

AMENDED IN ASSEMBLY AUGUST 20, 2010

AMENDED IN SENATE MARCH 24, 2010

**SENATE BILL**

**No. 1207**

---

---

**Introduced by Senator Kehoe**

(Coauthors: Assembly Members Davis and De La Torre)

February 18, 2010

---

---

An act to amend Sections 65302 and 65302.5 of, and to add Section 65040.7 to, the Government Code, and to add Section 21083.01 to the Public Resources Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 1207, as amended, Kehoe. Land use: general plan: safety element: fire hazard impacts.

(1) The Planning and Zoning Law requires the legislative body of a city or county to adopt a comprehensive, long-term general plan that includes various elements, including, among others, a safety element for the protection of the community from unreasonable risks associated with, among other things, wildland and urban fires. The safety element includes requirements for state responsibility areas, as defined, and very high fire hazard severity zones, as defined.

This bill would revise the safety element requirements for state responsibility areas and very high fire hazard severity zones, as specified, and require the safety element, prior to January 1, 2015, and thereafter upon each revision of the housing element, to be reviewed and updated as necessary to address the risk of fire in state responsibility areas and very high fire hazard severity zones, taking into account specified considerations, including, among others, the most recent version of the Office of Planning and Research's "Fire Hazard Planning" document, which this bill would require the office to update on or before

January 1, 2012. By imposing new duties on a city or county with regard to reviewing and updating its general plan, this bill would impose a state-mandated local program.

(2) The California Environmental Quality Act (CEQA) requires a lead agency to prepare and certify the completion of an environmental impact report on a project, as defined, that it proposes to carry out or approve that may have a significant effect on the environment, or to adopt a negative declaration if it finds that the project will not have that effect. CEQA requires the Office of Planning and Research to prepare and develop guidelines for the implementation of CEQA by public agencies.

This bill would require the office, on or after January 1, 2011, at the time of the next update of the guidelines for implementing CEQA, in cooperation with the Department of Forestry and Fire Protection, to prepare, develop, and transmit to the Secretary of the Natural Resources Agency recommended proposed changes or amendments to the initial study for the inclusion of questions related to fire hazard impacts for projects in state responsibility areas and high fire hazard severity zones. This bill would also require the Secretary of the Natural Resources Agency to certify and adopt these recommended proposed changes or amendments.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 65040.7 is added to the Government  
2 Code, to read:

3 65040.7. On or before January 1, 2012, the Office of Planning  
4 and Research shall update its "Fire Hazard Planning" document  
5 prepared as part of the General Plan Technical Advice Series and  
6 issued in November of 2003.

7 SEC. 2. Section 65302 of the Government Code is amended  
8 to read:

1 65302. The general plan shall consist of a statement of  
2 development policies and shall include a diagram or diagrams and  
3 text setting forth objectives, principles, standards, and plan  
4 proposals. The plan shall include the following elements:

5 (a) A land use element that designates the proposed general  
6 distribution and general location and extent of the uses of the land  
7 for housing, business, industry, open space, including agriculture,  
8 natural resources, recreation, and enjoyment of scenic beauty,  
9 education, public buildings and grounds, solid and liquid waste  
10 disposal facilities, and other categories of public and private uses  
11 of land. The location and designation of the extent of the uses of  
12 the land for public and private uses shall consider the identification  
13 of land and natural resources pursuant to paragraph (3) of  
14 subdivision (d). The land use element shall include a statement of  
15 the standards of population density and building intensity  
16 recommended for the various districts and other territory covered  
17 by the plan. The land use element shall identify and annually  
18 review those areas covered by the plan that are subject to flooding  
19 identified by flood plain mapping prepared by the Federal  
20 Emergency Management Agency (FEMA) or the Department of  
21 Water Resources. The land use element shall also do both of the  
22 following:

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

28 (2) Consider the impact of new growth on military readiness  
29 activities carried out on military bases, installations, and operating  
30 and training areas, when proposing zoning ordinances or  
31 designating land uses covered by the general plan for land, or other  
32 territory adjacent to military facilities, or underlying designated  
33 military aviation routes and airspace.

34 (A) In determining the impact of new growth on military  
35 readiness activities, information provided by military facilities  
36 shall be considered. Cities and counties shall address military  
37 impacts based on information from the military and other sources.

38 (B) The following definitions govern this paragraph:

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

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

3 (II) Operation, maintenance, and security of any military  
4 installation.

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

7 (ii) “Military installation” means a base, camp, post, station,  
8 yard, center, homeport facility for any ship, or other activity under  
9 the jurisdiction of the United States Department of Defense as  
10 defined in paragraph (1) of subsection (e) of Section 2687 of Title  
11 10 of the United States Code.

