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CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1327

Introduced by Assembly Members Gorell, Bradford, and Quirk
(Principal coauthor: Assembly Member Muratsuchi)
(Principal coauthor: Senator Lieu)
(Coauthor: Assembly Member Fox)

February 22, 2013

An act to add Section 6254.31 to the Government Code, and to add Title 14 (commencing with Section 14350) to Part 4 of the Penal Code, relating to unmanned aircraft systems.

LEGISLATIVE COUNSEL'S DIGEST

AB 1327, as amended, Gorell. Unmanned aircraft systems.

Existing federal law, the Federal Aviation Administration Modernization and Reform Act of 2012, provides for the integration of civil unmanned aircraft systems, commonly known as drones, into the national airspace system by September 30, 2015. Existing federal law

requires the Administrator of the Federal Aviation Administration to develop and implement operational and certification requirements for the operation of public unmanned aircraft systems in the national airspace system by December 31, 2015.

This bill would generally prohibit public agencies from using unmanned aircraft systems, or contracting for the use of unmanned aircraft systems, as defined, with certain exceptions applicable to law enforcement agencies and in certain other cases: *cases, including when the use or operation of the unmanned aircraft system achieves the core mission of the agency and the purpose is unrelated to the gathering of criminal intelligence, as defined.*

The bill would require reasonable public notice to be provided by public agencies intending to deploy unmanned aircraft systems, as specified. The bill would require images, footage, or data obtained through the use of an unmanned aircraft system under these provisions to be permanently destroyed within one year, except as specified. *The bill would generally prohibit images, footage, or data obtained through the use of an unmanned aircraft system under these provisions from being disseminated outside the collecting public agency, except as specified.* Unless authorized by federal law, the bill would prohibit a person or entity, including a public agency subject to these provisions, or a person or entity under contract to a public agency, for the purpose of that contract, from equipping or arming an unmanned aircraft system with a weapon or other device that may be carried by or launched from an unmanned aircraft system and that is intended to cause bodily injury or death, or damage to, or the destruction of, real or personal property. *The bill would also provide that specified surveillance restrictions on electronic devices apply to the use or operation of an unmanned aircraft system by a public agency.*

The bill would make its provisions applicable to all public and private entities when contracting with a public agency for the use of an unmanned aircraft system.

Existing law, the California Public Records Act, requires state and local agencies to make public records available for inspection, subject to certain exceptions.

This bill would make certain images, footage, or data obtained through the use of an unmanned aircraft system under its provisions, or any related record, including, but not limited to, usage logs or logs that identify any person or entity that subsequently obtains or requests records of that system, subject to disclosure. The bill would except from

the disclosure requirements discussed above images, footage, data, and records obtained through the use of an unmanned aircraft system if disclosure would endanger the safety of a person involved in a ~~criminal~~ *an* investigation, or would endanger the successful completion of the ~~criminal~~ investigation.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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 6254.31 is added to the Government
2 Code, to read:

3 6254.31. (a) Notwithstanding any provision of this chapter,
4 images, footage, or data obtained through the use of an unmanned
5 aircraft system pursuant to Title 14 (commencing with Section
6 14350) of Part 4 of the Penal Code, or any related record, including,
7 but not limited to, usage logs or logs that identify any person or
8 entity that subsequently obtains or requests records of that system,
9 are public records subject to disclosure.

10 (b) Notwithstanding subdivision (a), nothing in this chapter or
11 any other law requires the disclosure of images, footage, or data
12 obtained through the use of an unmanned aircraft system, or any
13 related record, including, but not limited to, usage logs or logs that
14 identify any person or entity that subsequently obtains or requests
15 records of that system, to the extent that disclosure of the images,
16 footage, data, or records would endanger the safety of a person
17 involved in a ~~criminal~~ *an* investigation, or would endanger the
18 successful completion of the ~~criminal~~ investigation.

19 SEC. 2. Title 14 (commencing with Section 14350) is added
20 to Part 4 of the Penal Code, to read:

1 TITLE 14. UNMANNED AIRCRAFT SYSTEMS

2
 3 14350. (a) A public agency shall not use an unmanned aircraft
 4 system, or contract for the use of an unmanned aircraft system,
 5 except as provided in this title. This title shall apply to all public
 6 and private entities when contracting with a public agency for the
 7 use of an unmanned aircraft system.

8 (b) A law enforcement agency may use an unmanned aircraft
 9 system if it has obtained a warrant based on probable cause
 10 pursuant to this code.

