

AMENDED IN ASSEMBLY APRIL 26, 2004

AMENDED IN ASSEMBLY APRIL 1, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2055**

**Introduced by Assembly Member Wolk**

February 17, 2004

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An act to amend Sections 65302, 65560, 65561, 65562, 65564, 65566, and 65567 of, and to add Section 65565 to, the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 2055, as amended, Wolk. ~~Open-space element~~ *General plan elements.*

Existing law requires every city and county to prepare, adopt, and amend a general plan stating development policies and including specified elements, including a conservation element and an open space element. Existing law provides that no building permit may be issued, no subdivision map approved and no open-space zoning ordinance adopted unless the proposed construction, subdivision, or ordinance is consistent with the local open-space plan.

This bill would provide that the conservation element may include the conservation of agricultural lands. The bill would provide that the open-space element, *which the bill would rename as the agricultural and open space element*, is the component of a county or city general plan adopted by the legislative ~~plan~~ *body*, as specified, and would provide subjects that may be included in the *agricultural and open-space element*. The bill ~~instead~~ would provide that no building

permit may be issued, no subdivision approved, no services or infrastructure constructed or extended, *as specified*, and no open-space ordinance adopted unless the proposed construction, extension, subdivision, or ordinance is consistent with the local *agricultural and open-space* element. The bill would make other technical, nonsubstantive changes.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 65302 of the Government Code is  
2 amended to read:

3 65302. The general plan shall consist of a statement of  
4 development policies and shall include a diagram or diagrams and  
5 text setting forth objectives, principles, standards, and plan  
6 proposals. The plan shall include the following elements:

7 (a) A land use element that designates the proposed general  
8 distribution and general location and extent of the uses of the land  
9 for housing, business, industry, open space, including agriculture,  
10 natural resources, recreation, and enjoyment of scenic beauty,  
11 education, public buildings and grounds, solid and liquid waste  
12 disposal facilities, and other categories of public and private uses  
13 of land. The land use element shall include a statement of the  
14 standards of population density and building intensity  
15 recommended for the various districts and other territory covered  
16 by the plan. The land use element shall identify areas covered by  
17 the plan that are subject to flooding and shall be reviewed annually  
18 with respect to those areas. The land use element shall also do both  
19 of the following:

20 (1) Designate in a land use category that provides for timber  
21 production those parcels of real property zoned for timberland  
22 production pursuant to the California Timberland Productivity  
23 Act of 1982, Chapter 6.7 (commencing with Section 51100) of  
24 Part 1 of Division 1 of Title 5.

25 (2) Consider the impact of new growth on military readiness  
26 activities carried out on military bases, installations, and operating  
27 and training areas, when proposing zoning ordinances or  
28 designating land uses covered by the general plan for land, or other



1 territory adjacent to military facilities, or underlying designated  
2 military aviation routes and airspace.

3 (A) In determining the impact of new growth on military  
4 readiness activities, information provided by military facilities  
5 shall be considered. Cities and counties shall address military  
6 impacts based on information that the military provides.

7 (B) The following definitions govern this paragraph:

8 (i) “Military readiness activities” mean all of the following:

9 (I) Training, support, and operations that prepare the men and  
10 women of the military for combat.

11 (II) Operation, maintenance, and security of any military  
12 installation.

13 (III) Testing of military equipment, vehicles, weapons, and  
14 sensors for proper operation or suitability for combat use.

15 (ii) “Military installation” means a base, camp, post, station,  
16 yard, center, homeport facility for any ship, or other activity under  
17 the jurisdiction of the United States Department of Defense as  
18 defined in paragraph (1) of subsection (e) of Section 2687 of Title  
19 10 of the United States Code.

20 (b) A circulation element consisting of the general location and  
21 extent of existing and proposed major thoroughfares,  
22 transportation routes, terminals, any military airports and ports,  
23 and other local public utilities and facilities, all correlated with the  
24 land use element of the plan.

25 (c) A housing element as provided in Article 10.6  
26 (commencing with Section 65580).

