An act to amend Section 830.7 of the Penal Code, and to amend Section 21012 of, and to add Part 1.5 (commencing with Section 21750) to Division 9 of, the Public Utilities Code, relating to aviation.

LEGISLATIVE COUNSEL’S DIGEST

SB 868, as amended, Jackson. State Remote Piloted Aircraft Act. Existing federal law, the FAA Modernization and Reform Act of 2012, provides for the integration of civil unmanned aircraft systems, commonly known as drones, into the National Airspace System. Existing federal law generally requires an aircraft to be registered with the Federal Aviation Administration (FAA), prohibits a person from operating a United States registered aircraft unless that aircraft displays specified nationality and registration marks, and, unless authorized by the FAA, prohibits a person from placing on any aircraft a design, mark, or symbol that modifies or confuses those nationality and registration marks.

The State Aeronautics Act governs various matters relative to aviation in the state, including, among other things, fostering and promoting safety in aeronautics and establishing only those regulations that are essential and clearly within the scope of the authority granted to the Department of Transportation by the Legislature, in order that persons
may engage in every phase of aeronautics with the least possible
restriction consistent with the safety and the rights of others. A violation
of the act is a crime punishable by a fine of not more than $1,000 or by
imprisonment of not more than 6 months, or both.

Existing law establishes the Office of Emergency Services in the
office of the Governor and makes the office Office of Emergency
Services responsible for the state’s emergency and disaster response
services for natural, technological, or manmade disasters and
emergencies.

This bill would enact the State Remote Piloted Aircraft Act. The bill
would establish conditions for operating remote piloted aircraft,
including the procurement of liability insurance. The bill would authorize the department to
adopt rules and regulations governing the conditions under which remote
piloted aircraft may be operated for the purpose of protecting and
ensuring the general public interest and safety and the safety of persons
operating remote piloted aircraft. The bill would authorize the Office
of Emergency Services to adopt rules and regulations and to make and
amend general or special rules, orders, and procedures with respect to
operating a remote piloted aircraft in certain circumstances, including
operating a remote piloted aircraft within 500 feet of critical
infrastructure.

The bill would authorize the department to make and amend general
or special rules, orders, and procedures, and establish minimum
standards consistent with the act as it deems necessary, to assist political
subdivisions and their law enforcement agencies, and to enter into any
contracts necessary to the execution of its powers pursuant to the act,
as specified. The bill would authorize provide that an officer or
employee designated by the Director of Transportation and the
department’s officers and employees, Transportation to exercise certain
powers of arrest, as specified, and any state or peace officer charged
with the enforcement of state and local laws or ordinances, to may
enforce and assist in the enforcement of the act, any rules or orders
issued under the act, and all other state laws applicable to remote piloted
aircraft or unmanned aircraft systems. The bill would also authorize
the director to designate any officer or employee of the department to
exercise the powers of arrest, as specified. The bill would provide that
remedies provided by the act are cumulative with any other remedies
available under law. The bill would provide that the provisions of the
act are severable. The bill would make a violation of the act or any rule
or order issued pursuant to the act punishable in the same manner as a
violation of the State Aeronautics Act, except as provided, which would
make violations subject to criminal penalties. The bill would make a
violation of any provision of the act or any rule or order issued pursuant
to the act punishable as an infraction with a fine not exceeding $250,
or as a misdemeanor punishable by imprisonment in a county jail not
exceeding 6 months, or by a fine not exceeding $1,000, or by both that
fine and imprisonment.

Because the bill would create new crimes, the bill 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.
State-mandated local program: yes.

