

AMENDED IN SENATE JUNE 8, 2004  
AMENDED IN ASSEMBLY MAY 17, 2004  
AMENDED IN ASSEMBLY MAY 10, 2004  
AMENDED IN ASSEMBLY APRIL 26, 2004  
AMENDED IN ASSEMBLY APRIL 1, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2055**

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**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~~ and 65566 of, and to add Section 65565 to, the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 2055, as amended, Wolk. 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 body, as specified, and would provide subjects that may be included in the agricultural and open-space element. ~~The bill 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, agriculture, natural  
 10 resources, recreation, and enjoyment of scenic beauty, education,  
 11 public buildings and grounds, solid and liquid waste disposal  
 12 facilities, and other categories of public and private uses of land.  
 13 The land use element shall include a statement of the standards of  
 14 population density and building intensity recommended for the  
 15 various districts and other territory covered by the plan. The land  
 16 use element shall identify areas covered by the plan that are subject  
 17 to flooding and shall be reviewed annually with respect to those  
 18 areas. The land use element shall also do both of the following:  
 19 (1) Designate in a land use category that provides for timber  
 20 production those parcels of real property zoned for timberland  
 21 production pursuant to the California Timberland Productivity  
 22 Act of 1982, Chapter 6.7 (commencing with Section 51100) of  
 23 Part 1 of Division 1 of Title 5.  
 24 (2) Consider the impact of new growth on military readiness  
 25 activities carried out on military bases, installations, and operating  
 26 and training areas, when proposing zoning ordinances or



1 designating land uses covered by the general plan for land, or other  
2 territory adjacent to military facilities, or underlying designated  
3 military aviation routes and airspace.

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

8 (B) The following definitions govern this paragraph:

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

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

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

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

16 (ii) “Military installation” means a base, camp, post, station,  
17 yard, center, homeport facility for any ship, or other activity under  
18 the jurisdiction of the United States Department of Defense as  
19 defined in paragraph (1) of subsection (e) of Section 2687 of Title  
20 10 of the United States Code.

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

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

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



1 demand information described in Section 65352.5, if that  
2 information has been submitted by the water agency to the city or  
3 county. The conservation element may also cover the following:

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

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

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

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

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

39 Noise contours shall be shown for all of these sources and stated  
40 in terms of community noise equivalent level (CNEL) or day-night



1 average level ( $L_{dn}$ ). The noise contours shall be prepared on the  
2 basis of noise monitoring or following generally accepted noise  
3 modeling techniques for the various sources identified in  
4 paragraphs (1) to (6), inclusive.

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

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

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

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

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



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

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

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

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

29 (1) Land used for the preservation of natural resources  
30 including, but not limited to, areas required for the preservation of  
31 plant and animal life, including habitat for fish and wildlife  
32 species; areas required for ecologic and other scientific study  
33 purposes; rivers, streams, bays and estuaries; areas adjacent to  
34 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) Land used for the production of food or fiber, including, but  
40 not limited to, prime farmland, farmland of statewide importance,



1 unique farmland, farmland of local importance, and grazing land,  
2 *excluding land committed to nonagricultural uses.*

3 (3) Land used for the managed production of resources,  
4 including, but not limited to, forest lands, ~~rangeland, agricultural~~  
5 ~~lands and areas of economic importance for the production of food~~  
6 ~~or fiber~~; areas required for recharge of groundwater basins; bays,  
7 estuaries, marshes, rivers and streams which are important for the  
8 management of commercial fisheries; and areas containing major  
9 mineral deposits, including those in short supply.

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

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

24 SEC. 3. Section 65561 of the Government Code is amended  
25 to read:

26 65561. The Legislature finds and declares as follows:

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

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

39 (c) The anticipated increase in the population of the state  
40 demands that cities, counties, and the state at the earliest possible



1 date make definite plans for the preservation of valuable  
2 agricultural and open-space land and take positive action to carry  
3 out those plans by the adoption and strict administration of laws,  
4 ordinances, rules and regulations as authorized by this chapter or  
5 by other appropriate methods.

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

12 (e) For these reasons this article is necessary for the promotion  
13 of the general welfare and for the protection of the public interest  
14 in agricultural and open-space land.

15 SEC. 4. Section 65562 of the Government Code is amended  
16 to read:

17 65562. It is the intent of the Legislature in enacting this article  
18 to ~~do~~ *provide a mechanism for considering* all of the following:

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

23 (b) ~~Ensure~~ *Encourage* long-term preservation of natural  
24 resources for plant and animal life and promote sustainable  
25 ecosystems that protect and enhance the quality of life within the  
26 state.

