

AMENDED IN SENATE JUNE 30, 2021

AMENDED IN ASSEMBLY MAY 24, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

**ASSEMBLY BILL**

**No. 481**

---

---

**Introduced by Assembly Member Chiu**  
**(Coauthors: Assembly Members Bloom, Cristina Garcia, Lee, Stone,**  
**Ting, and Aguiar-Curry)**

(Coauthors: Senators Gonzalez and Wiener)

February 8, 2021

---

---

An act to add Chapter 12.8 (commencing with Section 7070) to Division 7 of Title 1 of the Government Code, relating to military equipment.

LEGISLATIVE COUNSEL'S DIGEST

AB 481, as amended, Chiu. Law enforcement agencies: military equipment: funding, acquisition, and use.

Existing law designates the Department of General Services as the agency for the State of California responsible for distribution of federal surplus personal property, excepting food commodities, and requires the department to, among other things, do all things necessary to the execution of its powers and duties as the state agency for the distribution of federal personal surplus property, excepting food commodities, in accordance with specified federal law. 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, or delivery of purchases before payment, or which prevents the local agency from bidding on federal surplus property. 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 require a law enforcement agency, defined to include specified state and local entities, to obtain approval of the applicable governing body, by adoption of a military equipment use policy, as specified, by ordinance at a regular meeting held pursuant to specified open meeting laws, prior to taking certain actions relating to the funding, acquisition, or use of military equipment, as defined. The bill would also require similar approval for the continued use of military equipment acquired prior to January 1, 2022. The bill would allow the governing body to approve the funding, acquisition, or use of military equipment within its jurisdiction only if it determines that the military equipment meets specified standards. The bill would require the governing body to annually review the ordinance and to either disapprove a renewal of the authorization for a piece of military equipment or amend the military equipment use policy if it determines, based on an annual military equipment report prepared by the law enforcement agency, as provided, that the military equipment does not comply with the above-described standards for approval. *The bill would specify these provisions do not preclude a county or local municipality from implementing additional requirements and standards related to the purchase, use, and reporting of military equipment by local law enforcement agencies.*

This bill would also include findings that the changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

By adding to the duties of local officials with respect to the funding, acquisition, and use of military equipment, 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. Chapter 12.8 (commencing with Section 7070)  
2 is added to Division 7 of Title 1 of the Government Code, to read:

3  
4 CHAPTER 12.8. FUNDING, ACQUISITION, AND USE OF MILITARY  
5 EQUIPMENT  
6

7 7070. The Legislature finds and declares all of the following:

8 (a) The acquisition of military equipment and its deployment  
9 in our communities adversely impacts the public's safety and  
10 welfare, including increased risk of civilian deaths, significant  
11 risks to civil rights, civil liberties, and physical and psychological  
12 well-being, and incurment of significant financial costs. Military  
13 equipment is more frequently deployed in low-income Black and  
14 Brown communities, meaning the risks and impacts of police  
15 militarization are experienced most acutely in marginalized  
16 communities.

17 (b) The public has a right to know about any funding,  
18 acquisition, or use of military equipment by state or local  
19 government officials, as well as a right to participate in any  
20 government agency's decision to fund, acquire, or use such  
21 equipment.

22 (c) Decisions regarding whether and how military equipment  
23 is funded, acquired, or used should give strong consideration to  
24 the public's welfare, safety, civil rights, and civil liberties, and  
25 should be based on meaningful public input.

26 (d) Legally enforceable safeguards, including transparency,  
27 oversight, and accountability measures, must be in place to protect  
28 the public's welfare, safety, civil rights, and civil liberties before  
29 military equipment is funded, acquired, or used.

30 (e) The lack of a public forum to discuss the acquisition of  
31 military equipment jeopardizes the relationship police have with  
32 the community, which can be undermined when law enforcement  
33 is seen as an occupying force rather than a public safety service.

1 7071. For purposes of this chapter, the following definitions  
2 shall apply:

3 (a) “Governing body” means the elected body that oversees a  
4 law enforcement agency or, if there is no elected body that directly  
5 oversees the law enforcement agency, the appointed body that  
6 oversees a law enforcement agency. In the case of a law  
7 enforcement agency of a county, including a sheriff’s department  
8 or a district attorney’s office, “governing body” means the board  
9 of supervisors of the county.