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

SECTION 1. Section 830.7 of the Penal Code is amended to
read:
830.7. The following persons are not peace officers but may
exercise the powers of arrest of a peace officer as specified in
Section 836 during the course and within the scope of their
employment, if they successfully complete a course in the exercise
of those powers pursuant to Section 832:
(a) Persons designated by a cemetery authority pursuant to
Section 8325 of the Health and Safety Code.
(b) Persons regularly employed as security officers for
independent institutions of higher education, recognized under
subdivision (b) of Section 66010 of the Education Code, if the
institution has concluded a memorandum of understanding,
permitting the exercise of that authority, with the sheriff or the
chief of police within whose jurisdiction the institution lies.
(c) Persons regularly employed as security officers for health
facilities, as defined in Section 1250 of the Health and Safety Code,
that are owned and operated by cities, counties, and cities and
counties, if the facility has concluded a memorandum of
understanding, permitting the exercise of that authority, with the
sheriff or the chief of police within whose jurisdiction the facility lies.
(d) Employees or classes of employees of the California Department of Forestry and Fire Protection designated by the Director of Forestry and Fire Protection, provided that the primary duty of the employee shall be the enforcement of the law as that duty is set forth in Section 4156 of the Public Resources Code.
(e) Persons regularly employed as inspectors, supervisors, or security officers for transit districts, as defined in Section 99213 of the Public Utilities Code, if the district has concluded a memorandum of understanding permitting the exercise of that authority, with, as applicable, the sheriff, the chief of police, or the Department of the California Highway Patrol within whose jurisdiction the district lies. For the purposes of this subdivision, the exercise of peace officer authority may include the authority to remove a vehicle from a railroad right-of-way as set forth in Section 22656 of the Vehicle Code.
(f) Officers and employees of the Department of Transportation who are designated by the Director of Transportation to enforce the provisions of the State Remote Piloted Aircraft Act (Part 1.5 (commencing with Section 21750) of Division 9 of the Public Utilities Code), any rule or order issued under that part, or any other law applicable to remote piloted aircraft or unmanned aircraft systems.
(g) Nonpeace officers regularly employed as county parole officers pursuant to Section 3089.
(h) Persons appointed by the Executive Director of the California Science Center pursuant to Section 4108 of the Food and Agricultural Code.
(i) Persons regularly employed as investigators by the Department of Transportation for the City of Los Angeles and designated by local ordinance as public officers, to the extent necessary to enforce laws related to public transportation, and authorized by a memorandum of understanding with the chief of police, permitting the exercise of that authority. For the purposes of this subdivision, “investigator” means an employee defined in Section 53075.61 of the Government Code authorized by local ordinance to enforce laws related to public transportation. Transportation investigators authorized by this section shall not be deemed “peace officers” for purposes of Sections 241 and 243.
(j) Persons regularly employed by any department of the City of Los Angeles who are designated as security officers and authorized by local ordinance to enforce laws related to the preservation of peace in or about the properties owned, controlled, operated, or administered by any department of the City of Los Angeles and authorized by a memorandum of understanding with the Chief of Police of the City of Los Angeles permitting the exercise of that authority. Security officers authorized pursuant to this subdivision shall not be deemed peace officers for purposes of Sections 241 and 243.

(k) Illegal dumping enforcement officers or code enforcement officers, to the extent necessary to enforce laws related to illegal waste dumping or littering, and authorized by a memorandum of understanding with, as applicable, the sheriff or chief of police within whose jurisdiction the person is employed, permitting the exercise of that authority. An “illegal dumping enforcement officer or code enforcement officer” is defined, for purposes of this section, as a person employed full time, part time, or as a volunteer after completing training prescribed by law, by a city, county, or city and county, whose duties include illegal dumping enforcement and who is designated by local ordinance as a public officer. An illegal dumping enforcement officer or code enforcement officer may also be a person who is not regularly employed by a city, county, or city and county, but who has met all training requirements and is directly supervised by a regularly employed illegal dumping enforcement officer or code enforcement officer conducting illegal dumping enforcement. This person shall not have the power of arrest or access to summary criminal history information pursuant to this section. No person may be appointed as an illegal dumping enforcement officer or code enforcement officer if that person is disqualified pursuant to the criteria set forth in Section 1029 of the Government Code. Persons regularly employed by a city, county, or city and county designated pursuant to this subdivision may be furnished state summary criminal history information upon a showing of compelling need pursuant to subdivision (c) of Section 11105.

SEC. 2. Section 21012 of the Public Utilities Code is amended to read:

21012. “Aircraft” means any manned contrivance used or designed for navigation of, or flight in, the air requiring
certification and registration as prescribed by federal statute or regulation. Notwithstanding the foregoing provisions of this section, manned lighter-than-air balloons and ultralight vehicles as defined in the regulations of the Federal Aviation Administration (14 C.F.R. Part 103), whether or not certificated by the Federal Aviation Administration, shall not be considered to be aircraft for purposes of this part. “Aircraft” does not include remote piloted aircraft, as defined in Section 21753. SEC. 3. Part 1.5 (commencing with Section 21750) is added to Division 9 of the Public Utilities Code, to read:

PART 1.5. STATE REMOTE PILOTED AIRCRAFT ACT

21750. This part may be cited as the “State Remote Piloted Aircraft Act.”

21751. The purpose of this part is to further and protect the public interest in remote piloted aircraft by all of the following means:
(a) Encouraging the development and general use of remote piloted aircraft.
(b) Fostering and promoting safety in remote piloted aeronautics.
(c) Preserving the fundamental right to privacy.
(d) Protecting the security of critical infrastructure.
(e) Protecting California’s natural resources.
(f) Encouraging the use of remote piloted aircraft for newsgathering in a manner consistent with the fundamental right to privacy.
(g) Granting to a state agency powers, and imposing upon it duties, so that the state may properly perform its functions relative to remote piloted aeronautics and effectively exercise its jurisdiction over persons and property.
(h) Effecting, where feasible and consistent with the policies of this state, uniformity with federal aeronautics laws and regulations.
(i) Establishing only those regulations that are essential and clearly within the scope of the authority granted by the Legislature, in order that persons may engage in every phase of remote piloted aeronautics with the least possible restriction consistent with the safety and the rights of others.
21752. (a) Unless the context otherwise requires, the definitions and general provisions set forth in this part govern the construction of this part.
(b) This part shall not be construed to do either of the following:
1. Limit any power of the state or a political subdivision to regulate the operation of remote piloted aircraft if the regulations do not conflict with the provisions of this part.
2. Preempt any local ordinance that regulates remotely piloted aircraft or unmanned aircraft systems if the ordinance is consistent with this part.
(c) Except as specified, this part shall not be construed as prohibiting, restricting, or permitting the prohibition of the take-off, operation, or landing of remote piloted aircraft.

21753. (a) “Aircraft” means any contrivance used or designed for navigation of, or flight in, the air.
(b) “Airport” means any area of land or water that is used, or intended for use, for the landing and take-off of aircraft, and any appurtenant areas that are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, and all airport buildings and facilities located thereon.
(c) “Critical infrastructure” means systems and assets so vital to the state that the incapacity or destruction of those systems or assets would have a debilitating impact on security, economic security, public health and safety, or any combination of those matters.
(d) “Department” means the Department of Transportation.
(e) “Heliport” means any area of land, water, or structure used, or intended for use, for the landing and take-off of helicopters, and any appurtenant areas that are used, or intended for use, for heliport buildings or other heliport facilities or rights-of-way, and all heliport buildings and facilities located thereon.
(f) “Operation of remote piloted aircraft” or “operate remote piloted aircraft” means the use, navigation, or piloting of remote piloted aircraft in the airspace over the land or waters of this state.
(g) “Person” means any individual, firm, partnership, corporation, limited liability company, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative.
(h) “Pilot” means the person in command of a remote piloted aircraft while underway.
(i) “Political subdivision” means any county, city, city and county, public corporation, district, or other political entity or public corporation of this state.

(j) “Remote piloted aircraft” means an aircraft that is operated without the possibility of direct human intervention from within or on the aircraft.

(k) “Remote piloted aircraft system” means a remote piloted aircraft and its associated elements, including communication links, that are required for the pilot to control the remote piloted aircraft.

21754. A person shall not operate a remote piloted aircraft in any of the following circumstances:

(a) (1) Within 500 feet of critical infrastructure designated by rule or regulation by the Office of Emergency Services without first obtaining the consent of the owner or operator of the critical infrastructure.

(2) This subdivision shall not apply to the operation of a remote piloted aircraft by any person that the Federal Aviation Administration authorizes to operate a remote piloted aircraft for a commercial purpose who operates the remote aircraft in a manner that complies with the authorization or by any person described in Section 1070 of the Evidence Code if both of the following conditions are met:

(A) The operation of the remote piloted aircraft does not unreasonably interfere with the operation of the critical infrastructure.

(B) The operation of the remote piloted aircraft does not pose an imminent and credible threat to the safety or security of the critical infrastructure.

(b) Within 1,000 feet of a heliport without first obtaining the consent of the owner or operator of the heliport, or without first obtaining a waiver, exemption, or other authorization for its operation from the Federal Aviation Administration.

(c) Within five miles of an airport without first obtaining the consent of the owner or operator of the airport, or without first obtaining a waiver, exemption, or other authorization for its operation from the Federal Aviation Administration.