12 (b) (1) A circulation element consisting of the general location  
13 and extent of existing and proposed major thoroughfares,  
14 transportation routes, terminals, any military airports and ports,  
15 and other local public utilities and facilities, all correlated with the  
16 land use element of the plan.

17 (2) (A) Commencing January 1, 2011, upon any substantive  
18 revision of the circulation element, the legislative body shall  
19 modify the circulation element to plan for a balanced, multimodal  
20 transportation network that meets the needs of all users of streets,  
21 roads, and highways for safe and convenient travel in a manner  
22 that is suitable to the rural, suburban, or urban context of the  
23 general plan.

24 (B) For purposes of this paragraph, “users of streets, roads, and  
25 highways” mean bicyclists, children, persons with disabilities,  
26 motorists, movers of commercial goods, pedestrians, users of public  
27 transportation, and seniors.

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

30 (d) (1) A conservation element for the conservation,  
31 development, and utilization of natural resources including water  
32 and its hydraulic force, forests, soils, rivers and other waters,  
33 harbors, fisheries, wildlife, minerals, and other natural resources.  
34 The conservation element shall consider the effect of development  
35 within the jurisdiction, as described in the land use element, on  
36 natural resources located on public lands, including military  
37 installations. That portion of the conservation element including  
38 waters shall be developed in coordination with any countywide  
39 water agency and with all district and city agencies, including  
40 flood management, water conservation, or groundwater agencies

1 that have developed, served, controlled, managed, or conserved  
2 water of any type for any purpose in the county or city for which  
3 the plan is prepared. Coordination shall include the discussion and  
4 evaluation of any water supply and demand information described  
5 in Section 65352.5, if that information has been submitted by the  
6 water agency to the city or county.

7 (2) The conservation element may also cover all of the  
8 following:

9 (A) The reclamation of land and waters.

10 (B) Prevention and control of the pollution of streams and other  
11 waters.

12 (C) Regulation of the use of land in stream channels and other  
13 areas required for the accomplishment of the conservation plan.

14 (D) Prevention, control, and correction of the erosion of soils,  
15 beaches, and shores.

16 (E) Protection of watersheds.

17 (F) The location, quantity and quality of the rock, sand, and  
18 gravel resources.

19 (3) Upon the next revision of the housing element on or after  
20 January 1, 2009, the conservation element shall identify rivers,  
21 creeks, streams, flood corridors, riparian habitats, and land that  
22 may accommodate floodwater for purposes of groundwater  
23 recharge and stormwater management.

24 (e) An open-space element as provided in Article 10.5  
25 (commencing with Section 65560).

26 (f) (1) A noise element that shall identify and appraise noise  
27 problems in the community. The noise element shall recognize the  
28 guidelines established by the Office of Noise Control and shall  
29 analyze and quantify, to the extent practicable, as determined by  
30 the legislative body, current and projected noise levels for all of  
31 the following sources:

32 (A) Highways and freeways.

33 (B) Primary arterials and major local streets.

34 (C) Passenger and freight on-line railroad operations and ground  
35 rapid transit systems.

36 (D) Commercial, general aviation, heliport, helistop, and military  
37 airport operations, aircraft overflights, jet engine test stands, and  
38 all other ground facilities and maintenance functions related to  
39 airport operation.

1 (E) Local industrial plants, including, but not limited to, railroad  
2 classification yards.

3 (F) Other ground stationary noise sources, including, but not  
4 limited to, military installations, identified by local agencies as  
5 contributing to the community noise environment.

6 (2) Noise contours shall be shown for all of these sources and  
7 stated in terms of community noise equivalent level (CNEL) or  
8 day-night average level ( $L_{dn}$ ). The noise contours shall be prepared  
9 on the basis of noise monitoring or following generally accepted  
10 noise modeling techniques for the various sources identified in  
11 paragraphs (1) to (6), inclusive.

12 (3) The noise contours shall be used as a guide for establishing  
13 a pattern of land uses in the land use element that minimizes the  
14 exposure of community residents to excessive noise.

15 (4) The noise element shall include implementation measures  
16 and possible solutions that address existing and foreseeable noise  
17 problems, if any. The adopted noise element shall serve as a  
18 guideline for compliance with the state's noise insulation standards.