11 (c) ~~(1) A law enforcement agency, without obtaining a warrant,~~
 12 ~~may use an unmanned aircraft system in emergency situations if~~
 13 ~~there is an imminent threat to life or of great bodily harm,~~
 14 ~~including, but not limited to, fires, hostage crises, “hot pursuit”~~
 15 ~~situations if reasonably necessary to prevent harm to law~~
 16 ~~enforcement officers or others, and search and rescue operations~~
 17 ~~on land or water. all of the following circumstances:~~

18 (1) *In emergency situations if there is an imminent threat to life*
 19 *or of great bodily harm, including, but not limited to, fires, hostage*
 20 *crises, “hot pursuit” situations if reasonably necessary to prevent*
 21 *harm to law enforcement officers or others, and search and rescue*
 22 *operations on land or water.*

23 ~~(2) A law enforcement agency, without obtaining a warrant,~~
 24 ~~may use an unmanned aircraft system to~~

25 (2) *To assess the necessity of first responders in situations*
 26 *relating to traffic accidents, and to inspect state parks and*
 27 *wilderness areas for illegal vegetation or fires. accidents.*

28 (3) (A) *To inspect state parks and wilderness areas for illegal*
 29 *vegetation or fires.*

30 (B) *For purposes of this paragraph, “wilderness areas” means*
 31 *public lands without permanent improvements or human habitation.*

32 (4) *To determine the appropriate response to an imminent or*
 33 *existing environmental emergency or disaster, including, but not*
 34 *limited to, oils spills or chemical spills.*

35 (d) A public agency other than a law enforcement agency may
 36 use an unmanned aircraft system, or contract for the use of an
 37 unmanned aircraft system, to achieve the core mission of the
 38 agency provided that the purpose is unrelated to the gathering of
 39 criminal intelligence.

1 (e) A public agency that is not primarily a law enforcement
2 agency, but that employs peace officers or performs functions
3 related to criminal investigations, may use an unmanned aircraft
4 system without obtaining a warrant to achieve the core mission
5 of the agency provided that the purpose is unrelated to the
6 gathering of criminal intelligence, and that the images, footage,
7 or data are not used for any purpose other than that for which it
8 was collected.

9 14351. A public agency that uses an unmanned aircraft system,
10 or contracts for the use of an unmanned aircraft system, pursuant
11 to this title shall first provide reasonable notice to the public.
12 Reasonable notice shall, at a minimum, consist of a one-time
13 announcement regarding the agency's intent to deploy unmanned
14 aircraft system technology and a description of the technology's
15 capabilities.

16 14352. (a) (1) (A) Except as permitted by this title, images,
17 footage, or data obtained by a public agency, or any entity
18 contracting with a public agency, pursuant to this title shall not be
19 disseminated to a law enforcement agency unless the law
20 enforcement agency has obtained a warrant for the images, footage,
21 or data based on probable cause pursuant to this code, or the law
22 enforcement agency would not have been required to obtain a
23 warrant to collect the images, footage, or data itself, as specified
24 in ~~subdivision (e)~~ of Section 14350.

25 (B) A public agency that is not primarily a law enforcement
26 agency, but that employs peace officers or performs functions
27 related to criminal investigations, may disseminate images, footage,
28 or data collected pursuant to Section 14350 if the dissemination
29 is to others within that agency.

30 (2) Except as permitted by this title, images, footage, or data
31 obtained by a public agency, or any entity contracting with a public
32 agency, through the use of an unmanned aircraft system shall not
33 be disseminated outside the collecting public agency, unless one
34 of the following circumstances applies:

35 (A) Images, footage, or data obtained by a public agency through
36 the use of an unmanned aircraft system may be disseminated to
37 another public agency that is not a law enforcement agency if the
38 images, footage, or data are related to the core mission of both
39 public agencies involved in the sending or receiving of the images,
40 footage, or data.

