

Date of Hearing: June 17, 2015

ASSEMBLY COMMITTEE ON EDUCATION
Patrick O'Donnell, Chair
SB 242 (Monning) – As Amended April 7, 2015

SENATE VOTE: 31-5

SUBJECT: School security: surplus military equipment.

SUMMARY: Requires the governing board of a school district that establishes a school police department to prohibit the school police department from receiving surplus military equipment pursuant to Section 257a of Title 10 of the United States Code unless the school district does all of the following:

- 1) Votes to approve the acquisition of surplus military equipment at a regularly scheduled public board meeting.
- 2) Provides parents or guardians of pupils, and other members of the public, a chance to comment at a regularly scheduled public board meeting on the proposed acquisition of surplus military equipment, and, clearly and in a manner recognizable to the general public, identify in the agenda the topic to be discussed at the meeting.
- 3) Identifies safe and secure storage for surplus military equipment to be received by a school police department.
- 4) Ensures that peace officers employed by a school police department possess adequate training in the safe use and handling of the surplus military equipment to be received.

EXISTING LAW:

- 1) Authorizes the governing board of any school district to establish a security department under the supervision of a chief of security or a police department under the supervision of a chief of police, as designated by, and under the direction of, the superintendent of the school district.
- 2) Authorizes the governing board of a school district to establish a school police reserve officer corps to supplement a police department
- 3) Specifies that individuals employed by a police department, when appointed and duly sworn, are peace officers and may carry firearms.
- 4) Requires the governing board of a school district that establishes a security department or a police department to set minimum qualifications of employment for the chief of security or school chief of police, respectively, including, but not limited to, prior employment as a peace officer or completion of a peace officer training course approved by the Commission on Peace Officer Standards and Training.
- 5) Authorizes the governing board of a school district which establishes a security or police department to provide and maintain motor vehicles for the use of the department. Specifies

that any vehicle, when operated in the performance of his or her duties by any member of the police department, is an authorized emergency vehicle and may be equipped and operated as such as provided by the Vehicle Code.

FISCAL EFFECT: None. This bill is keyed non-fiscal by the Legislative Counsel.

COMMENTS: *School security and police departments.* Governing boards are authorized to establish *security* departments headed by a Chief of Security and a *police* department headed by a chief of police. Security departments are considered supplementary to city and county law enforcement agencies and are not vested with general police powers. Individuals employed and compensated as members of a police department of a school district, when appointed and duly sworn, are considered peace officers with arrest powers. There is no data on the number of school districts that maintain school police departments; the estimate is about 22. Larger districts are more likely than smaller districts to have school police departments.

What does this bill do? This bill specifies that the governing board of a school district that maintains a school police department shall not permit the school police department to receive federal surplus military equipment, unless the governing board of the school district does all of the following:

- 1) Votes to approve the acquisition of the equipment at a regularly scheduled public board meeting.
- 2) Provides parents or guardians of pupils, and other members of the public, a chance to comment at a regularly scheduled public board meeting on the proposed acquisition of surplus military equipment, and clearly and in a manner recognizable to the general public, identify the topic to be discussed at the meeting.
- 3) Identifies safe and secure storage for surplus military equipment to be received by a school police department.
- 4) Ensures that peace officers employed by a school police department possess adequate training in the safe use and handling of the surplus military equipment to be received

The author states, "The weapons and supplies received by school police departments are often sought without the approval or knowledge of the elected school boards that have statutory control over them. There is also almost no inclusion or input from community members and parents about the decision to acquire the military equipment that will be used in policing schools. This lack of transparency can be frustrating for parents who believe they should be notified when military-grade equipment may be used around students who can be as young as 5 years old in a K-12 school setting."