(d) Within any other area where the department or the Office of Emergency Services, through rule or regulation, determines that
unrestricted use of remote piloted aircraft presents an imminent
danger to public health and safety.

21755. A person shall not operate a remote piloted aircraft in
any of the following circumstances:

(a) Within the airspace overlaying units of the state park system,
unless the operator of the remote piloted aircraft has obtained a
permit authorizing the use of that aircraft in that airspace or the
unit of the state park system over which the remote piloted aircraft
is used has, by rule or regulation, authorized the launching, landing,
or operation of remote piloted aircraft.

(b) Within the airspace overlaying lands or waters managed by
the Department of Fish and Wildlife, unless the operator of the
remote piloted aircraft has obtained a permit authorizing the use
of that aircraft in that airspace or the Department of Fish and
Wildlife has, by rule or regulation, authorized the launching,
landing, or operation of remote piloted aircraft over those lands
or waters.

(c) (1) Within 500 feet of the State Capitol or other building
housing the state legislative offices and chambers, situated in the
area bounded by 10th, L, 15th, and N Streets in the City of
Sacramento, unless the operator of the remote piloted aircraft has
obtained a permit authorizing the use of that aircraft within 500
feet of the building or the Department of the California Highway
Patrol has, by rule or regulation, authorized the launching, landing,
or operation of remote piloted aircraft within 500 feet of the
building.

(2) This subdivision shall not apply to the operation of a remote
piloted aircraft by any person that the Federal Aviation
Administration authorizes to operate a remote piloted aircraft for
a commercial purpose who operates the remote piloted aircraft in
a manner that complies with the authorization or by any person
described in Section 1070 of the Evidence Code if both of the
following conditions are met:

(A) The operation of the remote piloted aircraft does not
unreasonably interfere with the operation of the State Capitol.

(B) The operation of the remote piloted aircraft does not pose
an imminent and credible threat to the safety or security of the
State Capitol.
21756. Notwithstanding Sections 21754 and 21755, a person may operate a remote piloted aircraft in any of the following circumstances:

(a) In any airspace designated for the taking off or landing of aircraft at an airport or heliport when the operator of the remote piloted aircraft is both authorized to and engaged in taking off from or landing at that airport or heliport.

(b) Upon or above any property to which the operator of the remote piloted aircraft has a right of entry.

(c) Upon or above any property for which the operation of a remote piloted aircraft has been permitted by the California Film Commission pursuant to the Motion Picture, Television, and Commercial Industries Act of 1984 (Chapter 1 (commencing with Section 14998) of Part 5.7 of Division 3 of Title 2 of the Government Code), provided the operator of the remote piloted aircraft operates the aircraft pursuant to the permit and adheres to all terms and conditions specified in the permit.

(d) In any location or airspace deemed necessary by the operator of the remote piloted aircraft to avoid imminent danger to the life and safety of another person or to the public at large.

21757. A person shall not weaponize a remote piloted aircraft or operate a weaponized remote piloted aircraft.

21758. (a) A person shall not operate a remote piloted aircraft in any of the following manners:

(1) In a manner that interferes with manned aircraft.

(2) In a manner that is prohibited by any federal statute or regulation governing aeronautics.

(3) In a careless or reckless manner so as to endanger the life or property of another.

(4) In a manner that constitutes a nuisance under Section 3479 of the Civil Code.

(5) In a manner that violates an individual’s right to privacy under Section 1 of Article I of the California Constitution.

(6) In a manner that constitutes trespass under California law.

(b) A remotely piloted aircraft shall always give way to manned aircraft.

21759. A person shall not operate a remote piloted aircraft in this state without first complying with all licensing, registration, and marking requirements required by the Federal Aviation Administration.
21760. (a) Every commercial operator of a remote piloted aircraft shall procure, and continue in effect so long as the commercial operator continues to offer services for compensation, adequate protection against liability imposed by law upon operators of remote piloted aircraft.

(b) Any person using, operating, or renting a remote piloted aircraft with the permission, expressed or implied, of a commercial operator shall also procure adequate protection against liability imposed by law for the payment of damages for personal bodily injuries, including death resulting therefrom, and property damage as a result of an accident involving the remote piloted aircraft.

(c) The department shall, after a public hearing, establish the amount of liability insurance, insurance or proof of financial responsibility, required by this section, that is reasonably necessary to provide adequate compensation for damages incurred through an accident involving a commercial operator of a remote piloted aircraft.

