

RESOLUTION 07-07-2015

DIGEST

Local Government: Prohibition on Acquisition of Federal Surplus Property

Amends Government Code section 54141 and adds section 54145 to prohibit a local agency from receiving surplus military equipment without an affirmative vote of the legislative body of the local agency at a public meeting.

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Association recommends that legislation be sponsored to amend Government Code section 54141 and to add Government Code section 54145 to read as follows:

§54141

1 As used in this article:

2 (a) "Local agency" means county, city, whether general law or chartered, city and county,
3 town, school district, municipal corporation, ~~or public district~~ district, political subdivision, or
4 any board, commission, or agency thereof, or other local public agency.

5 (b) "United States" includes any department, board, or agency thereof.

6 (c) "State" includes any department or agency thereof.

7 (d) "Legislative body" means a legislative body as defined in Section 54952.

8

9 §54145

10 (a) A local agency shall not receive surplus military equipment pursuant to Section 2576a
11 of Title 10 of the United States Code unless the legislative body of the local agency approves the
12 acquisition at a meeting held pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with
13 Section 54950)).

14 (b) The Legislature finds and declares that this section constitutes a matter of statewide
15 concern, and shall apply to charter cities and charter counties. The provisions of this section shall
16 supersede any inconsistent provisions in the charter of any city, county, or city and county.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT: National Lawyers Guild – San Francisco Bay Area Chapter

STATEMENT OF REASONS

The Problem: Current law allows certain surplus military and other federal property and equipment to be acquired by local agencies in California without any requirement that the local agency hold a public hearing or notify the public of the type equipment or property sought to be acquired by the agency or the use to which it will or may be put by the public agency, as there is no requirement for such public disclosure or public input in the federal law that allows distribution of surplus equipment to local agencies.

The Solution: The proposed legislation requires all federal surplus property acquisitions by a local agency in California be approved by the governing body of the local agency after a public hearing. This requirement gives citizens of the community the opportunity to express their views on the appropriateness for the community of the proposed acquisition.

IMPACT STATEMENT

This bill does not affect any other law, statute or rule.

CURRENT OR PRIOR RELATED LEGISLATION

Assembly Member Nora Campos has introduced AB-36 which is related to this resolution.

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RESOLUTIONS COMMITTEE RECOMMENDATION

APPROVE IN PRINCIPLE

History:

No similar resolutions found

Reasons:

This resolution amends Government Code section 54141 and adds section 54145 to prohibit a local agency from receiving surplus military equipment without an affirmative vote of the legislative body of the local agency at a public meeting. This resolution should be approved in principle because the public should have the right to exercise its voice in the repurposing of federal surplus property, particularly military property, in the furtherance of domestic services.

Current law allows certain surplus military and other federal property and equipment to be acquired by local agencies in California without any requirement that the local agency hold a public hearing, or notify the public of the type of equipment or property sought to be acquired by the agency, thereby precluding a public discussion about the need and intended use for it. Requiring local municipal entities such as city councils, county boards of supervisors, school districts, and police departments to add the purchase of surplus military equipment to already public meeting agendas is a small burden on the entities and allows the public access to information, provides the public with an opportunity to ask relevant questions, and positions the local government entities to make thoughtful decisions in the presence of the public, all without compromising safety.

This resolution tracks Assembly Bill 36 (Campos) which currently is going through the legislative process. It is similar to Senate Bill 242 (Monning) which was signed into law (Chapter 79, Statutes of 2015). SB 242 requires a school district's police department to obtain approval from its governing board prior to receiving federal surplus military equipment.