



Board Agenda Item 9

DATE: July 18, 2023

TO: Board of Supervisors

SUBMITTED BY: John Zanoni, Sheriff-Coroner-Public Administrator
Lisa A. Smittcamp, District Attorney

SUBJECT: Assembly Bill (AB) 481 - Military Equipment Use Policy

RECOMMENDED ACTION(S):

- 1. Adopt and authorize Chairman to execute resolution making determinations regarding military equipment use required by Government Code § 7071(d);**
- 2. Conduct first hearing on a proposed retroactive Ordinance effective May 1, 2022 to add Chapter 10.66, "Military Equipment Use Policy to Title 10 Public Peace, Morals and Welfare of the Ordinance Code of the County of Fresno," waive reading of the Ordinance in its entirety, and set second hearing for August 8, 2023;**
- 3. Designate County Counsel to prepare a fair and adequate summary of the proposed Ordinance; and**
- 4. Direct the Clerk of the Board to post and publish the required summary in accordance with Government Code, Section 25124(b)(1).**

Effective January 1, 2022, Assembly Bill (AB) 481 requires law enforcement agencies to obtain Board approval by adoption of a Military Equipment Use Policy. Approval of the recommended actions allows the Sheriff's Office, District Attorney's Office, and Probation Department to comply with Government Code section 7070 et. Seq., by adding Chapter 10.66 Military Equipment Use Policy to the County Ordinance Code. The Probation Department has informed the Board of Supervisors that the Probation Department does not have or use any military equipment at this time. The Board of Supervisors of the County of Fresno is the governing body of each of the law enforcement agencies of the County of Fresno. Therefore, AB 481 requires law enforcement agencies to obtain the approval of their applicable governing body, by adoption of a military equipment use policy by ordinance, and to make certain determinations, which are contained in the resolution in the recommended action item one. This item is countywide.

ALTERNATIVE ACTION(S):

There is no alternative action, as the approval of this item is required to comply with AB 481.

FISCAL IMPACT:

There is no Net County Cost associated with the recommended actions.

DISCUSSION:

On September 20, 2021, Governor Gavin Newsom signed AB 481 into law, adding Chapter 12.8, "Funding, Acquisition, and Use of Military Equipment," to Division 7 of Title of the Government Code (§ 7070 through and including § 7075) relating to the use of military equipment (defined herein) by law enforcement agencies,

which for the County are the Sheriff's Office, District Attorney's Office and the County Probation Department as stated in the attached Ordinance.

On January 1, 2022 AB 481 became effective with the intent of the State Legislature for governing bodies that oversee law enforcement agencies to have in place legally enforceable safeguards, including transparency, oversight and accountability measures, before such law enforcement agencies fund, acquire, or use military equipment. Since the Board of Supervisors of the County of Fresno is the governing body for each of the law enforcement agencies in the County, including the Sheriff's Office, District Attorney's Office and the Probation Department, AB 481 requires law enforcement agencies to obtain approval by adoption of a military use equipment use policy by ordinance at a regular open meeting of the Board of Supervisors. Thereafter, the Board will need to annually review the ordinance and either disapprove or renew the authorization for a type of military equipment or amend the military equipment use policy if it determines, based on an annual military equipment report prepared by the applicable law enforcement agencies, that the military equipment does not comply with standards for approval described in the law.

The Probation Department does not have or use military equipment, as defined by AB 481, at this time. AB 481 requires law enforcement agencies (Sheriff's Office and District Attorney's Office) that receive approval from your Board for a military equipment use policy to submit to your Board an annual military equipment report for each type of military that has been approved by your Board within one year of such approval, and annually thereafter so long as the military equipment is available for use.

Approval of the recommended actions will add Chapter 10.66 Military Equipment Use Policy to Title 10 Public Peace, Morals and Welfare of the Ordinance Code of the County of Fresno. The purpose of this chapter is to provide the Board of Supervisors' approval of the funding, acquisition, and/or use of military equipment, including continuation of the use of military equipment acquired prior to January 1, 2022, by each law enforcement agency under its then current military use policy, as well as such law enforcement agency's public reporting requirements.

As required by AB 481, Chapter 406, as quoted "no later than May 1, 2022, a law enforcement agency seeking to continue the use of any military equipment that was acquired prior to January 1, 2022, shall commence a governing body approval process in accordance with this section." This item comes before your Board late with an effective date of May 1, 2022 due to the lengthy process of drafting the funding, acquisition, and use of military equipment policy for the Sheriff's Office for review and approval to post for public viewing. Then later to include the other County departments that shall comply with Government Code section 7070 et. Seq., by adding Chapter 10.66 Military Equipment Use Policy to the County Ordinance Code. AB 481 policies were developed for the Sheriff's Office and District Attorney's Office due to Governor Newsom signing a legislation AB 481 on September 30, 2021, which is aimed at the funding, acquisition and use of military equipment by state and local government officials as well as a right to participate in any government agency's decision to fund, acquire, or use of such equipment.

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Resolution
Ordinance
On file with Clerk - Ordinance Summary
Sheriff's AB 481 Policy
District Attorney's AB 481
AB 481

CAO ANALYST:

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