

AMENDED IN ASSEMBLY APRIL 22, 2015

AMENDED IN ASSEMBLY APRIL 8, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 56**

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**Introduced by Assembly Member Quirk  
(Principal coauthor: Assembly Member Campos)**

December 2, 2014

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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 amended, 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, *subject to approval by the legislative body having management and control of the law enforcement agency and other specified conditions*, 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 reasonable public notice, or a set of guidelines, to be made available to the public by law enforcement agencies intending to deploy unmanned aircraft systems, as specified.~~ *The bill would require a local legislative body that considers approving the use of an unmanned aircraft system by a law enforcement agency to provide an opportunity for public comment before granting approval, and to specify the circumstances under which an unmanned aircraft system may be used and the time limits applicable to each circumstance.* 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, or launched or directed from,~~ an unmanned aircraft system and that is intended to cause *incapacitation*, 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,

1 footage, data, or records would endanger the safety of a person  
 2 involved in an investigation, or would endanger the successful  
 3 completion of the investigation.

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

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TITLE 14. UNMANNED AIRCRAFT SYSTEMS

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10 14350. (a) A public agency shall not use an unmanned aircraft  
 11 system, or contract for the use of an unmanned aircraft system,  
 12 except as provided in this title. This title shall apply to all public  
 13 and private entities when contracting with a public agency for the  
 14 use of an unmanned aircraft system.

15 (b) A law enforcement agency may use an unmanned aircraft  
 16 system ~~over public lands, highways, and spaces open to the public~~  
 17 ~~without a warrant.~~ *if the law enforcement agency complies with*  
 18 *all of the following:*

19 (1) *Protections against unreasonable searches guaranteed by*  
 20 *the United States Constitution and the California Constitution.*

21 (2) *Federal law applicable to the use of an unmanned aircraft*  
 22 *system by an agency, including, but not limited to, regulations of*  
 23 *the Federal Aviation Administration.*

24 (3) *State law applicable to any agency’s use of surveillance*  
 25 *technology that can be attached to an unmanned aircraft system,*  
 26 *including, but not limited to, Chapter 1.5 (commencing with Section*  
 27 *630) of Title 15 of Part 1.*

28 (4) *The law enforcement agency shall obtain prior approval*  
 29 *from the legislative body having management and control of the*  
 30 *agency.*

31 (5) *If the use of an unmanned aircraft system by a local law*  
 32 *enforcement agency may involve the systematic collection of images*  
 33 *from an adjacent county, city, or city and county, the law*  
 34 *enforcement agency shall obtain approval from the local legislative*  
 35 *body of that county, city, or city and county.*

36 (6) *The agency shall develop and make available to the public*  
 37 *a policy on the use of an unmanned aircraft system and shall train*  
 38 *the law enforcement agency’s officers and employees on the policy,*  
 39 *prior to the use of the unmanned aircraft system.*

40 (c) (1) *A local legislative body that considers approving the*  
 use of an unmanned aircraft system for use by a law enforcement

1 agency to gather information pursuant to this section shall provide  
2 an opportunity for public comment at a regularly scheduled public  
3 meeting of the body before granting approval.

4 (2) The approval granted by a local legislative body pursuant  
5 to this section shall specify, at a minimum, the circumstances under  
6 which an unmanned aircraft system may be used and the time  
7 limits applicable to each circumstance.

8 (e)

9 (d) A law enforcement agency ~~may~~ shall not use an unmanned  
10 aircraft system under 400 feet above ground level over private  
11 property if it has obtained consent from the property owner or a  
12 warrant based on probable cause pursuant to this code. to surveil  
13 private property unless the law enforcement agency complies with  
14 subdivision (b) and has obtained either of the following:

15 (1) A search warrant based on probable cause.

16 (2) The express permission of the person or entity with the legal  
17 authority to grant access to the specific private property to be  
18 subjected to surveillance.

19 ~~(d) A law enforcement agency, without consent from the~~  
20 ~~property owner or obtaining a warrant, may use an unmanned~~  
21 ~~aircraft system in all of the following circumstances over private~~  
22 ~~property:~~

23 (e) Notwithstanding subdivision (d), a law enforcement agency  
24 may use an unmanned aircraft system to surveil private property  
25 if an exigent circumstance exists, including, but not limited to, one  
26 of the following circumstances:

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

32 (2) To assess the necessity of first responders and process scenes  
33 in situations relating to traffic accidents.

34 (3) To document traffic collision and crime scenes.

35 (4) To inspect state parks and wilderness areas for illegal  
36 vegetation or fires, regardless of permanent improvements or  
37 temporary human habitation.

38 (5) To determine the appropriate response to an imminent or  
39 existing environmental emergency or disaster, including, but not  
40 limited to, oils spills or chemical spills.

1 (e)

2 (f) A public agency other than a law enforcement agency may  
3 use an unmanned aircraft system, or contract for the use of an  
4 unmanned aircraft system, to achieve the core mission of the  
5 agency provided that the purpose is unrelated to the gathering of  
6 criminal intelligence.

7 (f)

8 (g) A public agency that is not primarily a law enforcement  
9 agency, but that employs peace officers or performs functions  
10 related to criminal investigations, may use an unmanned aircraft  
11 system without obtaining a warrant to achieve the core mission of  
12 the agency provided that the purpose is unrelated to the gathering  
13 of criminal intelligence, and that the images, footage, or data are  
14 not used for any purpose other than that for which it was collected.