10 (b) “Law enforcement agency” means any of the following:

11 (1) A police department, including the police department of a  
12 transit agency, school district, or any campus of the University of  
13 California, the California State University, or California  
14 Community Colleges.

15 (2) A sheriff’s department.

16 (3) A district attorney’s office.

17 (4) A county probation department.

18 (5) The Department of the California Highway Patrol.

19 (6) The Department of Justice.

20 (7) Any other state or local agency authorized to conduct  
21 criminal investigations or prosecutions.

22 (c) “Military equipment” means weapons, arms, military  
23 supplies, and equipment that readily may be used for military  
24 purposes including, but not limited to, radar systems or  
25 military-grade transport vehicles.

26 (d) “Military equipment use policy” means a publicly released,  
27 legally enforceable written document governing the use of military  
28 equipment by a law enforcement agency that addresses, at a  
29 minimum, all of the following:

30 (1) A description of each piece of military equipment, the  
31 quantity sought, its capabilities, expected lifespan, intended uses  
32 and effects, and how it works, including product descriptions from  
33 the manufacturer of the military equipment.

34 (2) The purposes and reasons for which the law enforcement  
35 agency proposes to use each type of military equipment.

36 (3) The fiscal impact of each piece of military equipment,  
37 including the initial costs of obtaining the equipment, the costs of  
38 each proposed use, and the annual, ongoing costs of the equipment,  
39 including operating, training, transportation, storage, maintenance,  
40 and upgrade costs.

1 (4) The specific capabilities and authorized uses of military  
2 equipment, the legal and procedural rules that govern each  
3 authorized use, and the potential uses of the military equipment  
4 that are prohibited.

5 (5) The course of training that must be completed before any  
6 officer, agent, or employee of the law enforcement agency is  
7 allowed to use each specific type of military equipment to ensure  
8 the full protection of the public’s welfare, safety, civil rights, and  
9 civil liberties and full adherence to the military equipment use  
10 policy.

11 (6) The mechanisms to ensure compliance with the military  
12 equipment use policy, including which independent persons or  
13 entities have oversight authority, and what legally enforceable  
14 sanctions are put in place for violations of the policy.

15 (7) The procedures by which members of the public may register  
16 complaints or concerns or submit questions about the use of each  
17 specific type of military equipment, and how the law enforcement  
18 agency will ensure that each complaint, concern, or question  
19 receives a response in a timely manner.

20 (e) “Disparate impact” means a discriminatory outcome that  
21 adversely impacts a marginalized group, including, but not limited  
22 to, those protected under the First, Fourth, and Fourteenth  
23 Amendments to the United States Constitution or Title VII of the  
24 Civil Rights Act of 1964.

25 7072. (a) (1) A law enforcement agency shall obtain approval  
26 of the governing body, by an ordinance adopting a military  
27 equipment use policy at a regular meeting of the governing body  
28 held pursuant to the Bagley-Keene Open Meeting Act (Article 9  
29 (commencing with Section 11120) of Chapter 1 of Part 1 of  
30 Division 3 of Title 2) or the Ralph M. Brown Act (Chapter 9  
31 (commencing with Section 54950) of Part 1 of Division 2 of Title  
32 5), as applicable, prior to engaging in any of the following:

33 (A) Requesting military equipment made available pursuant to  
34 Section 2576a of Title 10 of the United States Code.

35 (B) Seeking funds for military equipment, including, but not  
36 limited to, applying for a grant, soliciting or accepting private,  
37 local, state, or federal funds, in-kind donations, or other donations  
38 or transfers.

39 (C) Acquiring military equipment either permanently or  
40 temporarily, including by borrowing or leasing.

1 (D) Collaborating with another law enforcement agency in the  
2 deployment or other use of military equipment within the territorial  
3 jurisdiction of the governing body.

4 (E) Using any new or existing military equipment for a purpose,  
5 in a manner, or by a person not previously approved by the  
6 governing body pursuant to this chapter.

7 (F) Soliciting or responding to a proposal for, or entering into  
8 an agreement with, any other person or entity to seek funds for,  
9 apply to receive, acquire, use, or collaborate in the use of, military  
10 equipment.