19 (g) (1) A safety element for the protection of the community  
20 from any unreasonable risks associated with the effects of  
21 seismically induced surface rupture, ground shaking, ground  
22 failure, tsunami, seiche, and dam failure; slope instability leading  
23 to mudslides and landslides; subsidence; liquefaction; and other  
24 seismic hazards identified pursuant to Chapter 7.8 (commencing  
25 with Section 2690) of Division 2 of the Public Resources Code,  
26 and other geologic hazards known to the legislative body; flooding;  
27 and wildland and urban fires. The safety element shall include  
28 mapping of known seismic and other geologic hazards. It shall  
29 also address evacuation routes, military installations, peakload  
30 water supply requirements, and minimum road widths and  
31 clearances around structures, as those items relate to identified fire  
32 and geologic hazards.

33 (2) The safety element, upon the next revision of the housing  
34 element on or after January 1, 2009, shall also do the following:

35 (A) Identify information regarding flood hazards, including,  
36 but not limited to, the following:

37 (i) Flood hazard zones. As used in this subdivision, "flood  
38 hazard zone" means an area subject to flooding that is delineated  
39 as either a special hazard area or an area of moderate or minimal  
40 hazard on an official flood insurance rate map issued by the Federal

1 Emergency Management Agency (FEMA). The identification of  
2 a flood hazard zone does not imply that areas outside the flood  
3 hazard zones or uses permitted within flood hazard zones will be  
4 free from flooding or flood damage.

5 (ii) National Flood Insurance Program maps published by  
6 FEMA.

7 (iii) Information about flood hazards that is available from the  
8 United States Army Corps of Engineers.

9 (iv) Designated floodway maps that are available from the  
10 Central Valley Flood Protection Board.

11 (v) Dam failure inundation maps prepared pursuant to Section  
12 8589.5 that are available from the ~~Office of Emergency Services~~  
13 *California Emergency Management Agency*.

14 (vi) Awareness Floodplain Mapping Program maps and 200-year  
15 flood plain maps that are or may be available from, or accepted  
16 by, the Department of Water Resources.

17 (vii) Maps of levee protection zones.

18 (viii) Areas subject to inundation in the event of the failure of  
19 project or nonproject levees or floodwalls.

20 (ix) Historical data on flooding, including locally prepared maps  
21 of areas that are subject to flooding, areas that are vulnerable to  
22 flooding after wildfires, and sites that have been repeatedly  
23 damaged by flooding.

24 (x) Existing and planned development in flood hazard zones,  
25 including structures, roads, utilities, and essential public facilities.

26 (xi) Local, state, and federal agencies with responsibility for  
27 flood protection, including special districts and local offices of  
28 emergency services.

29 (B) Establish a set of comprehensive goals, policies, and  
30 objectives based on the information identified pursuant to  
31 subparagraph (A), for the protection of the community from the  
32 unreasonable risks of flooding, including, but not limited to:

33 (i) Avoiding or minimizing the risks of flooding to new  
34 development.

35 (ii) Evaluating whether new development should be located in  
36 flood hazard zones, and identifying construction methods or other  
37 methods to minimize damage if new development is located in  
38 flood hazard zones.

39 (iii) Maintaining the structural and operational integrity of  
40 essential public facilities during flooding.

1 (iv) Locating, when feasible, new essential public facilities  
2 outside of flood hazard zones, including hospitals and health care  
3 facilities, emergency shelters, fire stations, emergency command  
4 centers, and emergency communications facilities or identifying  
5 construction methods or other methods to minimize damage if  
6 these facilities are located in flood hazard zones.

7 (v) Establishing cooperative working relationships among public  
8 agencies with responsibility for flood protection.

9 (C) Establish a set of feasible implementation measures designed  
10 to carry out the goals, policies, and objectives established pursuant  
11 to subparagraph (B).

12 (3) Prior to January 1, 2015, and thereafter upon each revision  
13 of the housing element made pursuant to Section 65588, the safety  
14 element shall be reviewed and updated as necessary to address the  
15 risk of fire for land classified as state responsibility areas, as  
16 defined in Section 4102 of the Public Resources Code, and land  
17 classified as very high fire hazard severity zones, as defined in  
18 Section 51177. This review shall consider the advice included in  
19 the most recent publication of “Fire Hazard Planning” (Office of  
20 Planning and Research, General Plan Technical Advice Series)  
21 and shall also include all of the following:

22 (A) Information regarding fire hazards, including, but not limited  
23 to, all of the following:

24 (i) Fire hazard severity zone maps available from the Department  
25 of Forestry and Fire Protection.

26 (ii) Historical data on wildfires, including maps prepared by  
27 local agencies displaying areas that have been historically subject  
28 to wildfires.

29 (iii) Information about wildfire hazard areas that may be  
30 available from the United States Geological Survey.