27 (d) A conservation element for the conservation, development,  
28 and utilization of natural resources including water and its  
29 hydraulic force, forests, soils, rivers and other waters, harbors,  
30 fisheries, wildlife, minerals, and other natural resources. The  
31 conservation element shall consider the effect of development  
32 within the jurisdiction, as described in the land use element, on  
33 natural resources located on public lands, including military  
34 installations. That portion of the conservation element including  
35 waters shall be developed in coordination with any countywide  
36 water agency and with all district and city agencies that have  
37 developed, served, controlled or conserved water for any purpose  
38 for the county or city for which the plan is prepared. Coordination  
39 shall include the discussion and evaluation of any water supply and  
40 demand information described in Section 65352.5, if that



1 information has been submitted by the water agency to the city or  
2 county. The conservation element may also cover the following:

- 3 (1) The reclamation of land and waters.
- 4 (2) Prevention and control of the pollution of streams and other  
5 waters.
- 6 (3) Regulation of the use of land in stream channels and other  
7 areas required for the accomplishment of the conservation plan.
- 8 (4) Prevention, control, and correction of the erosion of soils,  
9 beaches, and shores.
- 10 (5) Protection of watersheds.
- 11 (6) The location, quantity and quality of the rock, sand and  
12 gravel resources.
- 13 (7) Flood control.
- 14 (8) Conservation of agricultural lands.

15 The conservation element shall be prepared and adopted no later  
16 than December 31, 1973.

17 (e) An *agricultural and* open-space element as provided in  
18 Article 10.5 (commencing with Section 65560).

19 (f) A noise element which shall identify and appraise noise  
20 problems in the community. The noise element shall recognize the  
21 guidelines established by the Office of Noise Control in the State  
22 Department of Health Services and shall analyze and quantify, to  
23 the extent practicable, as determined by the legislative body,  
24 current and projected noise levels for all of the following sources:

- 25 (1) Highways and freeways.
- 26 (2) Primary arterials and major local streets.
- 27 (3) Passenger and freight on-line railroad operations and  
28 ground rapid transit systems.
- 29 (4) Commercial, general aviation, heliport, helistop, and  
30 military airport operations, aircraft overflights, jet engine test  
31 stands, and all other ground facilities and maintenance functions  
32 related to airport operation.
- 33 (5) Local industrial plants, including, but not limited to,  
34 railroad classification yards.
- 35 (6) Other ground stationary noise sources, including, but not  
36 limited to, military installations, identified by local agencies as  
37 contributing to the community noise environment.

38 Noise contours shall be shown for all of these sources and stated  
39 in terms of community noise equivalent level (CNEL) or day-night  
40 average level ( $L_{dn}$ ). The noise contours shall be prepared on the



1 basis of noise monitoring or following generally accepted noise  
2 modeling techniques for the various sources identified in  
3 paragraphs (1) to (6), inclusive.

4 The noise contours shall be used as a guide for establishing a  
5 pattern of land uses in the land use element that minimizes the  
6 exposure of community residents to excessive noise.

7 The noise element shall include implementation measures and  
8 possible solutions that address existing and foreseeable noise  
9 problems, if any. The adopted noise element shall serve as a  
10 guideline for compliance with the state's noise insulation  
11 standards.

12 (g) A safety element for the protection of the community from  
13 any unreasonable risks associated with the effects of seismically  
14 induced surface rupture, ground shaking, ground failure, tsunami,  
15 seiche, and dam failure; slope instability leading to mudslides and  
16 landslides; subsidence, liquefaction and other seismic hazards  
17 identified pursuant to Chapter 7.8 (commencing with Section  
18 2690) of the Public Resources Code, and other geologic hazards  
19 known to the legislative body; flooding; and wild land and urban  
20 fires. The safety element shall include mapping of known seismic  
21 and other geologic hazards. It shall also address evacuation routes,  
22 military installations, peakload water supply requirements, and  
23 minimum road widths and clearances around structures, as those  
24 items relate to identified fire and geologic hazards. Prior to the  
25 periodic review of its general plan and prior to preparing or  
26 revising its safety element, each city and county shall consult the  
27 Division of Mines and Geology of the Department of Conservation  
28 and the Office of Emergency Services for the purpose of including  
29 information known by and available to the department and the  
30 office required by this subdivision.

31 To the extent that a county's safety element is sufficiently  
32 detailed and contains appropriate policies and programs for  
33 adoption by a city, a city may adopt that portion of the county's  
34 safety element that pertains to the city's planning area in  
35 satisfaction of the requirement imposed by this subdivision.

36 At least 45 days prior to adoption or amendment of the safety  
37 element, each county and city shall submit to the Division of Mines  
38 and Geology of the Department of Conservation one copy of a  
39 draft of the safety element or amendment and any technical studies  
40 used for developing the safety element. The division may review



1 drafts submitted to it to determine whether they incorporate known  
2 seismic and other geologic hazard information, and report its  
3 findings to the planning agency within 30 days of receipt of the  
4 draft of the safety element or amendment pursuant to this  
5 subdivision. The legislative body shall consider the division's  
6 findings prior to final adoption of the safety element or  
7 amendment unless the division's findings are not available within  
8 the above prescribed time limits or unless the division has  
9 indicated to the city or county that the division will not review the  
10 safety element. If the division's findings are not available within  
11 those prescribed time limits, the legislative body may take the  
12 division's findings into consideration at the time it considers future  
13 amendments to the safety element. Each county and city shall  
14 provide the division with a copy of its adopted safety element or  
15 amendments. The division may review adopted safety elements or  
16 amendments and report its findings. All findings made by the  
17 division shall be advisory to the planning agency and legislative  
18 body.