27 (c) Encourage the managed production of resources ~~to ensure~~  
28 ~~that the~~ *by ensuring that the importance of* long-term viability of  
29 agricultural land and other resource-based economic development  
30 ~~are~~ *is* recognized in the plans and actions of state and local entities,  
31 ~~and that the quality where appropriate, and that the quantity,~~  
32 *quality,* and diversity of agricultural commodities produced within  
33 the state are ~~safeguarded by protecting the land resources upon~~  
34 ~~which these resources rely.~~ *supported by conserving land*  
35 *resources upon which these resources rely.*

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

39 (e) Identify special areas that *may, consistent with other*  
40 *elements,* require special management for public health and safety





1 to keep urban uses out of harm's way and minimize costs of  
2 emergency response.

3 (f) Minimize or avoid the premature or unnecessary loss of  
4 agricultural and open-space lands, while encouraging  
5 opportunities that are compatible with or complementary to other  
6 existing or planned uses or infrastructure.

7 SEC. 5. Section 65564 of the Government Code is amended  
8 to read:

9 65564. Every local agricultural and open-space element shall  
10 contain an action program consisting of specific programs that the  
11 legislative body intends to pursue in implementing its agricultural  
12 and open-space plan.

13 SEC. 6. Section 65565 is added to the Government Code, to  
14 read:

15 65565. The agricultural and open-space element may include,  
16 but is not limited to, any of the following:

17 (a) A land inventory identifying the type and use of the  
18 following:

19 (1) Land under a natural communities conservation plan or  
20 habitat conservation plan, publicly owned land that constitutes a  
21 linkage or corridor between habitat areas, and land subject to a  
22 conservation easement or other enforceable restriction for the  
23 purposes of ecosystem protection, buffers for military  
24 installations, and sensitive lands that provide clean air and water.

25 (2) Agricultural land using existing data submitted pursuant to  
26 Section 65570, including Williamson Act contracted land and  
27 Farmland Security Zones, as identified in Chapter 7 (commencing  
28 with Section 51200) of Part 1 of Division 1 of Title 5.

29 (3) Resource-based managed lands, including areas for timber  
30 production and mining and timberland production zones.

31 (4) Lands designated for passive and active outdoor recreation,  
32 that include regional or urban parks where appropriate, for the  
33 purpose of providing greater access to recreation and open-space  
34 for all citizens.

35 (5) Land that, for reasons of public health and safety, requires  
36 special management to avoid placing urban uses in areas subject  
37 to natural hazards including, but not limited to, flood, fire,  
38 landslide, and seismic activities that increase emergency response  
39 costs.



1 (b) Goals, objectives, and policies that support the long-term  
2 conservation of agricultural and other open-space lands, and  
3 appropriate implementation measures including, but not limited  
4 to, measures that seek to avoid or minimize conflicts with  
5 authorized urban uses on neighboring or nearby lands, and  
6 preserve opportunities for food security through local food  
7 production that sustains family farming operations.

8 (c) Goals, objectives, and policies that support and encourage  
9 continuation or initiation of agricultural and ~~other~~ open-space use,  
10 and opportunities, *especially in urban and transitional areas*,  
11 where appropriate and compatible, and appropriate  
12 implementation measures, including, but not limited to, provision  
13 of incentives, removal of disincentives, design solutions, and  
14 conjunctive uses.

15 (d) To implement Section 65300.7 and to accommodate the  
16 diversity of circumstances within a jurisdictional boundary, the  
17 element may contain different measures for different areas and for  
18 different types of agricultural and open-space uses, including, but  
19 not limit to, conjunctive, or transitional uses, and different  
20 physical land uses.

21 (e) *The land categories listed in subdivision (a) are not*  
22 *intended to be mutually exclusive with respect to lands to which*  
23 *they apply. The land inventory is for planning purposes only and,*  
24 *in and of itself, does not increase restrictions on the use of the land.*

25 SEC. 7. Section 65566 of the Government Code is amended  
26 to read:

27 65566. Any action by a county or city by which agricultural  
28 and open-space land or any interest therein is acquired or disposed  
29 of or its use restricted or regulated, whether or not pursuant to this  
30 part, must be consistent with the local agricultural and open-space  
31 element.

32 ~~SEC. 8. Section 65567 of the Government Code is amended~~  
33 ~~to read:~~

34 ~~65567. No building permit may be issued, no subdivision~~  
35 ~~approved, no services or infrastructure extended to support urban~~  
36 ~~development on open-space land and no open-space zoning~~  
37 ~~ordinance adopted, unless the proposed construction, extension,~~



1 ~~subdivision, or ordinance is consistent with the local agricultural~~  
2 ~~and open space element.~~

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