

AMENDED IN SENATE FEBRUARY 14, 2001

AMENDED IN SENATE FEBRUARY 13, 2001

CALIFORNIA LEGISLATURE—2001–02 FIRST EXTRAORDINARY SESSION

SENATE BILL

No. 6

Introduced by Senators Burton and Bowen

(Principal coauthors: Assembly Members Florez, Goldberg, and Shelley)

(Coauthors: Senators Karnette, Kuehl, and Scott)

(Coauthors: Assembly Members Aroner, Cedillo, Firebaugh, Frommer, Keeley, Papan, Romero, Steinberg, Thomson, and Wiggins)

January 18, 2001

An act to add Division 1.5 (commencing with Section 3300) to the Public Utilities Code, relating to electrical power.

LEGISLATIVE COUNSEL'S DIGEST

SB 6, as amended, Burton. California Consumer Power and Conservation Financing Authority.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations and other specified entities.

The Warren-Alquist State Energy Resources Conservation and Development Act requires the State Energy Resources Conservation and Development Commission (Energy Commission) to certify sufficient sites and related facilities that are required to provide a supply of electric power sufficient to accommodate projected demand for power statewide. The Energy Commission administers existing law with respect to energy conservation.

This bill would create the California Consumer Power and Conservation Financing Authority, with powers and responsibilities as prescribed, including the issuance of revenue bonds, for the purposes of augmenting electric generating facilities and to ensure a sufficient and reliable supply of electricity, financing incentives for investment in cost-effective energy-efficient appliances and energy demand reduction, achieving a specified energy capacity reserve level, providing financing for the retrofit of inefficient electric powerplants, renewable energy and conservation, and, where appropriate, developing strategies for the authority to facilitate a dependable supply of natural gas at reasonable prices to the public. The bill would create in the State Treasury the California Consumer Power and Conservation Financing Authority Fund, and all money in the fund, upon appropriation, would be available for the support of the authority.

The bill would prohibit the authority from undertaking any new projects on or after January 1, 2007, unless authority to undertake those new projects is granted by statute enacted on or before January 1, 2007.

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

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

1 SECTION 1. Division 1.5 (commencing with Section 3300)
2 is added to the Public Utilities Code, to read:

3
4 DIVISION 1.5. CALIFORNIA CONSUMER POWER AND
5 CONSERVATION FINANCING AUTHORITY ACT

6
7 CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

8
9 3300. The Legislature finds and declares that in order to
10 furnish the citizens of California with reliable, affordable
11 electrical power, to ensure sufficient power reserves, to assure
12 stability and rationality in California's electricity market, to
13 encourage energy efficiency and conservation as well as the use of
14 renewable energy resources, and to protect the public health,
15 welfare, and safety, the state needs to finance, purchase, lease,
16 own, operate, acquire, or otherwise provide financial assistance
17 for public and private facilities for the generation and transmission

1 of electricity and for renewable energy, energy efficiency, and
2 conservation programs.

3 3301. This division shall be known and may be cited as the
4 California Consumer Power and Conservation Financing
5 Authority Act.

6 3302. As used in this division, unless the context otherwise
7 requires, the following terms have the following meanings:

8 (a) “Act” means the California Consumer Power and
9 Conservation Financing Authority Act.

10 (b) “Authority” means the California Consumer Power and
11 Conservation Financing Authority established pursuant to Section
12 3320 and any board, commission, department, or officer
13 succeeding to the functions thereof, or to whom the powers
14 conferred upon the authority by this division shall be given by law.

15 (c) “Board” means the Board of Directors of the California
16 Consumer Power and Conservation Financing Authority.

17 (d) “Bond purchase agreement” means a contractual
18 agreement executed between the authority and a participating
19 party, whereby the authority agrees to purchase bonds of the
20 participating party for retention or sale.

21 (e) “Bonds” means bonds, including structured, senior, and
22 subordinated bonds or other securities; loans; notes, including
23 bond revenue, tax or grant anticipation notes; certificates of
24 indebtedness; commercial paper; floating rate and variable
25 maturity securities; and any other evidences of indebtedness or
26 ownership, including certificates of participation or beneficial
27 interest, asset backed certificates, or lease-purchase or installment
28 purchase agreements, whether taxable or excludable from gross
29 income for state and federal income taxation purposes.

30 (f) “Commission” means the Public Utilities Commission.

