, 2021  
Hearing Date: April 27, 2021  
Fiscal: Yes  
Urgency: No  
MEC

**SUBJECT**

Public contracts: judicial branch entities

**DIGEST**

This bill would enhance reporting requirements in the California Judicial Branch Contract Law.

**EXECUTIVE SUMMARY**

The California Judicial Branch Contract Law was enacted through a 2011 budget trailer bill in order to provide more transparency regarding Judicial Branch contracting. The trailer bill created a new requirement that the Judicial Branch comply with provisions of the Public Contract Code that apply to state agencies and departments related to the procurement of goods and services, including information technology.

This bill enhances reporting requirements and specifies that all administrative and infrastructure information technology projects of the Judicial Council or the courts, with total costs estimated at more than one million dollars, shall be subject to the review and recommendations of the Department of Technology. Currently the only technology projects that are subject to the review and recommendations of the Department of Technology are those where the total costs are estimated to be more than five million dollars.

This bill is author sponsored, is supported by the California State Association of Electrical Workers, California State Pipe Trades Council, Western States Council of Sheet Metal Workers, and the Orange County Employees Association. The bill has no known opposition.

**PROPOSED CHANGES TO THE LAW**

Existing law:

- 1) Applies the California Judicial Branch Contract Law to all contracts initially entered into or amended by judicial branch entities, as defined, on or after October 1, 2011. (Pub. Con. Code § 19201 & § 19202.)
- 2) Provides that all judicial branch entities, as defined, shall comply with the provisions of the Public Contract Code that are applicable to state agencies and departments related to the procurement of goods and services, including information technology goods and services. (Pub. Con. Code § 19204 (a).)
- 3) Provides that all contracts with total costs estimated at more than one million dollars, except contracts covered by Section 68511.9 of the Government Code, shall be subject to the review and recommendations of the Bureau of State Audits to ensure compliance with the California Judicial Branch Contract Law. (Pub. Con. Code § 19204 (a).)
- 4) Requires all judicial branch entities to notify the State Auditor, in writing, of the existence of any such contracts within 10 business days of entering the contract and additionally requires that all administrative and infrastructure information technology projects of the Judicial Council or the courts with total costs estimated at more than five million dollars shall be subject to the reviews and recommendations of the California Technology Agency, as specified in Section 68511.9 of the Government Code. (Pub. Con. Code § 19204 (a).)
- 5) Provides that except for procurement and contracting by judicial branch entities that are related to trial court construction, procurement and contracting for the planning, design, construction, rehabilitation, renovation, replacement, lease, or acquisition of court facilities shall be conducted by judicial branch entities consistent with the relevant provisions of the Public Contract Code applicable to state agencies. (Pub. Con. Code § 19204 (b)-(c).)
- 6) Provides that notwithstanding any other provision of law, the California Judicial Branch Contract Law does not apply to procurement and contracting by judicial branch entities that are related to trial court construction, as specified. (Pub. Con. Code § 19204 (d).)
- 7) Requires the Judicial Council to annually provide a report to the Joint Legislative Budget Committee and the State Auditor that provides information related to contracts and payments for the trial courts, as specified. (Pub. Con. Code § 19209 (a).)

- 8) Specifies the procedures by which the State Auditor identifies the judicial branch entities for audit and the requirements of the audit, including notification to the Legislature. (Pub. Con. Code § 19210.)

This bill:

- 1) Requires that all administrative and infrastructure information technology projects of the Judicial Council or the courts with total costs estimated at more than one million dollars shall be subject to the reviews and recommendations of the California Technology Agency, as specified in Section 68511.9 of the Government Code.
- 2) Requires that all judicial branch entities notify specified legislative offices, in writing, in addition to the State Auditor, of the existence of any such contracts within 10 business days of entering the contract.
- 3) Requires that the judicial branch entities notify specified legislative offices of all contracts with total cost estimated at more than one million dollars, except contracts covered by Section 68511.9 of the Government Code.
- 4) Requires all judicial branch entities to notify the State Auditor and specified legislative offices, in writing, of the existence of any such contracts within 10 business days of entering the contract.
- 5) Requires all judicial branch entities to develop and enact sufficient policies and procedures, by January 1, 2023, to comply with the above provisions.