11 (G) Acquiring military equipment through any means not  
12 provided by this paragraph.

13 (2) No later than May 1, 2022, a law enforcement agency  
14 seeking to continue the use of any military equipment that was  
15 acquired prior to January 1, 2022, shall commence a governing  
16 body approval process in accordance with this section. If the  
17 governing body does not approve the continuing use of military  
18 equipment, including by adoption pursuant to this subdivision of  
19 a military equipment use policy submitted pursuant to subdivision  
20 (b), within 180 days of submission of the proposed military  
21 equipment use policy to the governing body, the law enforcement  
22 agency shall cease its use of the military equipment until it receives  
23 the approval of the governing body in accordance with this section.

24 (b) In seeking the approval of the governing body pursuant to  
25 subdivision (a), a law enforcement agency shall submit a proposed  
26 military equipment use policy to the governing body and make  
27 those documents available on the law enforcement agency's  
28 internet website at least 30 days prior to any public hearing  
29 concerning the military equipment at issue.

30 (c) The governing body shall consider a proposed military  
31 equipment use policy as an agenda item for an open session of a  
32 regular meeting and provide for public comment in accordance  
33 with the Bagley-Keene Open Meeting Act (Article 9 (commencing  
34 with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title  
35 2) or the Ralph M. Brown Act (Chapter 9 (commencing with  
36 Section 54950) of Part 1 of Division 2 of Title 5), as applicable.

37 (d) (1) The governing body shall only approve a military  
38 equipment use policy pursuant to this chapter if it determines all  
39 of the following:

1 (A) The military equipment is necessary because there are no  
2 available alternatives.

3 (B) The proposed military equipment use policy will safeguard  
4 the public's welfare, safety, civil rights, and civil liberties.

5 (C) If purchasing the equipment, the use of military equipment  
6 is the most cost-effective option among all available alternatives.

7 (D) Prior military equipment use complied with the  
8 accompanying military equipment use policy.

9 (2) Before approving a request to fund, acquire, or use military  
10 equipment pursuant to this chapter, the governing body shall also  
11 review the following:

12 (A) Any potential impacts that the use of military equipment  
13 might have on the welfare, safety, civil rights, and civil liberties  
14 of the public, and what specific affirmative measures may be  
15 implemented to safeguard the public from potential adverse  
16 impacts.

17 (B) Any alternative method or methods by which the law  
18 enforcement agency can accomplish the purposes for which the  
19 military equipment is proposed to be used, the annual costs of  
20 alternative method or methods if the military equipment is to be  
21 purchased, and the potential impacts of alternative method or  
22 methods on the welfare, safety, civil rights, and civil liberties of  
23 the public.

24 (3) The law enforcement agency shall provide relevant  
25 information to the governing body to best evaluate the  
26 considerations required by paragraph (2).

27 (4) In order to facilitate public participation, any proposed or  
28 final military equipment use policy shall be made publicly available  
29 on the internet website of the relevant law enforcement agency for  
30 as long as the military equipment is available for use.

31 (e) (1) The governing body shall review any ordinance that it  
32 has adopted pursuant to this section approving the funding,  
33 acquisition, or use of military equipment at least annually and,  
34 subject to paragraph (2), vote on whether to renew the ordinance  
35 at a regular meeting held pursuant to the Bagley-Keene Open  
36 Meeting Act (Article 9 (commencing with Section 11120) of  
37 Chapter 1 of Part 1 of Division 3 of Title 2) or the Ralph M. Brown  
38 Act (Chapter 9 (commencing with Section 54950) of Part 1 of  
39 Division 2 of Title 5), as applicable.

1 (2) The governing body shall determine, based on the annual  
2 military equipment report submitted pursuant to Section 7073,  
3 whether each piece of military equipment identified in that report  
4 has complied with the standards for approval set forth in  
5 subdivision (d). If the governing body determines that a piece of  
6 military equipment identified in that annual military equipment  
7 report has not complied with the standards for approval set forth  
8 in subdivision (d), the governing body shall either disapprove a  
9 renewal of the authorization for that piece of military equipment  
10 or require modifications to the military equipment use policy in a  
11 manner that will resolve the lack of compliance.

