

AMENDED IN SENATE JUNE 24, 2015

AMENDED IN ASSEMBLY APRIL 27, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 36

Introduced by Assembly Member Campos

December 1, 2014

An act to amend Section 54141 of, and to add Section 54145 to, the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 36, as amended, Campos. Local government: federal surplus property.

Existing law, the Federal Surplus Property Acquisition Law of 1945, authorizes a local agency, as defined, to acquire surplus federal property without regard to any law which requires posting of notices or advertising for bids, inviting or receiving bids, delivery of purchases before payment, or prevents the local agency from bidding on federal surplus property. Existing law, the Ralph M. Brown Act, requires that all meetings of a legislative body, as defined, of a local agency be open and public and all persons permitted to attend unless a closed session is authorized. Existing federal law authorizes the Department of Defense to transfer surplus personal property, including arms and ammunition, to federal or state agencies for use in law enforcement activities, subject to specified conditions, at no cost to the acquiring agency.

This bill would prohibit a local agency from ~~receiving~~ *applying to receive high-visibility* surplus military ~~equipment~~ *equipment, as defined*, pursuant to the above-described federal law unless the legislative body of the local agency ~~votes to approve~~ *approves* the acquisition by

ordinance or resolution at a regular public meeting. The bill would require the ordinance or resolution to include a list of the types of high-visibility surplus military equipment and the period of time for which the authorization is valid, not to exceed one year. The bill would also declare that this is a matter of statewide concern.

The bill would also require the state agency that has signed a current memorandum of agreement with the Defense Logistics Agency for the purpose of administering a state program for acquiring surplus military equipment to develop a list of high-visibility surplus military equipment by January 31, 2016, as specified, and post the list on its Internet Web site.

By adding to the duties of local government officials, this bill would impose a state-mandated local program.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

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 no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

- 1 SECTION 1. Section 54141 of the Government Code is
- 2 amended to read:
- 3 54141. As used in this article:
- 4 (a) "Local agency" means county, city, whether general law or
- 5 chartered, city and county, town, school district, municipal
- 6 corporation, district, political subdivision, or any board,
- 7 commission, or agency thereof, or other local public agency.
- 8 (b) "United States" includes any department, board, or agency
- 9 thereof.
- 10 (c) "State" includes any department or agency thereof.

(d) “Legislative body” means a legislative body as defined in Section 54952.

(e) (1) “Surplus military equipment” means equipment made available to a local agency pursuant to Section 2576a of Title 10 of the United States Code.

(2) “High-visibility surplus military equipment” means surplus military equipment identified on the list developed and maintained by the state coordinator pursuant to subdivision (e) of Section 54145.

(f) “State coordinator” means the state agency that has signed a current memorandum of agreement with the federal Defense Logistics Agency for the purpose of administering a state program for acquiring surplus military equipment.

SEC. 2. Section 54145 is added to the Government Code, to read:

54145. (a) A local agency shall not *apply to* receive high-visibility surplus military equipment ~~pursuant to Section 2576a of Title 10 of the United States Code~~ unless the legislative body of the local agency approves the acquisition of high-visibility surplus military equipment by ordinance or resolution, pursuant to subdivision (b), at a regular meeting held pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950)).

(b) The legislative body of a local agency may adopt an ordinance or resolution authorizing the local law enforcement agency in that jurisdiction to apply for high-visibility surplus military equipment. The ordinance or resolution shall include both of the following:

(1) A list of the types of high-visibility surplus military equipment that the legislative body authorizes the local law enforcement agency to acquire.

(2) The period of time for which the authorization is valid, not to exceed one year.

(c) This section shall not be construed to require the legislative body of a local agency to approve the acquisition of each individual item of high-visibility surplus military equipment, unless specified by the ordinance or resolution adopted pursuant to subdivision (b).

~~(b)~~

(d) The Legislature finds and declares that this section constitutes a matter of statewide concern, and shall apply to charter

1 cities and charter counties. The provisions of this section shall
2 supersede any inconsistent provisions in the charter of any city,
3 county, or city and county.

4 (e) (1) *The state coordinator, by January 31, 2016, shall*
5 *develop a list of high-visibility surplus military equipment. The*
6 *list shall identify surplus military equipment that poses a potential*
7 *negative impact on the community in which it is deployed. The*
8 *state coordinator shall post this list on its Internet Web site and*
9 *update it at least annually.*

10 (2) *In developing the list required by this subdivision, the state*
11 *coordinator shall consider the current list of controlled property*
12 *designated by the federal Defense Logistics Agency, as well as*
13 *any other state or federal regulations or policies governing the*
14 *use of surplus military equipment.*

15 (3) *The list required by this subdivision shall include, at*
16 *minimum, the following types of equipment:*

17 (A) *The following types of weapons:*

18 (i) *Firearms and ammunition of .50 caliber or greater.*

19 (ii) *Specialized firearms and ammunition of less than .50 caliber.*
20 *This subparagraph shall not apply to service-issued firearms and*
21 *ammunition.*

22 (iii) *Explosives and pyrotechnics, including flash-bang grenades*
23 *and grenade launchers.*

24 (iv) *Bayonets.*

25 (B) *The following types of vehicles:*

26 (i) *Armored vehicles, whether wheeled or utilizing a track*
27 *system, including mine-resistant ambush protected vehicles and*
28 *armored personnel carriers.*

29 (ii) *Tactical vehicles, including vehicles purpose-built to operate*
30 *on and off road in support of military operations.*

31 (iii) *Command and control vehicles, including wheeled vehicles*
32 *either purpose-built or modified to facilitate the operational control*
33 *and direction of public safety units responding to an incident.*

34 (iv) *Manned fixed-wing or rotary-wing aircraft.*

35 (v) *Unmanned aerial vehicles.*

36 (vi) *Any weaponized vehicles, vessels, or aircraft.*

37 (C) *The following additional types of equipment:*

38 (i) *Camouflage uniforms.*

1 (ii) *Riot equipment, including batons, helmets, and shields. This*
2 *subparagraph shall not apply to service-issued telescopic or*
3 *fixed-length straight batons.*

4 (iii) *Breaching apparatus, including battering rams or similar*
5 *entry devices.*

6 SEC. 3. The Legislature finds and declares that Section 2 of
7 this act, which adds Section 54145 to the Government Code,
8 further, within the meaning of paragraph (7) of subdivision (b)
9 of Section 3 of Article I of the California Constitution, the purposes
10 of that constitutional section as it relates to the right of public
11 access to the meetings of local public bodies or the writings of
12 local public officials and local agencies. Pursuant to paragraph (7)
13 of subdivision (b) of Section 3 of Article I of the California
14 Constitution, the Legislature makes the following findings:

15 Requiring local agencies to hold public meetings prior to the
16 acquisition of federal surplus military equipment further exposes
17 that activity to public scrutiny and enhances public access to
18 information concerning the conduct of the people's business.

19 SEC. 4. No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution because
21 the only costs that may be incurred by a local agency or school
22 district under this act would result from a legislative mandate that
23 is within the scope of paragraph (7) of subdivision (b) of Section
24 3 of Article I of the California Constitution.

25 SEC. 5. *No reimbursement is required by this act pursuant to*
26 *Section 6 of Article XIII B of the California Constitution because*
27 *the only costs that may be incurred by a local agency or school*
28 *district will be incurred because this act creates a new crime or*
29 *infraction, eliminates a crime or infraction, or changes the penalty*
30 *for a crime or infraction, within the meaning of Section 17556 of*
31 *the Government Code, or changes the definition of a crime within*
32 *the meaning of Section 6 of Article XIII B of the California*
33 *Constitution.*