21761. (a) Consistent with the provisions of this part, the department may adopt rules and regulations governing the conditions under which remote piloted aircraft may be operated for the purpose of protecting and ensuring the general public interest and safety and the safety of persons operating remote piloted aircraft.

(b) The department may make and amend general or special rules, orders, and procedures, and establish minimum standards consistent with this part as it deems necessary to administer this part.

(c) In exercising authority under this part, the department shall cooperate with and assist the federal government, political subdivisions of this state, and others in the development of remote piloted aeronautics, and shall seek to coordinate activities whenever feasible.

(d) The department shall keep on file with the Secretary of State, and at its principal office, a copy of all its rules and regulations, adopted pursuant to this part, for public inspection.

(e) The department shall provide for the publication and general distribution of all its orders, rules, regulations, and procedures having general effect that are applicable to remote piloted aircraft.

21762. (a) The Office of Emergency Services may adopt rules and regulations, and may make and amend general or special rules,
orders, and procedures, as it deems necessary to administer subdivisions (a) and (d) of Section 21754.

(b) In exercising authority under this part, the Office of Emergency Services shall coordinate activities with the federal government and political subdivisions of this state whenever feasible.

(c) The Office of Emergency Services shall keep on file with the Secretary of State, and at its principal office, a copy of all its rules and regulations, adopted pursuant to this part, for public inspection, and shall provide for the publication and general distribution of all its orders, rules, regulations, and procedures having general effect that are applicable to remote piloted aircraft.

21763. The department may do all of the following:

(a) Represent the state in remote piloted aeronautical matters before federal and other agencies.

(b) Participate as plaintiff or defendant or as intervenor on behalf of the state or any political subdivision or citizen in any controversy that involves the interest of the state in remote piloted aeronautics.

(c) Assist political subdivisions and their law enforcement agencies in becoming acquainted with and enforcing regulations promulgated under this part.

(d) Enter into any contracts necessary to the execution of its powers under this part. All contracts made by the department, either as the agent of the state or as the agent of any political subdivision, shall be made pursuant to the laws of the state governing the making of like contracts.

(e) Exercise any of its powers under this part in cooperation with any political subdivision, state agency, other states or their political subdivisions, or the United States.

(f) Enforce this part and rules and orders issued under this part in the name of the state by injunction or other legal process in the federal, state, and local courts of this state or pursuant to any federal, state, or local administrative hearing.

21764. (a) Except as provided in this section, a violation of any provision of this part or any rule or order issued pursuant to this part shall be punishable in the same manner as provided in the State Aeronautics Act (Part I (commencing with Section 21001)).

(b) A violation of subdivision (a) of Section 21755 shall be punishable in the same manner as provided in Section 5008 of the Public Resources Code.
(c) A violation of subdivision (b) of Section 21755 shall be punishable in the same manner as provided in Section 12000 of the Fish and Game Code.

(d) A violation of subdivision (c) of Section 21755 shall be punishable in the same manner as provided in Section 14685 of the Government Code.

21764. A violation of any provision of this part or any rule or order issued pursuant to this part shall be punishable as an infraction with a fine not to exceed two hundred fifty dollars ($250), or as a misdemeanor punishable by imprisonment in a county jail not exceeding six months, or by a fine not exceeding one thousand dollars ($1,000), or by both that fine and imprisonment.

21765. (a) The Director of Transportation and the department’s officers and employees, an officer or employee designated by the director pursuant to subdivision (b) and any state or peace officer charged with the enforcement of state and local laws or ordinances, may enforce and assist in the enforcement of this part, any rule or order issued under this part, and all other laws of the state applicable to remote piloted aircraft or unmanned aircraft systems.

(b) In the enforcement of this part, any rule or order issued under this part, or other law applicable to remote piloted aircraft or unmanned aircraft systems, the director may designate any officer or employee of the department to exercise the powers of arrest pursuant to Section 830.7 of the Penal Code.

21766. Nothing in this part shall be construed to impair or impede any other rights, causes of action, claims, or defenses available under other laws. The remedies provided in this part are cumulative with any other remedies available under other laws.

21767. The provisions of this part are severable. If any provision of this part or its application is held to be invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIIIB of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within
the meaning of Section 6 of Article XIII B of the California Constitution.