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AMENDED IN ASSEMBLY APRIL 26, 2004

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CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2055

Introduced by Assembly Member Wolk
(Coauthors: Senators Machado, Soto, and Torlakson)

February 17, 2004

An act to amend Sections 65302, 65560, 65561, 65562, 65564, 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 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
27 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) "Agricultural and open-space land" is any parcel or area of
25 land or water that is essentially unimproved and devoted to a land
26 use as defined in this section, and that is designated on a local,
27 regional or state open-space plan as any of the following:

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

38 (2) Land used for the production of food or fiber, including, but
39 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; areas required for
5 recharge of groundwater basins; bays, estuaries, marshes, rivers
6 and streams which are important for the management of
7 commercial fisheries; and areas containing major mineral
8 deposits, including those in short supply.

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

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

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

25 65561. The Legislature finds and declares as follows:

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

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

38 (c) The anticipated increase in the population of the state
39 demands that cities, counties, and the state at the earliest possible
40 date make definite plans for the preservation of valuable



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

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

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

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

16 65562. It is the intent of the Legislature in enacting this article
17 to provide a mechanism for considering all of the following:

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

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

25 (c) Encourage the managed production of resources by
26 ensuring that the importance of long-term viability of agricultural
27 land and other resource-based economic development is
28 recognized in the plans and actions of state and local entities,
29 where appropriate, and that the quantity, quality, and diversity of
30 agricultural commodities produced within the state are supported
31 by conserving land resources upon which these resources ~~rely~~,
32 *where conservation is appropriate consistent with other goals set*
33 *forth in the general plan.*

34 (d) *Goals, objectives, and policies that support agricultural*
35 *and open-space uses by identifying and addressing possible*
36 *conflicts between existing and planned local and regional*
37 *infrastructure and adopted agricultural and open-space priorities,*
38 *including, but not limited to, implementing measures that*
39 *discourage the premature or unnecessary extension of urban*
40 *services to agricultural and open-space lands.*



1 (e) Goals, objectives, and policies that support agricultural
2 and open-space uses by identifying and addressing possible
3 beneficial relationships between existing and planned local and
4 regional infrastructure and adopted agricultural and open-space
5 priorities, including, but not limited to, implementing measures
6 that take advantage of opportunities to enhance or promote
7 compatible agricultural or open-space uses.

8 (f) Provide adequate opportunities for passive and active
9 outdoor recreation areas that include urban parks, to promote the
10 health and general welfare of the citizenry.

11 ~~(e)~~

12 (g) Identify special areas that may, consistent with other
13 elements, require special management for public health and safety
14 to keep urban uses out of harm's way and minimize costs of
15 emergency response.

16 ~~(f)~~

17 (h) Minimize or avoid the premature or unnecessary loss of
18 agricultural and open-space lands, while encouraging
19 opportunities that are compatible with or complementary to other
20 existing or planned uses or infrastructure.

21 SEC. 5. Section 65564 of the Government Code is amended
22 to read:

23 65564. Every local agricultural and open-space element shall
24 contain an action program consisting of specific programs that the
25 legislative body intends to pursue in implementing its agricultural
26 and open-space plan.

27 SEC. 6. Section 65565 is added to the Government Code, to
28 read:

29 65565. The agricultural and open-space element may include,
30 but is not limited to, any of the following:

31 (a) A land inventory identifying the type and use of the
32 following:

33 (1) Land under a natural communities conservation plan or
34 habitat conservation plan, publicly owned land that constitutes a
35 linkage or corridor between habitat areas, and land subject to a
36 conservation easement or other enforceable restriction for the
37 purposes of ecosystem protection, buffers for military
38 installations, and sensitive lands that provide clean air and water.

39 (2) Agricultural land using existing data submitted pursuant to
40 Section 65570, including Williamson Act contracted land and



1 Farmland Security Zones, as identified in Chapter 7 (commencing
2 with Section 51200) of Part 1 of Division 1 of Title 5.

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

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

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

14 (b) Goals, objectives, and policies that support the long-term
15 conservation of agricultural and other open-space lands, and
16 appropriate implementation measures including, but not limited
17 to, measures that seek to avoid or minimize conflicts with
18 authorized urban uses on neighboring or nearby lands, and
19 preserve opportunities for food security through local food
20 production that sustains family farming operations.

21 (c) Goals, objectives, and policies that support and encourage
22 continuation or initiation of agricultural and open-space use, and
23 opportunities, especially in urban and transitional areas, where
24 appropriate and compatible, and appropriate implementation
25 measures, including, but not limited to, provision of incentives,
26 removal of disincentives, design solutions, and conjunctive uses.

27 (d) To implement Section 65300.7 and to accommodate the
28 diversity of circumstances within a jurisdictional boundary, the
29 element may contain different measures for different areas and for
30 different types of agricultural and open-space uses, including, but
31 not limit to, conjunctive, or transitional uses, and different
32 physical land uses.

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

37 SEC. 7. Section 65566 of the Government Code is amended
38 to read:

39 65566. Any action by a county or city by which agricultural
40 and open-space land or any interest therein is acquired or disposed



1 of or its use restricted or regulated, whether or not pursuant to this
2 part, must be consistent with the local agricultural and open-space
3 element.

4 *SEC. 8. (a) In enacting Sections 1 to 7, inclusive, of this act,*
5 *the Legislature is mindful of Section 65300.7 and subdivision (c)*
6 *of Section 65301 of the Government Code, which allow counties*
7 *and cities to implement the agricultural and open-space elements*
8 *of their general plans in ways that accommodate local conditions*
9 *and circumstances, while meeting minimum requirements.*

10 *(b) The amendments to Section 65562 and 65565 of the*
11 *Government Code made by this act are intended by the Legislature*
12 *to be permissive and prospective, and shall not be construed to*
13 *place any existing open-space element of a general plan out of*
14 *conformity with the statute. If a county or a city voluntarily revises*
15 *its general plan or the agricultural and open-space element of its*
16 *general plan pursuant to Sections 65562 and 65565 of the*
17 *Government Code, those provisions do not constitute a*
18 *state-mandated local program for the purposes of reimbursement*
19 *by the state.*

20 *(c) If a county or a city makes no further amendments to its*
21 *agricultural and open-space element of its general plan, other*
22 *than changes in nomenclature required by Article 10.5*
23 *(commencing with Section 65560) of Chapter 3 of Division 1 of*
24 *Title 5 of the Government Code, those actions shall be considered*
25 *ministerial.*

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