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## SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

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**Bill No:** AB 2546                      **Hearing Date:** May 28, 2024  
**Author:** Rendon  
**Version:** February 13, 2024  
**Urgency:** No                                      **Fiscal:** No  
**Consultant:** AB

**Subject:** *Law enforcement and state agencies: military equipment: funding, acquisition, and use*

### HISTORY

**Source:** Genasys Corporation

**Prior Legislation:** AB 1486 (Jones-Sawyer, 2023), currently on Senate Inactive File  
AB 481 (Chiu, Ch. 406, Stats. of 2021)

**Support:** Unknown

**Opposition:** None known

**Assembly Floor Vote:** 58 - 6

### PURPOSE

*The purpose of this bill is to clarify that the definition of “military equipment” for the purposes of existing law regarding police procurement of that equipment refers to certain devices, such as tasers and sound-based weapons, with a general description of the device rather than a specific trade name.*

*Existing law* requires a law enforcement agency to obtain approval of the governing body, as defined, by an ordinance adopting a military equipment use policy at a regular meeting of the governing body before, among other things, requesting, acquiring or seeking funds for military equipment, and other specified actions relating to military equipment. (Gov. Code, § 7071, subd. (a).)

*Existing law* requires a law enforcement agency to submit a proposed military equipment use policy to the governing body and make those documents available on the law enforcement agency’s internet website at least 30 days prior to any public hearing concerning the military equipment at issue. (Gov. Code, § 7071, subd. (b).)

*Existing law* provides that the governing body shall consider a proposed military equipment use policy as an agenda item for an open session of a regular meeting and provide for public comment in accordance with existing open meeting requirements. (Gov. Code, § 7071, subd. (c).)

*Existing law* provides that the governing body shall only approve a military equipment use policy if it determines all of the following:

- The military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.
- The proposed military equipment use policy will safeguard the public's welfare, safety, civil rights, and civil liberties.
- If purchasing the equipment, the equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.
- Prior military equipment use complied with the military equipment use policy that was in effect at the time, or if prior uses did not comply with the accompanying military equipment use policy, corrective action have been taken to remedy nonconforming uses and ensure future compliance. (Gov. Code, § 7071, subd. (d)(1).)

*Existing law*, requires, in order to facilitate public participation, any proposed or final military equipment use policy to be made publicly available on the internet website of the relevant law enforcement agency for as long as the military equipment is available for use. (Gov. Code, § 7071, subd. (d)(2).)

*Existing law* provides that the governing body shall review any ordinance that it has adopted approving the funding, acquisition, or use of military equipment at least annually and vote on whether to renew the ordinance at a regular meeting. (Gov. Code, § 7071, subd. (e).)

*Existing law* provides that a law enforcement agency that receives approval for a military equipment use policy shall submit to the governing body an annual military equipment report for each type of military equipment approved by the governing body within one year of approval, and annually thereafter for as long as the military equipment is available for use. (Gov. Code, § 7072, subd. (a).)

*Existing law* provides that, within 30 days of submitting and publicly releasing an annual military equipment report, the law enforcement agency shall hold at least one well-publicized and conveniently located community engagement meeting, at which the general public may discuss and ask questions regarding the annual military equipment report and the law enforcement agency's funding, acquisition, or use of military equipment. (Gov. Code, § 7072, subd. (a).)

*Existing law*, for the purposes of the provisions above, defines "military equipment" to include a wide variety of vehicles, firearms, ammunition and other equipment, as well as any equipment as determined by a governing body or state agency to require additional oversight; the definition includes "Taser Shockwave, microwave weapons, water cannons, and the Long Range Acoustic Device (LRAD)." (Gov. Code, §7070(c)(13).

*This bill*, within the definition of "military equipment," strikes the reference to "Taser Shockwave" and instead includes all "area denial electroshock devices," and also strikes "the Long Range Acoustic Device" and instead includes long range acoustic devices, acoustic hailing devices, and sound cannons."

