

AMENDED IN SENATE JULY 7, 2015
AMENDED IN SENATE JUNE 24, 2015
AMENDED IN ASSEMBLY APRIL 22, 2015
AMENDED IN ASSEMBLY APRIL 8, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 56

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

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 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 law enforcement agencies from using unmanned aircraft systems, ~~or contracting for the use of unmanned aircraft systems, as defined,~~ *obtaining an unmanned aircraft system from another public agency by contract, loan, or other arrangement,*

or using information obtained from an unmanned aircraft system used by another public agency, except as provided by the bill's provisions. The bill would authorize a law enforcement agency to use an unmanned aircraft system if the law enforcement agency complies with specified requirements, including, among others, that ~~prior to~~ before the use of an unmanned aircraft system, the law enforcement agency develops and makes available to the public a policy on the use of an unmanned aircraft system, as provided, and that the law enforcement agency complies with protections against unreasonable searches guaranteed by the United States Constitution and the California Constitution, federal law applicable to the use of an unmanned aircraft system by an agency, state and local law applicable to any agency's use of surveillance technology that can be attached to an unmanned aircraft system, and the unmanned aircraft system policy developed by the law enforcement agency pursuant to the bill's provisions. The bill would prohibit a law enforcement agency from using an unmanned aircraft system to surveil private property unless, among other justifications, the law enforcement agency obtains a search warrant.

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 of private property obtained through the use of an unmanned aircraft system under these provisions from being disseminated outside the collecting law enforcement 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 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. By creating a new crime, the bill would impose a state-mandated local program. 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~~ law enforcement agency.

The bill would make its provisions applicable to all ~~public law enforcement agencies~~ and private entities when contracting with a ~~public~~ or acting as the agent of a law enforcement 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~~ *system, including use* pursuant to Title 14
- 6 (commencing with Section 14350) of Part 4 of the Penal Code, or
- 7 any related record, including, but not limited to, usage logs or logs

1 that identify any person or entity that subsequently obtains or
2 requests records of that system, are public records subject to
3 disclosure.

4 (b) Notwithstanding subdivision (a), nothing in this chapter or
5 any other law requires the disclosure of images, footage, or data
6 obtained through the use of an unmanned aircraft system, or any
7 related record, including, but not limited to, usage logs or logs that
8 identify any person or entity that subsequently obtains or requests
9 records of that system, to the extent that disclosure of the images,
10 footage, data, or records would endanger the safety of a person
11 involved in an investigation, or would endanger the successful
12 completion of the investigation.

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

15

16 TITLE 14. UNMANNED AIRCRAFT SYSTEMS

17

18 14350. (a) A law enforcement agency shall not use an
19 unmanned aircraft system, or contract for the use of an unmanned
20 aircraft system, system, obtain an unmanned aircraft system from
21 another public agency by contract, loan, or other arrangement,
22 or use information obtained from an unmanned aircraft system
23 used by another public agency, except as provided in this title.
24 This title shall apply to all ~~public~~ law enforcement agencies and
25 private entities when contracting with or acting as the agent of a
26 law enforcement agency for the use of an unmanned aircraft
27 system.

28 (b) A law enforcement agency may use an unmanned aircraft
29 system system, or use information obtained from an unmanned
30 aircraft system used by another public agency, if the law
31 enforcement agency complies with all of the following:

32 (1) Protections against unreasonable searches guaranteed by the
33 United States Constitution and the California Constitution.

34 (2) Federal law applicable to the use of an unmanned aircraft
35 system by an agency, including, but not limited to, regulations of
36 the Federal Aviation Administration.

37 (3) State and local law applicable to any agency's use of
38 surveillance technology that can be attached to an unmanned
39 aircraft system, including, but not limited to, Chapter 1.5
40 (commencing with Section 630) of Title 15 of Part 1.

1 (4) If the use of an unmanned aircraft system by a local law
2 enforcement agency may involve the collection of ~~images from~~
3 ~~an adjacent~~ *images, footage, or data from another county, city, or*
4 *city and county, the law enforcement agency shall obtain a warrant*
5 *based on probable* ~~cause.~~ *cause, unless an exigent circumstance*
6 *exists.*

7 (5) (A) The law enforcement agency develops and makes
8 available to the public a policy on the use of an unmanned aircraft
9 system and trains the law enforcement agency's officers and
10 employees on the policy, ~~prior to~~ *before* the use of the unmanned
11 aircraft system.

12 (B) The law enforcement agency uses the unmanned aircraft
13 system consistent with the policy developed pursuant to this
14 paragraph.