31 (iv) General location and distribution of existing and planned  
32 development in very high fire hazard severity zones, including  
33 structures, roads, utilities, and essential public facilities.

34 (v) Local, state, and federal agencies with responsibility for fire  
35 protection, including special districts and local offices of  
36 emergency services.

37 (B) Establish a set of goals, policies, and objectives based on  
38 the information identified pursuant to subparagraph (A) for the  
39 protection of the community from the unreasonable risk of wildfire,  
40 including, but not limited to, all of the following:

- 1 (i) Avoiding or minimizing the wildfire hazards associated with  
2 new development, such as building materials that are not fire  
3 resistant, flammable vegetation, insufficient defensible space or  
4 fuel breaks, and lack of appropriate emergency road access.
- 5 (ii) Identifying construction design or methods, including fire  
6 resistive construction materials, fuels management methods, or  
7 other methods, to minimize the potential for ignition or spread of  
8 a structure fire to wildlands or surrounding areas if new  
9 development is located in a state responsibility area or in a very  
10 high fire hazard severity zone.
- 11 (iii) Locating, when feasible, new essential public facilities  
12 outside of high fire risk areas, including, but not limited to,  
13 hospitals and health care facilities, emergency shelters, emergency  
14 command centers, and emergency communications facilities, or  
15 identifying construction methods or other methods to minimize  
16 damage if these facilities are located in a state responsibility area  
17 or very high fire hazard severity zone.
- 18 (iv) Working cooperatively with public agencies with  
19 responsibility for fire protection.
- 20 (C) Establish a set of feasible implementation measures designed  
21 to carry out the goals, policies, and objectives established pursuant  
22 to subparagraph (B).
- 23 (4) After the initial revision of the safety element pursuant to  
24 paragraphs (2) and (3), upon each revision of the housing element,  
25 the planning agency shall review and, if necessary, revise the safety  
26 element to identify new information that was not available during  
27 the previous revision of the safety element.
- 28 (5) Cities and counties that have flood plain management  
29 ordinances that have been approved by FEMA that substantially  
30 comply with this section, or have substantially equivalent  
31 provisions to this subdivision in their general plans, may use that  
32 information in the safety element to comply with this subdivision,  
33 and shall summarize and incorporate by reference into the safety  
34 element the other general plan provisions or the flood plain  
35 ordinance, specifically showing how each requirement of this  
36 subdivision has been met.
- 37 (6) Prior to the periodic review of its general plan and prior to  
38 preparing or revising its safety element, each city and county shall  
39 consult the California Geological Survey of the Department of  
40 Conservation, the Central Valley Flood Protection Board, if the

1 city or county is located within the boundaries of the Sacramento  
2 and San Joaquin Drainage District, as set forth in Section 8501 of  
3 the Water Code, and the ~~Office of Emergency Services~~ *California*  
4 *Emergency Management Agency* for the purpose of including  
5 information known by and available to the department, the ~~office~~  
6 *agency*, and the board required by this subdivision.

7 (7) To the extent that a county's safety element is sufficiently  
8 detailed and contains appropriate policies and programs for  
9 adoption by a city, a city may adopt that portion of the county's  
10 safety element that pertains to the city's planning area in  
11 satisfaction of the requirement imposed by this subdivision.

12 SEC. 3. Section 65302.5 of the Government Code is amended  
13 to read:

14 65302.5. (a) At least 45 days prior to adoption or amendment  
15 of the safety element, each county and city shall submit to the  
16 California Geological Survey of the Department of Conservation  
17 one copy of a draft of the safety element or amendment and any  
18 technical studies used for developing the safety element. The  
19 division may review drafts submitted to it to determine whether  
20 they incorporate known seismic and other geologic hazard  
21 information, and report its findings to the planning agency within  
22 30 days of receipt of the draft of the safety element or amendment  
23 pursuant to this subdivision. The legislative body shall consider  
24 the division's findings prior to final adoption of the safety element  
25 or amendment unless the division's findings are not available  
26 within the above prescribed time limits or unless the division has  
27 indicated to the city or county that the division will not review the  
28 safety element. If the division's findings are not available within  
29 those prescribed time limits, the legislative body may take the  
30 division's findings into consideration at the time it considers future  
31 amendments to the safety element. Each county and city shall  
32 provide the division with a copy of its adopted safety element or  
33 amendments. The division may review adopted safety elements  
34 or amendments and report its findings. All findings made by the  
35 division shall be advisory to the planning agency and legislative  
36 body.