Federal 1033 program. The National Defense Authorization Act authorizes the Secretary of Defense to transfer excess property that it determines suitable for use in law enforcement activities to federal, state, and local law enforcement jurisdictions. This is referred to as the 1033 Program. The Defense Logistics Agency (DLA) Law Enforcement Support Office is assigned to determine whether property is suitable for use by these agencies. The DLA defines law enforcement activities as those performed by government agencies whose primary function is the enforcement of applicable federal, state, and local laws and whose compensated law enforcement

officers have powers of arrest and apprehension. The law enforcement agencies must be authorized and certified annually to participate.

The Governor's Office of Emergency Services implements the 1033 Program in California and conducts management and oversight of the program through the California Public Safety Procurement Program. The Office of Emergency Services also provides support and technical assistance to law enforcement agencies participating (or interested in participating) in the program.

Since 1997, the 1033 Program has provided over \$5.1 billion of military equipment to thousands of local law enforcement agencies throughout the country, including more than 120 school district police departments that serve K-12 students. According to a September 12, 2014 article by the Huffington Post, the following school districts in California have received federal surplus military equipment:

Baldwin Park School Police Department:	3 M16 assault rifles
Kern High School District Police:	30 magazine pouches for M4 assault rifle ammunition
Los Angeles School Police Department:	61 M16 assault rifles, 3 M79 grenade launchers, 1 mine-resistant vehicle (Los Angeles Unified School District announced later that it was returning the three grenade launchers)
Oakland Unified School Police:	tactical utility truck
San Diego Unified Schools Police:	1 mine-resistant vehicle

Executive Order. Last month, President Obama issued an executive order based on recommendations from the Law Enforcement Equipment Working Group, formed following the death of Michael Brown and the outcry from the local community and social justice organizations over police use of federal military equipment to confront protestors in Ferguson, Missouri.

The Executive Order established a "prohibited equipment list" that would not be available to any local law enforcement agency, including tracked armored vehicles, bayonets, grenade launchers, large caliber weapons and ammunition. The Executive Order also established a "controlled equipment list," which are categories of equipment that local law enforcement agencies may acquire, if they provide specified information and meet specified requirements. The controlled list includes wheeled armored or tactical vehicles, specialized firearms and ammunition, explosives and pyrotechnics, and riot equipment. However, the executive order appears to specifically exclude law enforcement agencies that solely serve schools with grades ranging from kindergarten through grade 12 from acquiring any equipment. The Governor's Office of Emergency Services is waiting for guidance from the federal law enforcement support office on the interpretation of the Executive Order.

The author's office states that even if the Executive Order halts the future acquisition of military equipment by school police departments, it would be the result of an Executive Order, which could be changed or eliminated at any time. The author believes that enacting state law requiring a local governing board to deliberate whether a school district police department should acquire military equipment will ensure that there is an opportunity to provide community input in the event the Executive Order is changed or removed.

Committee amendment. A prior version of this bill required the governing board to provide a detailed description of the function and purpose of the equipment. **Staff recommends** reinstating this requirement.

Arguments in support. The California State Conference of the National Association for the Advancement of Colored People states, "The militarization of campus law enforcement agencies is becoming increasingly disturbing. Often times, there is little to no training provided for the equipment that the campus law enforcement agencies request. AB 242 is good policy in that it will ensure that governing boards, parents, and teachers are aware of law enforcements access to military equipment."

Arguments in opposition. The California Police Chiefs Association opposes the bill and states, "The California Police Chiefs Association supports transparency, community involvement, and responsible decision making. Unfortunately, SB 242 puts California school law enforcement at a significant disadvantage. While other law enforcement agencies around the country can quickly apply to receive surplus military equipment, interested California school agencies will be stalled and frozen out of the process."

Related legislation. AB 36 (Campos), pending in the Senate Governance and Finance Committee, prohibits county, whether general law or chartered, city and county, town, school district, municipal corporation, district, political subdivision, or any board, commission, or agency thereof, or other local public agency from receiving surplus military equipment from the federal government, unless the acquisition is approved at a regular meeting by the legislative body of the agency.

REGISTERED SUPPORT / OPPOSITION:

Support

California State Conference of the NAACP
California State PTA

Opposition

California Police Chiefs Association

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