

ASSEMBLY BILL

No. 56

Introduced by Assembly Member Quirk

December 2, 2014

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 56, as introduced, Quirk. 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, 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 an investigation, or would endanger the successful completion of the 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.

Because this bill would require local entities to comply with additional rules and requirements regarding the use of information obtained from unmanned aircraft systems, it would impose a state-mandated local program.

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 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 an investigation, or would endanger the successful
18 completion of the investigation.

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

21

22 TITLE 14. UNMANNED AIRCRAFT SYSTEMS

23

24 14350. (a) A public agency shall not use an unmanned aircraft
25 system, or contract for the use of an unmanned aircraft system,
26 except as provided in this title. This title shall apply to all public
27 and private entities when contracting with a public agency for the
28 use of an unmanned aircraft system.

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

4 (c) A law enforcement agency, without obtaining a warrant,
5 may use an unmanned aircraft system in all of the following
6 circumstances:

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

12 (2) To assess the necessity of first responders in situations
13 relating to traffic accidents.

14 (3) (A) To inspect state parks and wilderness areas for illegal
15 vegetation or fires.

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

18 (4) To determine the appropriate response to an imminent or
19 existing environmental emergency or disaster, including, but not
20 limited to, oils spills or chemical spills.

21 (d) A public agency other than a law enforcement agency may
22 use an unmanned aircraft system, or contract for the use of an
23 unmanned aircraft system, to achieve the core mission of the
24 agency provided that the purpose is unrelated to the gathering of
25 criminal intelligence.

26 (e) A public agency that is not primarily a law enforcement
27 agency, but that employs peace officers or performs functions
28 related to criminal investigations, may use an unmanned aircraft
29 system without obtaining a warrant to achieve the core mission of
30 the agency provided that the purpose is unrelated to the gathering
31 of criminal intelligence, and that the images, footage, or data are
32 not used for any purpose other than that for which it was collected.

33 14351. A public agency that uses an unmanned aircraft system,
34 or contracts for the use of an unmanned aircraft system, pursuant
35 to this title shall first provide reasonable notice to the public.
36 Reasonable notice shall, at a minimum, consist of a one-time
37 announcement regarding the agency’s intent to deploy unmanned
38 aircraft system technology and a description of the technology’s
39 capabilities.

1 14352. (a) (1) (A) Except as permitted by this title, images,
2 footage, or data obtained by a public agency, or any entity
3 contracting with a public agency, pursuant to this title shall not be
4 disseminated to a law enforcement agency unless the law
5 enforcement agency has obtained a warrant for the images, footage,
6 or data based on probable cause pursuant to this code, or the law
7 enforcement agency would not have been required to obtain a
8 warrant to collect the images, footage, or data itself, as specified
9 in Section 14350.

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

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

20 (A) Images, footage, or data obtained by a public agency through
21 the use of an unmanned aircraft system may be disseminated to
22 another public agency that is not a law enforcement agency if the
23 images, footage, or data are related to the core mission of both
24 public agencies involved in the sending or receiving of the images,
25 footage, or data.

26 (B) Images, footage, or data obtained by a public agency through
27 the use of an unmanned aircraft system may be disseminated
28 outside the collecting public agency if the images, footage, or data
29 are evidence in any claim filed or any pending litigation.

30 (C) Images, footage, or data obtained by a public agency through
31 the use of an unmanned aircraft system may be disseminated to a
32 private entity if both of the following conditions are satisfied:

33 (i) The collecting public agency is not a law enforcement
34 agency.

35 (ii) The images, footage, or data are related to the core function
36 of the collecting public agency.

37 (3) A public agency may make available to the public images,
38 footage, or data obtained by the public agency through the use of
39 an unmanned aircraft system if both of the following conditions
40 are satisfied:

1 (A) The images, footage, or data do not depict or describe any
2 individual or group of individuals, or the activities of any individual
3 or group of individuals whose identity or identities can be
4 ascertained.