15 14351. (a) A public agency that uses an unmanned aircraft  
16 system, or contracts for the use of an unmanned aircraft system,  
17 pursuant to this title shall first provide reasonable notice to the  
18 public. Reasonable notice shall, at a minimum, consist of a  
19 one-time announcement regarding the agency’s intent to deploy  
20 unmanned aircraft system technology and a description of the  
21 technology’s capabilities.

22 (b) ~~A law enforcement agency that uses an unmanned aircraft~~  
23 ~~system shall first provide reasonable notice to the public or to the~~  
24 ~~governing board, or create a set of guidelines, which will be made~~  
25 ~~available to the public. Reasonable notice or the guidelines shall,~~  
26 ~~at a minimum, consist of a one-time announcement regarding the~~  
27 ~~agency’s intent to deploy unmanned aircraft system technology,~~  
28 ~~a description of the technology’s capabilities, and what the~~  
29 ~~technology will and will not be used for.~~

30 14352. (a) (1) (A) Except as permitted by this title, images,  
31 footage, or data obtained by a public agency, or any entity  
32 contracting with a public agency, ~~over of a private property and~~  
33 ~~pursuant to this title shall not be disseminated to a law enforcement~~  
34 ~~agency unless the law enforcement agency has obtained consent~~  
35 ~~from the property owner or a warrant~~ *the permission of the person*  
36 *or entity with the legal authority to grant access to the property*  
37 *or a search warrant* for the images, footage, or data based on  
38 probable cause pursuant to this code, or the law enforcement  
39 agency would not have been required to obtain a warrant to collect  
40 the images, footage, or data itself, as specified in Section 14350.

1 (B) 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 disseminate images, footage,  
4 or data collected pursuant to Section 14350 if the dissemination  
5 is to others within that agency.

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

11 (A) Images, footage, or data obtained by a public agency through  
12 the use of an unmanned aircraft system may be disseminated to  
13 another public agency that is not a law enforcement agency if the  
14 images, footage, or data are related to the core mission of both  
15 public agencies involved in the sending or receiving of the images,  
16 footage, or data.

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

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

24 (i) The collecting public agency is not a law enforcement  
25 agency.

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

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

32 (A) The images, footage, or data do not depict or describe any  
33 individual or group of individuals, or the activities of any individual  
34 or group of individuals whose identity or identities can be  
35 ascertained.

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

38 (b) Except as permitted by this title, images, footage, or data  
39 obtained by a public agency through the use of an unmanned

1 aircraft system shall not be used by the public agency for any  
2 purpose other than that for which it was collected.

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

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

11 (B) For academic research or teaching purposes. Images,  
12 footage, or data retained for academic research or teaching purposes  
13 shall be used only for the advancement of research and teaching  
14 conducted by an academic or research institution and matters  
15 related to the mission of the institution and for no other purpose.

16 (C) For purposes of monitoring material assets owned by the  
17 public agency.

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

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

24 (A) If a *search* warrant authorized the collection of the images,  
25 footage, or data.

26 (B) If the images, footage, or data are evidence in any claim  
27 filed or any pending litigation, *internal disciplinary proceeding*,  
28 or enforcement proceeding.

29 14353. Unless authorized by federal law, a person or entity,  
30 including a public agency subject to Section 14350 or a person or  
31 entity under contract to a public agency, for the purpose of that  
32 contract, shall not equip or arm an unmanned aircraft system with  
33 a weapon or other device that may be carried ~~by or launched from~~  
34 *by, or launched or directed from*, an unmanned aircraft system  
35 and that is intended to cause *incapacitation*, bodily injury or death,  
36 or damage to, or the destruction of, real or personal property.

37 14354. All unmanned aircraft systems shall be operated so as  
38 to minimize the collection of images, footage, or data of persons,  
39 places, or things not specified with particularity in the warrant  
40 authorizing the use of an unmanned aircraft system, or, if no



1 warrant was obtained, for purposes unrelated to the justification  
2 for the operation.

3 14355. (a) This title is not intended to conflict with or  
4 supersede federal law, including rules and regulations of the  
5 Federal Aviation Administration.

6 (b) A local legislative body may adopt more restrictive policies  
7 on the acquisition ~~or use~~, *use, or retention* of unmanned aircraft  
8 systems.

9 14356. For the purposes of this title, the following definitions  
10 shall apply:

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

14 (b) “Law enforcement agency” means the Attorney General of  
15 the State of California, each district attorney, and each agency of  
16 the State of California authorized by statute to investigate or  
17 prosecute law violators.

18 (c) “Public agency” means and includes each state agency and  
19 each local agency.

20 (d) “Unmanned aircraft system” means an unmanned aircraft  
21 and associated elements, including communication links and the  
22 components that control the unmanned aircraft, that are required  
23 for the pilot in command to operate safely and efficiently in the  
24 national airspace system.

25 14357. Except as provided in this title, the surveillance  
26 restrictions on electronic devices described in Chapter 1.5  
27 (commencing with Section 630) of Title 15 of Part 1 shall apply  
28 to the use or operation of an unmanned aircraft system by a public  
29 agency.

30 SEC. 3. The Legislature finds and declares that Section 1 of  
31 this act, which adds Section 6254.31 of the Government Code,  
32 imposes a limitation on the public’s right of access to the meetings  
33 of public bodies or the writings of public officials and agencies  
34 within the meaning of Section 3 of Article I of the California  
35 Constitution. Pursuant to that constitutional provision, the  
36 Legislature makes the following findings to demonstrate the interest  
37 protected by this limitation and the need for protecting that interest:

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

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

O