12 (f) Notwithstanding subdivisions (a) to (e), inclusive, if a city  
13 contracts with another entity for law enforcement services, the city  
14 shall have the authority to adopt a military equipment use policy  
15 based on local community needs.

16 7073. (a) A law enforcement agency that receives approval  
17 for a military equipment use policy pursuant to Section 7072 shall  
18 submit to the governing body an annual military equipment report  
19 for each piece of military equipment approved by the governing  
20 body within one year of approval, and annually thereafter for as  
21 long as the military equipment is available for use. The law  
22 enforcement agency shall also make each annual military  
23 equipment report required by this section publicly available on its  
24 internet website for as long as the military equipment is available  
25 for use. The annual military equipment report shall, at a minimum,  
26 include the following information for the immediately preceding  
27 calendar year for each piece of military equipment:

28 (1) A summary of how the military equipment was used and  
29 the purpose of its use.

30 (2) If applicable, a breakdown of where the military equipment  
31 was used geographically by individual census tract, as defined in  
32 the relevant year by the United States Census Bureau. For each  
33 census tract, the law enforcement agency shall report the number  
34 of days the military equipment was used and what percentage of  
35 those daily reported uses were authorized by warrant and by  
36 nonwarrant forms of court authorization.

37 (3) A summary of any complaints or concerns received  
38 concerning the military equipment.



1 (4) The results of any internal audits, any information about  
2 violations of the military equipment use policy, and any actions  
3 taken in response.

4 (5) If available, the racial demographics of people impacted by  
5 military equipment deployment, including, but not limited to,  
6 suspects, arrestees, witnesses, and bystanders.

7 (6) The total annual cost for each piece of military equipment,  
8 including acquisition, personnel, training, transportation,  
9 maintenance, storage, upgrade, and other ongoing costs, and from  
10 what source funds will be provided for the military equipment in  
11 the calendar year following submission of the annual military  
12 equipment report.

13 (b) Within 30 days of submitting and publicly releasing an  
14 annual military equipment report pursuant to this section, the law  
15 enforcement agency shall hold at least one well-publicized and  
16 conveniently located community engagement meeting, at which  
17 the general public may discuss and ask questions regarding the  
18 annual military equipment report and the law enforcement agency's  
19 funding, acquisition, or use of military equipment.

20 7074. Upon receipt of the annual military equipment report  
21 described in Section 7073, the local governing body shall conduct  
22 an analysis of any discriminatory, disparate, or other adverse  
23 impacts that the use of military equipment may have had on the  
24 public's safety, welfare, civil rights, and civil liberties, and on any  
25 community or group, including, but not limited to, those protected  
26 by the First, Fourth, and Fourteenth Amendments to the United  
27 States Constitution and Title VII of the Civil Rights Act of 1964,  
28 or any community group that has been historically marginalized  
29 based on race, religion, nationality, immigration status, gender  
30 identity and expression, sexuality, disability, or socioeconomic  
31 status.

32 7075. The Legislature finds and declares that this chapter  
33 addresses a matter of statewide concern rather than a municipal  
34 affair as that term is used in Section 5 of Article XI of the  
35 California Constitution. Therefore, this chapter applies to all cities,  
36 including charter cities and shall supersede any inconsistent  
37 provisions in the charter of any city, county, or city and county.

38 7076. *Nothing in this chapter shall preclude a county or local*  
39 *municipality from implementing additional requirements and*

1 *standards related to the purchase, use, and reporting of military*  
2 *equipment by local law enforcement agencies.*

3 SEC. 2. The Legislature finds and declares that Section 1 of  
4 this act, which adds Chapter 12.8 (commencing with Section 7070)  
5 to Division 7 of Title 1 of the Government Code, furthers, within  
6 the meaning of paragraph (7) of subdivision (b) of Section 3 of  
7 Article I of the California Constitution, the purposes of that  
8 constitutional section as it relates to the right of public access to  
9 the meetings of local public bodies or the writings of local public  
10 officials and local agencies. Pursuant to paragraph (7) of  
11 subdivision (b) of Section 3 of Article I of the California  
12 Constitution, the Legislature makes the following findings:

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

17 SEC. 3. 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 from a legislative mandate that  
21 is within the scope of paragraph (7) of subdivision (b) of Section  
22 3 of Article I of the California Constitution.