15 (C) ~~Prior to~~ *Before* finalizing the policy required by this
16 paragraph, the law enforcement agency shall ~~provide an opportunity~~
17 ~~for public comment~~ *present the proposed policy* at a regularly
18 scheduled *and noticed* public meeting of its governing ~~body.~~ *body*
19 *with an opportunity for public comment.*

20 (D) The policy required by this paragraph shall specify, at a
21 minimum, ~~the circumstances under which an unmanned aircraft~~
22 ~~system may be used and the time limits applicable to each~~
23 ~~circumstance.~~ *all of the following:*

24 (i) *The circumstances under which an unmanned aircraft system*
25 *may and may not be used.*

26 (ii) *The time limits applicable to each circumstance.*

27 (iii) *The rules and processes required before such use.*

28 (iv) *The individuals who may access or use an unmanned*
29 *aircraft system or its collected information and the circumstances*
30 *under which they may do so.*

31 (v) *The safeguards to protect unauthorized use or access.*

32 (vi) *Training required for any individual authorized to use or*
33 *access the sharing or information.*

34 (vii) *Sharing of images, data, or footage with other law*
35 *enforcement agencies and public agencies.*

36 (viii) *The manner in which information obtained from another*
37 *public agency will be used.*

38 (ix) *Mechanisms to ensure the policy is followed.*

39 (c) A law enforcement agency shall not use an unmanned aircraft
40 ~~system~~ *system, or information obtained from an unmanned aircraft*

1 *system used by another public agency*, to surveil private property
2 unless the law enforcement agency complies with subdivision (b)
3 and has obtained either of the following:

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

5 (2) The express permission of the person or entity with the legal
6 authority to authorize a search of the specific private property to
7 be subjected to surveillance.

8 (d) Notwithstanding subdivision (c), a law enforcement agency
9 may use an unmanned aircraft system to surveil private property
10 if an exigent circumstance exists, including, but not limited to,
11 either of the following circumstances:

12 (1) In emergency situations if there is an imminent threat to life
13 or of great bodily harm, including, but not limited to, fires, hostage
14 crises, barricaded suspects, “hot pursuit” situations if reasonably
15 necessary to prevent harm to law enforcement officers or others,
16 and search and rescue operations on land or water.

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

20 ~~14351. (a) Except as permitted by this title, images, footage,~~
21 ~~or data obtained by a law enforcement agency, or any entity~~
22 ~~contracting with a law enforcement agency, of private property~~
23 ~~pursuant to this title shall not be disseminated to another law~~
24 ~~enforcement agency unless the law enforcement agency has the~~
25 ~~permission of the person or entity with the legal authority to~~
26 ~~authorize a search of the specific private property or a search~~
27 ~~warrant for the images, footage, or data based on probable cause~~
28 ~~pursuant to this code, or the law enforcement agency would not~~
29 ~~have been required to obtain a warrant to collect the images,~~
30 ~~footage, or data itself, as specified in Section 14350.~~

31 ~~(b) Except as permitted by this title, images, footage, or data~~
32 ~~obtained by a law enforcement agency through the use of an~~
33 ~~unmanned aircraft system shall not be used by the law enforcement~~
34 ~~agency for any purpose other than that for which it was collected.~~

35 ~~(c) (1) Images, footage, or data obtained through the use of an~~
36 ~~unmanned aircraft system shall be permanently destroyed within~~
37 ~~one year, except that a law enforcement agency may retain the~~
38 ~~images, footage, or data in both of the following circumstances:~~

39 ~~(A) For training purposes. Images, footage, or data retained for~~
40 ~~training purposes shall be used only for the education and~~

1 ~~instruction of a law enforcement agency's employees in matters~~
2 ~~related to the mission of the law enforcement agency and for no~~
3 ~~other purpose.~~

4 ~~(B) For academic research or teaching purposes. Images,~~
5 ~~footage, or data retained for academic research or teaching purposes~~
6 ~~shall be used only for the advancement of research and teaching~~
7 ~~conducted by an academic or research institution and matters~~
8 ~~related to the mission of the institution and for no other purpose.~~

9 ~~(2) Notwithstanding paragraph (1), a law enforcement agency~~
10 ~~may retain beyond one year images, footage, or data obtained~~
11 ~~through the use of an unmanned aircraft system in both of the~~
12 ~~following circumstances:~~

13 ~~(A) If a search warrant authorized the collection of the images,~~
14 ~~footage, or data.~~