## COMMENTS

### 1. Need for This Bill

According to the Author:

A loophole in state law means that some long-range acoustic devices, which are military-grade weapons, may be acquired by law enforcement agencies without the approval of the local governing body. By making a simple clarifying change to how these weapons are defined in state law, we can close this loophole, and ensure that all long-range acoustic devices are subject to California's important public review and transparency protocols for acquiring military-grade weapons.

### 2. Law Enforcement Procurement of Military Equipment under AB 481 (Chiu, 2021) and Effect of This Bill

In 2021, the Legislature passed AB 481 (Chiu), which was signed by Governor Newsom and established several new requirements related to the funding, acquisition and use of military equipment by local law enforcement agencies. Specifically, existing law established by AB 481 requires a law enforcement agency, prior to acquiring or using military equipment, to develop a military equipment use policy and obtain approval of that policy from the governing body that oversees the agency, such as a city council or board of supervisors. Further, the governing body is required to review any ordinance approving the funding, acquisition or use of military equipment at least annually, and vote on whether to renew that ordinance at a regular meeting.<sup>1</sup> Additionally, any law enforcement agency that has obtained military equipment pursuant to the AB 481 process must prepare and submit an annual report to their governing body regarding the use of that equipment, and to hold a community engagement meeting regarding that report.

“Military equipment” is defined under existing law via generalized categories rather than an exhaustive list of specific pieces of equipment, and includes, among other things, robots and drones, battering rams, command and control vehicles, tracked armored vehicles that provide ballistic protection to their occupants, and firearms and firearm accessories that can launch explosive projectiles.<sup>2</sup> Of central relevance to this bill, the definition of military equipment includes the “Taser Shockwave” device and the “Long Range Acoustic Device (LRAD).” However, these devices are in fact the trade names of specific non-lethal crowd control products manufactured for use by law enforcement, and do not encompass similar devices that do not fall under those trade names. Consequently, under existing law, law enforcement agencies would have to seek approval for the Taser Shockwave and LRAD pursuant to AB 481, but could procure devices that are virtually identical to those but use a different trade name without going through the AB 481 process. This bill removes references to the Taser Shockwave and LRAD for the purposes of AB 481 procurement and clarifies that military equipment includes all “area denial electroshock devices,” “long range acoustic devices, acoustic hailing devices and sound cannons.”

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<sup>1</sup> Government Code §7071(e)

<sup>2</sup> Government Code §7071(a); Government Code §7070(c)

### 3. Prior Legislation

AB 1486 (Jones-Sawyer, 2023) would have clarified that assault weapons, as defined under existing law, do not constitute “standard issue service weapons” and thus fall under the definition of “military equipment,” and would have required that the community engagement meeting required under AB 481 occur *prior* to the governing body’s adoption of an ordinance regarding the use of military equipment. That measure also included the language contained in this bill, but was ordered to the inactive file in September 2023 and remains there as of the time this analysis was finalized.

### 4. Argument in Support

According to the sponsor of the bill, the Genasys Corporation:

Currently, Section 7070 of the California Government Code includes LRAD in the list of military equipment that requires a law enforcement agency to get approval from its governing body prior to purchasing one of the items on the list. LRAD is a trademarked term for a long range acoustic device that is manufactured by one company, Genasys Inc. located in San Diego, California. LRAD was trademarked in 2003 under USPTO serial number 78304629. The acronym LRAD and “Long Range Acoustic Device” are synonymous and associated with a single company, Genasys. There are other manufacturers of this technology outside California, in the U.S. and overseas, but they refer to their products as “acoustic hailing devices,” “long range acoustic hailer,” or “acoustic stabilized systems” to avoid infringement on the Genasys trademark.

We appreciate your effort to correct the reference in state statute. The statute should list the generic terms for the product instead of using a trademarked term. If the statute is not corrected, other manufacturers of acoustic devices will be able to avoid the pre-approval requirements placed on law enforcement. The bill's approach to broadening the scope of the Government Code currently in statute is a practical step towards ensuring the regulations apply uniformly to all relevant technologies.

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