5 (B) The disclosure of the images, footage, or data is required
6 to fulfill the public agency's statutory or mandatory obligations.

7 (b) Except as permitted by this title, images, footage, or data
8 obtained by a public agency through the use of an unmanned
9 aircraft system shall not be used by the public agency for any
10 purpose other than that for which it was collected.

11 (c) (1) Images, footage, or data obtained through the use of an
12 unmanned aircraft system shall be permanently destroyed within
13 one year, except that a public agency may retain the images,
14 footage, or data in all of the following circumstances:

15 (A) For training purposes. Images, footage, or data retained for
16 training purposes shall be used only for the education and
17 instruction of a public agency's employees in matters related to
18 the mission of the public agency and for no other purpose.

19 (B) For academic research or teaching purposes. Images,
20 footage, or data retained for academic research or teaching purposes
21 shall be used only for the advancement of research and teaching
22 conducted by an academic or research institution and matters
23 related to the mission of the institution and for no other purpose.

24 (C) For purposes of monitoring material assets owned by the
25 public agency.

26 (D) For environmental, public works, or land use management
27 or planning by the public agency.

28 (2) Notwithstanding paragraph (1), a public agency may retain
29 beyond one year images, footage, or data obtained through the use
30 of an unmanned aircraft system in both of the following
31 circumstances:

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

34 (B) If the images, footage, or data are evidence in any claim
35 filed or any pending litigation or enforcement proceeding.

36 14353. Unless authorized by federal law, a person or entity,
37 including a public agency subject to Section 14350 or a person or
38 entity under contract to a public agency, for the purpose of that
39 contract, shall not equip or arm an unmanned aircraft system with
40 a weapon or other device that may be carried by or launched from

1 an unmanned aircraft system and that is intended to cause bodily
2 injury or death, or damage to, or the destruction of, real or personal
3 property.

4 14354. All unmanned aircraft systems shall be operated so as
5 to minimize the collection of images, footage, or data of persons,
6 places, or things not specified with particularity in the warrant
7 authorizing the use of an unmanned aircraft system, or, if no
8 warrant was obtained, for purposes unrelated to the justification
9 for the operation.

10 14355. (a) This title is not intended to conflict with or
11 supersede federal law, including rules and regulations of the
12 Federal Aviation Administration.

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

15 14356. For the purposes of this title, the following definitions
16 shall apply:

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

20 (b) “Law enforcement agency” means the Attorney General of
21 the State of California, each district attorney, and each agency of
22 the State of California authorized by statute to investigate or
23 prosecute law violators.

24 (c) “Public agency” means and includes each state agency and
25 each local agency.

26 (d) “Unmanned aircraft system” means an unmanned aircraft
27 and associated elements, including communication links and the
28 components that control the unmanned aircraft, that are required
29 for the pilot in command to operate safely and efficiently in the
30 national airspace system.

31 14357. Except as provided in this title, the surveillance
32 restrictions on electronic devices described in Chapter 1.5
33 (commencing with Section 630) of Title 15 of Part 1 shall apply
34 to the use or operation of an unmanned aircraft system by a public
35 agency.

36 SEC. 3. The Legislature finds and declares that Section 1 of
37 this act, which adds Section 6254.31 of the Government Code,
38 imposes a limitation on the public’s right of access to the meetings
39 of public bodies or the writings of public officials and agencies
40 within the meaning of Section 3 of Article I of the California

1 Constitution. Pursuant to that constitutional provision, the
2 Legislature makes the following findings to demonstrate the interest
3 protected by this limitation and the need for protecting that interest:

4 In order to ensure the safety of persons involved in investigations
5 and to preserve the integrity of those investigations, it is necessary
6 that this act take effect.

7 SEC. 4. No reimbursement is required by this act pursuant to
8 Section 6 of Article XIII B of the California Constitution because
9 the only costs that may be incurred by a local agency or school
10 district under this act would result from a legislative mandate that
11 is within the scope of paragraph (7) of subdivision (b) of Section
12 3 of Article I of the California Constitution.