19 SEC. 2. Section 65560 of the Government Code is amended  
20 to read:

21 65560. (a) The *agricultural and open-space* element is the  
22 component of a county or city general plan adopted by the  
23 legislative body pursuant to Section 65563.

24 (b) ~~“Open-”~~“*Agricultural and open-space land*” is any parcel  
25 or area of land or water that is essentially unimproved and devoted  
26 to ~~an open-space~~ *a land* use as defined in this section, and that is  
27 designated on a local, regional or state open space plan as any of  
28 the following:

29 (1) ~~Open-space~~ *Land used* for the preservation of natural  
30 resources including, but not limited to, areas required for the  
31 preservation of plant and animal life, including habitat for fish and  
32 wildlife species; areas required for ecologic and other scientific  
33 study purposes; rivers, streams, bays and estuaries; areas adjacent  
34 to military installations, military training routes, and restricted  
35 airspace that can provide additional buffer zones to military  
36 activities and complement the resource values of the military  
37 lands; and coastal beaches, lakeshores, banks of rivers and  
38 streams, and watershed lands.

39 (2) ~~Open-space~~ *Land used* for the managed production of  
40 resources, including but not limited to, forest lands, rangeland,



1 agricultural lands and areas of economic importance for the  
2 production of food or fiber; areas required for recharge of  
3 groundwater basins; bays, estuaries, marshes, rivers and streams  
4 which are important for the management of commercial fisheries;  
5 and areas containing major mineral deposits, including those in  
6 short supply.

7 (3) ~~Open-space~~ *Land* for outdoor recreation, including but not  
8 limited to, areas of outstanding scenic, historic and cultural value;  
9 areas particularly suited for park and recreation purposes,  
10 including access to lakeshores, beaches, and rivers and streams;  
11 and areas which serve as links between major recreation and  
12 open-space reservations, including utility easements, banks of  
13 rivers and streams, trails, and scenic highway corridors.

14 (4) ~~Open-space~~ *Land* for public health and safety, including,  
15 but not limited to, areas which require special management or  
16 regulation because of hazardous or special conditions such as  
17 earthquake fault zones, unstable soil areas, flood plains,  
18 watersheds, areas presenting high fire risks, areas required for the  
19 protection of water quality and water reservoirs and areas required  
20 for the protection and enhancement of air quality.

21 SEC. 3. Section 65561 of the Government Code is amended  
22 to read:

23 65561. The Legislature finds and declares as follows:

24 (a) The preservation of *agricultural and* open-space land, as  
25 defined in this article, is necessary not only for the maintenance of  
26 the economy of the state, but also for the assurance of the  
27 continued availability of land for the production of food and fiber,  
28 for the enjoyment of scenic beauty, for recreation and for the use  
29 of natural resources.

30 (b) Discouraging premature and unnecessary conversion of  
31 *agricultural and* open-space land to urban uses is a matter of public  
32 interest and will be of benefit to urban dwellers because it will  
33 discourage noncontiguous development patterns which  
34 unnecessarily increase the costs of community services to  
35 community residents.

36 (c) The anticipated increase in the population of the state  
37 demands that cities, counties, and the state at the earliest possible  
38 date make definite plans for the preservation of valuable  
39 *agricultural and* open-space land and take positive action to carry  
40 out ~~such~~ *those* plans by the adoption and strict administration of



1 laws, ordinances, rules and regulations as authorized by this  
2 chapter or by other appropriate methods.

3 (d) In order to assure that the interests of all its people are met  
4 in the orderly growth and development of the state and the  
5 preservation and conservation of its resources, it is necessary to  
6 provide for the development of *agricultural and* open-space  
7 elements for the conservation and preservation of *agricultural and*  
8 open-space lands.

9 (e) For these reasons this article is necessary for the promotion  
10 of the general welfare and for the protection of the public interest  
11 in *agricultural and* open-space land.

12 SEC. 4. Section 65562 of the Government Code is amended  
13 to read:

14 65562. It is the intent of the Legislature in enacting this article  
15 to do all of the following:

16 (a) Assure that cities and counties, local agency formation  
17 commissions, and the state recognize that *agricultural and*  
18 open-space land is a limited and valuable resource that must be  
19 conserved for ecological and economic reasons wherever possible.