31 (g) “Cost,” as applied to a program, project or portion thereof
32 financed under this division, means all or any part of the cost of
33 construction, improvement, repair, reconstruction, renovation,
34 and acquisition of all lands, structures, improved or unimproved
35 real or personal property, rights, rights-of-way, franchises,
36 licenses, easements, and interests acquired or used for a project;
37 the cost of demolishing or removing or relocating any buildings or
38 structures on land so acquired, including the cost of acquiring any
39 lands to which the buildings or structures may be moved; the cost
40 of all machinery and equipment; financing charges; the costs of

1 issuance of bonds or other indebtedness; interest prior to, during,
2 and for a period after, completion of the project, as determined by
3 the authority; provisions for working capital; reserves for
4 principal and interest; reserves for reduction of costs for loans or
5 other financial assistance; reserves for maintenance, extension,
6 enlargements, additions, replacements, renovations, and
7 improvements; and the cost of architectural, engineering,
8 financial, appraisal, and legal services, plans, specifications,
9 estimates, administrative expenses, and other expenses necessary
10 or incidental to determining the feasibility of any project or
11 program or incidental to the completion or financing of any project
12 or program.

13 (h) “Electrical corporation” has the same meaning as that term
14 is defined in Section 218.

15 (i) “Energy Commission” means the State Energy Resources
16 Conservation and Development Commission.

17 (j) “Enterprise” means a revenue-producing improvement,
18 building, system, plant, works, facilities, or undertaking used for
19 or useful for the generation or production of electric energy for
20 lighting, heating, and power for public or private uses. Enterprise
21 includes, but is not limited to, all parts of the enterprise, all
22 appurtenances to it, lands, easements, rights in land, water rights,
23 contract rights, franchises, buildings, structures, improvements,
24 equipment, and facilities appurtenant or relating to the enterprise.

25 (k) “Financial assistance” in connection with a project or
26 program, includes, but is not limited to, any combination of grants,
27 loans, the proceeds of bonds issued by the authority, insurance,
28 guarantees or other credit enhancements or liquidity facilities, and
29 contributions of money, property, labor, or other things of value,
30 as may be approved by resolution of the board or the participating
31 party, or both; the purchase or retention of authority bonds, the
32 bonds of a participating party for their retention or for sale by the
33 authority, or the issuance of authority bonds or the bonds of a
34 special purpose trust used to fund the cost of a project or program
35 for which a participating party is directly or indirectly liable,
36 including, but not limited to, bonds, the security for which is
37 provided in whole or in part pursuant to the powers granted by this
38 division; bonds for which the authority has provided a guarantee
39 or enhancement, including, but not limited to, the purchase of the
40 subordinated bonds of the participating party, or the retention of

1 the subordinated bonds of the authority pursuant to this division;
2 or any other type of assistance deemed appropriate by the
3 authority.

4 (l) “Fund” means the California Consumer Power and
5 Conservation Financing Authority Fund.

6 (m) “Loan agreement” means a contractual agreement
7 executed between the authority and a participating party that
8 provides that the authority will loan funds to the participating party
9 and that the participating party will repay the principal and pay the
10 interest and redemption premium, if any, on the loan.

11 (n) “Local publicly owned electric utility” has the same
12 meaning as that term is defined in Section 9604.

13 (o) “Participating party” means either of the following:

14 (1) Any person, company, corporation, partnership, firm, or
15 other entity or group of entities, whether organized for profit or not
16 for profit, engaged in business or operations within the state and
17 that applies for financial assistance from the authority for the
18 purpose of implementing a project or program.

19 (2) Any subdivision of the state or local government, including
20 departments, agencies, commissions, cities, counties, nonprofit
21 corporations, special districts, assessment districts, and joint
22 powers authorities within the state or any combination of these
23 subdivisions, that has, or proposes to acquire, an interest in a
24 project, or that operates or proposes to operate a program under
25 Section 3365, and that makes application to the authority for
26 financial assistance in a manner prescribed by the authority.

27 (p) “Program” means a program that provides financial
28 assistance, as provided in Article 7 (commencing with Section
29 3365).

30 (q) “Project” means plants, facilities, equipment, appliances,
31 structures, expansions, and improvements within the state that
32 serve the purposes of this division as approved by the authority,
33 and all activities and expenses necessary to initiate and complete
34 those projects.