37 (b) (1) The draft element of or draft amendment to the safety  
38 element of a county or a city's general plan shall be submitted to  
39 the State Board of Forestry and Fire Protection and to every local

1 agency that provides fire protection to territory in the city or county  
2 at least 90 days prior to either of the following:

3 (A) The adoption or amendment to the safety element of its  
4 general plan for each county that contains state responsibility areas.

5 (B) The adoption or amendment to the safety element of its  
6 general plan for each city or county that contains a very high fire  
7 hazard severity zone as defined pursuant to subdivision (b) of  
8 Section 51177.

9 (2) A county that contains state responsibility areas and a city  
10 or county that contains a very high fire hazard severity zone as  
11 defined pursuant to subdivision (b) of Section 51177 shall submit  
12 for review the safety element of its general plan to the State Board  
13 of Forestry and Fire Protection and every local agency that provides  
14 fire protection to territory in the city or county in accordance with  
15 the following dates, as specified, unless the local government  
16 submitted the element within five years prior to that date:

17 (A) Local governments within the regional jurisdiction of the  
18 San Diego Association of Governments: December 31, 2010.

19 (B) Local governments within the regional jurisdiction of the  
20 Southern California Association of Governments: December 31,  
21 2011.

22 (C) Local governments within the regional jurisdiction of the  
23 Association of Bay Area Governments: December 31, 2012.

24 (D) Local governments within the regional jurisdiction of the  
25 Council of Fresno County Governments, the Kern County Council  
26 of Governments, and the Sacramento Area Council of  
27 Governments: June 30, 2013.

28 (E) Local governments within the regional jurisdiction of the  
29 Association of Monterey Bay Area Governments: December 31,  
30 2014.

31 (F) All other local governments: December 31, 2015.

32 (3) The State Board of Forestry and Fire Protection shall, and  
33 a local agency may, review the draft or an existing safety element  
34 and recommend changes to the planning agency within 60 days  
35 of its receipt regarding both of the following:

36 (A) Uses of land and policies in state responsibility areas and  
37 very high fire hazard severity zones that will protect life, property,  
38 and natural resources from unreasonable risks associated with  
39 wildland fires.

1 (B) Methods and strategies for wildland fire risk reduction and  
2 prevention within state responsibility areas and very high fire  
3 hazard severity zones.

4 (4) Prior to the adoption of its draft element or draft amendment,  
5 the board of supervisors of the county or the city council of a city  
6 shall consider the recommendations, if any, made by the State  
7 Board of Forestry and Fire Protection and any local agency that  
8 provides fire protection to territory in the city or county. If the  
9 board of supervisors or city council determines not to accept all  
10 or some of the recommendations, if any, made by the State Board  
11 of Forestry and Fire Protection or local agency, the board of  
12 supervisors or city council shall communicate in writing to the  
13 State Board of Forestry and Fire Protection or the local public  
14 agency, its reasons for not accepting the recommendations.

15 (5) If the State Board of Forestry and Fire Protection's or local  
16 agency's recommendations are not available within the time limits  
17 required by this section, the board of supervisors or city council  
18 may act without those recommendations. The board of supervisors  
19 or city council shall take the recommendations into consideration  
20 the next time it considers amendments to the safety element.

21 SEC. 4. Section 21083.01 is added to the Public Resources  
22 Code, to read:

23 21083.01. (a) On or after January 1, 2011, at the time of the  
24 next review of the guidelines prepared and developed to implement  
25 this division pursuant to subdivision (f) of Section 21083, the  
26 Office of Planning and Research, in cooperation with the  
27 Department of Forestry and Fire Protection, shall prepare, develop,  
28 and transmit to the Secretary of the Natural Resources Agency  
29 recommended proposed changes or amendments to the initial study  
30 of the guidelines implementing this division for the inclusion of  
31 questions related to fire hazard impacts for projects located on  
32 lands classified as state responsibility areas, as defined in Section  
33 4102, and on lands classified as very high fire hazard severity  
34 zones, as defined in subdivision (i) of Section 51177 of the  
35 Government Code.

36 (b) Upon receipt and review, the Secretary of the Natural  
37 Resources Agency shall certify and adopt the recommended  
38 proposed changes or amendments prepared and developed by the  
39 Office of Planning and Research pursuant to subdivision (a).

1     SEC. 5. No reimbursement is required by this act pursuant to  
2 Section 6 of Article XIII B of the California Constitution because  
3 a local agency or school district has the authority to levy service  
4 charges, fees, or assessments sufficient to pay for the program or  
5 level of service mandated by this act, within the meaning of Section  
6 17556 of the Government Code.

O