15 ~~(B) If the images, footage, or data are evidence in any claim~~
16 ~~filed or any pending litigation, internal disciplinary proceeding,~~
17 ~~enforcement proceeding, or criminal investigation.~~

18 *14351. (a) Images, footage, or data obtained through the use*
19 *of an unmanned aircraft system shall be permanently destroyed*
20 *within one year, except that a law enforcement agency may retain*
21 *the images, footage, or data in both of the following circumstances:*

22 *(1) For training purposes. Images, footage, or data retained*
23 *for training purposes shall be used only for the education and*
24 *instruction of a law enforcement agency's employees in matters*
25 *related to the mission of the law enforcement agency and for no*
26 *other purpose.*

27 *(2) For academic research or teaching purposes. Images,*
28 *footage, or data retained for academic research or teaching*
29 *purposes shall be used only for the advancement of research and*
30 *teaching conducted by an academic or research institution and*
31 *matters related to the mission of the institution and for no other*
32 *purpose.*

33 *(b) Notwithstanding subdivision (a), a law enforcement agency*
34 *may retain beyond one year images, footage, or data obtained*
35 *through the use of an unmanned aircraft system in both of the*
36 *following circumstances:*

37 *(1) If a search warrant authorized the collection of the images,*
38 *footage, or data.*

1 (2) *If the images, footage, or data are evidence in any claim*
2 *filed or any pending litigation, internal disciplinary proceeding,*
3 *enforcement proceeding, or criminal investigation.*

4 14352. Unless authorized by federal law, a person or entity,
5 including a law enforcement agency subject to Section 14350 or
6 a person or entity under contract to a law enforcement agency, for
7 the purpose of that contract, shall not equip or arm an unmanned
8 aircraft system with a weapon or other device that may be carried
9 by, or launched or directed from, an unmanned aircraft system and
10 that is intended to cause incapacitation, bodily injury or death, or
11 damage to, or the destruction of, real or personal property.

12 14353. All unmanned aircraft systems shall be operated so as
13 to minimize the collection of images, footage, or data of persons,
14 places, or things not specified with particularity in the warrant
15 authorizing the use of an unmanned aircraft system, or, if no
16 warrant was obtained, for purposes unrelated to the justification
17 for the operation.

18 14354. (a) This title is not intended to conflict with or
19 supersede federal law, including rules and regulations of the
20 Federal Aviation Administration.

21 (b) A local legislative body may adopt more restrictive policies
22 *than those specified in state law* on the acquisition, use, or retention
23 of unmanned aircraft systems.

24 14355. For the purposes of this title, the following definitions
25 shall apply:

26 ~~(a) “Criminal intelligence” means information compiled,~~
27 ~~analyzed, or disseminated in an effort to anticipate, prevent,~~
28 ~~monitor, or investigate criminal activity.~~

29 ~~(b)~~

30 (a) “Law enforcement agency” means the Attorney General,
31 each district attorney, and each agency of the state or political
32 subdivision of the state authorized by statute to investigate or
33 prosecute law violators.

34 ~~(e)~~

35 (b) “Unmanned aircraft system” means an unmanned aircraft
36 and associated elements, including communication links and the
37 components that control the unmanned aircraft, that are required
38 for the pilot in command to operate safely and efficiently in the
39 national airspace system.

1 14356. Except as provided in this title, the surveillance
2 restrictions on electronic devices described in Chapter 1.5
3 (commencing with Section 630) of Title 15 of Part 1 shall apply
4 to the use or operation of an unmanned aircraft system by a ~~public~~
5 *law enforcement* agency.

6 SEC. 3. The Legislature finds and declares that Section 1 of
7 this act, which adds Section 6254.31 of the Government Code,
8 imposes a limitation on the public's right of access to the meetings
9 of public bodies or the writings of public officials and agencies
10 within the meaning of Section 3 of Article I of the California
11 Constitution. Pursuant to that constitutional provision, the
12 Legislature makes the following findings to demonstrate the interest
13 protected by this limitation and the need for protecting that interest:

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

17 SEC. 4. No reimbursement is required by this act pursuant to
18 Section 6 of Article XIII B of the California Constitution because
19 the only costs that may be incurred by a local agency or school
20 district under this act would result either from a legislative mandate
21 that is within the scope of paragraph (7) of subdivision (b) of
22 Section 3 of Article I of the California Constitution, or because
23 this act creates a new crime or infraction, eliminates a crime or
24 infraction, or changes the penalty for a crime or infraction, within
25 the meaning of Section 17556 of the Government Code, or changes
26 the definition of a crime within the meaning of Section 6 of Article
27 XIII B of the California Constitution.