### COMMENTS

1. Stated need for the bill

According to the author:

SB 569 would provide for greater transparency in Judicial Branch contracts and procurements by requiring more responsiveness to the State Auditor and notice to the Legislature. Current law requires that courts and other judicial entities notify the State Auditor of certain contracts to ensure that they comply with state law on policies and procedures for procurement and contracting. While most courts adhere to most of the required procurement and contracting practices, there are some that should make certain improvements to better ensure the responsible stewardship of public funds. For example, according to a recent State Auditor report from January 2021, several courts increased the risk of misusing public funds by not following certain procedures and having invoices not match payment documentation. Additionally, four courts failed to

comply with state law requiring them to notify the State Auditor's office when they entered into high-value contracts. Lastly, it's important to note that only technology contracts above \$5,000,000 are reviewed by the State Auditor. Therefore, to create greater transparency and accountability of public funds, SB 569 requires that all judicial branch entities shall notify the State Auditor and the Legislature of large contracts over \$1,000,000 related to procurement, construction, and information technology and that those judicial entities, by 2022, develop and enact sufficient policies and procedures to ensure compliance with this bill and existing law.

## 2. Increasing accountability in judicial contracting

As explained by the California State Auditor:<sup>1</sup>

The California Judicial Branch Contract Law (judicial contract law) went into effect in 2011. It generally requires all judicial branch entities to comply with the provisions of the Public Contract Code that are applicable to state agencies and departments and that relate to the procurement of goods and services [ . . . ]

The judicial contract law also imposes reporting requirements on judicial branch entities. Specifically, it requires that judicial branch entities notify the California State Auditor's Office (State Auditor) within 10 business days of all contracts for goods and services they enter into that involve a total cost estimated at more than \$1 million in value, with limited exceptions such as trial court construction contracts. The law further specifies that all administrative and information technology (IT) projects of the Judicial Council or the courts with a total cost estimated to exceed \$5 million are exempt from this reporting requirement and shall be subject to the review of the California Department of Technology. The law also requires that Judicial Council to submit semiannual reports to the Legislature and the State Auditor containing specified information about most of the judicial branch's contracting activities. The Judicial Council prepares the semiannual reports using information that the judicial branch entities are responsible for providing to it.

The purpose of this bill is to increase oversight of judicial branch spending. To that end, this bill expands the universe of information technology contracts that are subject to review by the California Department of Technology to contracts that exceed \$1 million and requires the Judicial Council and courts to notify the State Auditor and specified Legislative offices within ten business days of entering the contract. The bill also requires that the information that is reported to the State Auditor regarding contracts

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<sup>1</sup> Auditor of the State of California, *Judicial Branch Procurement Courts Generally Met Procurement Requirements, but Some Need to Improve Their Payment Practices*, (Jan. 2021), available at <https://www.courts.ca.gov/18759.htm> (as of April 6, 2021).

with total costs estimated at \$1 million to also be shared with specified legislative offices. The author points out that several courts increased the risk of misusing public funds by not following certain procedures and not having invoices match payment documentation. Additionally, the author notes that four courts failed to comply with state law requiring them to notify the State Auditor's office when they entered into high-value contracts. For these reasons the bill also requires all judicial branch entities to develop and institute sufficient policies and procedures to comply with the reporting requirements by January 1, 2023.

### **SUPPORT**

California State Association of Electrical Workers  
California State Pipe Trades Council  
Orange County Employees Association  
Western States Council of Sheet Metal Workers

### **OPPOSITION**

None known

### **RELATED LEGISLATION**

Pending Legislation: None known

Prior Legislation: SB 78 (Committee on Budget and Fiscal Review, Ch. 10, Stats. 2011) codified the Judicial Branch Contract Law.

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