20 (b) Ensure long-term preservation of natural resources for  
21 plant and animal life, and promote sustainable ecosystems that  
22 protect and enhance the quality of life within the state.

23 (c) Encourage the managed production of resources to ensure  
24 that the long-term viability of agricultural land and other  
25 resource-based economic development are recognized in the plans  
26 and actions of state and local entities, and that the quality and  
27 diversity of agricultural commodities produced within the state are  
28 safeguarded by protecting the land resources upon which these  
29 resources rely.

30 (d) Provide adequate opportunities for passive and active  
31 outdoor recreation areas that include urban parks, to promote the  
32 health and general welfare of the citizenry.

33 (e) Identify special areas that require special management for  
34 public health and safety to keep urban uses out of ~~harm's~~ *harm's*  
35 way and minimize costs of emergency response.

36 (f) Minimize or avoid the premature or unnecessary loss of  
37 ~~open-space~~ *agricultural and open space lands*, while encouraging  
38 opportunities that are compatible with or complementary to other  
39 existing or planned uses or infrastructure.





1 SEC. 5. Section 65564 of the Government Code is amended  
2 to read:

3 65564. Every local ~~open-space plan~~ *agricultural and open*  
4 *space element* shall contain an action program consisting of  
5 specific programs that the legislative body intends to pursue in  
6 implementing its *agricultural and open-space plan*.

7 SEC. 6. Section 65565 is added to the Government Code, to  
8 read:

9 65565. The *agricultural and open-space element* may  
10 include, but is not limited to, any of the following:

11 (a) A land inventory identifying the type and use of the  
12 following:

13 (1) Land under a natural communities conservation program or  
14 other easement for the purposes of ecosystem protection, buffers  
15 for military installations, and sensitive lands that provide clean air  
16 and water.

17 (2) Resource-based managed lands including areas for  
18 agriculture and timber production, and mining, using existing data  
19 submitted pursuant to Section 65570, including agricultural  
20 preserves, timberland production zones, Williamson Act  
21 contracted land, including Farmland Security Zones, as identified  
22 in Chapter 7 (commencing with Section 51200) of Part 1 of  
23 Division 1 of Title 5.

24 (3) Lands designated for passive and active outdoor recreation,  
25 that include urban parks where appropriate, for the purpose of  
26 providing greater access to recreation and open space for all  
27 citizens.

28 (4) Land that, for reasons of public health and safety, requires  
29 special management to avoid placing urban uses in areas subject  
30 to natural hazards including, but not limited to, flood, fire,  
31 landslide, and seismic activities that increase emergency response  
32 costs.

33 (b) Goals, objectives, and policies that support the long-term  
34 conservation of agricultural and other open-space lands, and  
35 appropriate implementation measures including, but not limited  
36 to, measures that seek to avoid or minimize conflicts with  
37 authorized urban uses on neighboring or nearby lands, and  
38 preserve opportunities for food security through local food  
39 production that sustains family farming operations.



1 (c) Goals, objectives, and policies that support and encourage  
 2 continuation or initiation of agricultural and other open-space use,  
 3 and opportunities, where appropriate and compatible, and  
 4 appropriate implementation measures, including, but not limited  
 5 to, provision of incentives, removal of disincentives, design  
 6 solutions, and conjunctive uses.

7 (d) To implement Section 65300.7 and to accommodate the  
 8 diversity of circumstances within a jurisdictional boundary, the  
 9 element may contain differing measures for different areas and for  
 10 differing types of *agricultural and* open-space uses, including, but  
 11 not limit to, conjunctive, or transitional uses, and different  
 12 physical land uses.

13 SEC. 7. Section 65566 of the Government Code is amended  
 14 to read:

15 65566. Any action by a county or city by which *agricultural*  
 16 *and* open-space land or any interest therein is acquired or disposed  
 17 of or its use restricted or regulated, whether or not pursuant to this  
 18 part, must be consistent with the local ~~open-space plan~~  
 19 *agricultural and open space element*.

20 SEC. 8. Section 65567 of the Government Code is amended  
 21 to read:

22 65567. No building permit may be issued, no subdivision  
 23 approved, no services or infrastructure ~~constructed or extended~~  
 24 *extended to support urban development on open space land* and no  
 25 open-space zoning ordinance adopted, unless the proposed  
 26 construction, extension, subdivision, or ordinance is consistent  
 27 with the local *agricultural and* open-space element.