- 1 (B) Images, footage, or data obtained by a public agency through
 2 the use of an unmanned aircraft system may be disseminated
 3 outside the collecting public agency if the images, footage, or data
 4 are evidence in any claim filed or any pending litigation.
- 5 (C) Images, footage, or data obtained by a public agency through
 6 the use of an unmanned aircraft system may be disseminated to a
 7 private entity if both of the following conditions are satisfied:
- 8 (i) The collecting public agency is not a law enforcement
 9 agency.
- 10 (ii) The images, footage, or data are related to the core function
 11 of the collecting public agency.
- 12 (3) *A public agency may make available to the public images,*
 13 *footage, or data obtained by the public agency through the use of*
 14 *an unmanned aircraft system if both of the following conditions*
 15 *are satisfied:*
- 16 (A) *The images, footage, or data do not depict or describe any*
 17 *individual or group of individuals, or the activities of any*
 18 *individual or group of individuals whose identity or identities can*
 19 *be ascertained.*
- 20 (B) *The disclosure of the images, footage, or data is required*
 21 *to fulfill the public agency’s statutory or mandatory obligations.*
- 22 (b) Except as permitted by this title, images, footage, or data
 23 obtained by a public agency through the use of an unmanned
 24 aircraft system shall not be used by the public agency for any
 25 purpose other than that for which it was collected.
- 26 (c) (1) Images, footage, or data obtained through the use of an
 27 unmanned aircraft system shall be permanently destroyed within
 28 one year, except that a public agency may retain the images,
 29 footage, or data in all of the following circumstances:
- 30 (A) For training purposes. Images, footage, or data retained for
 31 training purposes shall be used only for the education and
 32 instruction of a public agency’s employees in matters related to
 33 the mission of the public agency and for no other purpose.
- 34 (B) For academic research or teaching purposes. Images,
 35 footage, or data retained for academic research or teaching purposes
 36 shall be used only for the advancement of research and teaching
 37 conducted by ~~California’s public colleges and universities~~ *an*
 38 *academic or research institution* and matters related to the mission
 39 of the institution and for no other purpose.

1 (C) For purposes of monitoring material assets owned by the
2 public agency.

3 (D) *For environmental, public works, or land use management*
4 *or planning by the public agency.*

5 (2) Notwithstanding paragraph (1), a public agency ~~shall~~ *may*
6 retain *beyond one year* images, footage, or data obtained through
7 the use of an unmanned aircraft system in both of the following
8 circumstances:

9 (A) If a warrant authorized the collection of the images, footage,
10 or data.

11 (B) If the images, footage, or data are evidence in any claim
12 filed or any pending ~~litigation.~~ *litigation or enforcement*
13 *proceeding.*

14 14353. Unless authorized by federal law, a person or entity,
15 including a public agency subject to Section 14350 or a person or
16 entity under contract to a public agency, for the purpose of that
17 contract, shall not equip or arm an unmanned aircraft system with
18 a weapon or other device that may be carried by or launched from
19 an unmanned aircraft system and that is intended to cause bodily
20 injury or death, or damage to, or the destruction of, real or personal
21 property.

22 14354. All unmanned aircraft systems shall be operated so as
23 to minimize the collection of images, footage, or data of persons,
24 places, or things not specified with particularity in the warrant
25 authorizing the use of an unmanned aircraft system, or, if no
26 warrant was obtained, for purposes unrelated to the justification
27 for the operation.

28 14355. (a) This title is not intended to conflict with or
29 supersede federal law, including rules and regulations of the
30 Federal Aviation Administration.

31 (b) A local legislative body may adopt more restrictive policies
32 on the acquisition or use of unmanned aircraft systems.

33 14356. For the purposes of this title, the following definitions
34 shall apply:

35 (a) “Criminal intelligence” means information compiled,
36 analyzed, or disseminated in an effort to anticipate, prevent,
37 monitor, or investigate criminal activity.

38 (b) “Law enforcement agency” means the Attorney General of
39 the State of California, each district attorney, and each agency of

1 the State of California authorized by statute to investigate or
2 prosecute law violators.

3 (c) “Public agency” means and includes each state agency and
4 each local agency.

5 (d) “Unmanned aircraft system” means an unmanned aircraft
6 and associated elements, including communication links and the
7 components that control the unmanned aircraft, that are required
8 for the pilot in command to operate safely and efficiently in the
9 national airspace system.

10 14357. ~~The~~ *Except as provided in this title, the surveillance*
11 *restrictions on electronic devices pursuant to described in Chapter*
12 *1.5 (commencing with Section 630) of Title 15 of Part 1 shall*
13 *apply to the use or operation of an unmanned aircraft systems-*
14 *system by a public agency.*

15 SEC. 3. The Legislature finds and declares that Section 1 of
16 this act, which adds Section 6254.31 of the Government Code,
17 imposes a limitation on the public’s right of access to the meetings
18 of public bodies or the writings of public officials and agencies
19 within the meaning of Section 3 of Article I of the California
20 Constitution. Pursuant to that constitutional provision, the
21 Legislature makes the following findings to demonstrate the interest
22 protected by this limitation and the need for protecting that interest:

23 In order to ensure the safety of persons involved in ~~criminal~~
24 investigations and to preserve the integrity of those investigations,
25 it is necessary that this act take effect.