35 (r) “Revenues” means all receipts, purchase payments, loan
36 repayments, lease payments, rents, fees and charges, and all other
37 income or receipts derived by the authority from an enterprise, or
38 by the authority or a participating party from any other financing
39 arrangement undertaken by the authority or a participating party,
40 including, but not limited to, all receipts from a bond purchase

1 agreement, and any income or revenue derived from the
2 investment of any money in any fund or account of the authority
3 or a participating party.

4 (s) “State” means the State of California.

5 3304. Any action taken pursuant to this division is exempt
6 from the Administrative Procedure Act, as defined in Section
7 11370 of the Government Code.

8

9 CHAPTER 2. PURPOSE OF THE CALIFORNIA CONSUMER POWER
10 AND CONSERVATION FINANCING AUTHORITY

11

12 3310. The authority may only exercise its powers pursuant to
13 Article 4 (commencing with Section 3340) of Chapter 3 for the
14 following purposes:

15 (a) Establish, finance, purchase, lease, own, operate, acquire,
16 or construct generating facilities and other projects and
17 enterprises, on it’s own or through agreements with public and
18 private third parties or joint ventures with public or private entities,
19 or provide financial assistance for projects or programs by
20 participating parties, to ensure a sufficient and reliable supply of
21 electricity for California’s consumers at just and reasonable rates.

22 (b) Finance programs, administered by the Energy
23 Commission, the commission, and other approved participating
24 parties for consumers and businesses to invest in cost-effective
25 energy efficient appliances, renewable energy projects, and other
26 programs that will reduce the demand for energy in California.

27 (c) Achieve an adequate energy reserve capacity in California
28 by 2006.

29 (d) Provide financing for owners of aged, inefficient, electric
30 powerplants to perform necessary retrofits to improve the
31 efficiency and environmental performances of those powerplants.

32 ~~(e) Acquire transmission facilities pursuant to Article 5~~
33 ~~(commencing with Section 3350) of Chapter 3.~~

34



CHAPTER 3. THE CALIFORNIA CONSUMER POWER AND
CONSERVATION FINANCING AUTHORITY

Article 1. Creation of the Authority

3320. (a) There is hereby created in the state government the California Consumer Power and Conservation Financing Authority, which shall be responsible for administering this division.

(b) The authority shall implement the purposes of Chapter 2 (commencing with Section 3310), and to that end finance projects and programs in accordance with this division, all to the mutual benefit of the people of the state and to protect their health, welfare, and safety.

Article 2. Board of Directors

3325. (a) The authority shall be governed by a ~~five-member~~ *seven-member* board of directors that shall consist of the following persons:

(1) ~~Two~~ *Four* individuals appointed by the Governor, subject to confirmation by the Senate. These ~~two~~ *four* members shall have considerable experience in power generation, conservation, and financing.

(2) A member of the public appointed by the Senate Rules Committee.

(3) A member of the public appointed by the Speaker of the Assembly.

(4) The State Treasurer.

(b) Any appointed member of the board shall serve at the pleasure of the appointing power.

(c) A quorum is necessary for any action to be taken by the board. ~~Three~~ *Four* of the members shall constitute a quorum, and the affirmative vote of ~~three~~ *four* board members shall be necessary for any action to be taken by the board.

(d) Except as provided in this subdivision, the members of the board shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties to the extent that reimbursement for these expenses is not otherwise provided or payable by another public agency, and

1 shall receive one hundred dollars (\$100) for each full day of
2 attending meetings of the authority.

3 3326. (a) The members of the board shall be subject to the
4 Political Reform Act of 1974 (Title 9 (commencing with Section
5 81000)) of the Government Code, the applicable rules and
6 standards of the Municipal Securities Rulemaking Board, and all
7 other applicable provisions of law.

8 (b) The board may purchase insurance for its fiduciaries or for
9 itself to cover liability or losses occurring by reason of the act or
10 omission of a fiduciary, if the insurance permits recourse by the
11 insurer against the fiduciary in the case of a breach of a fiduciary
12 obligation by the fiduciary.

13 3327. Meetings of the board shall be open to the public and
14 shall be conducted in accordance with the Bagley-Keene Open
15 Meeting Act (Article 9 (commencing with Section 11120) of
16 Chapter 1 of Part 1 of Division 3 of Title 2 of the Government
17 Code).

18

19 Article 3. Chief Executive Officer

20

21 3330. The chief executive officer shall manage and conduct
22 the business and affairs of the authority and the fund subject to the
23 direction of the board. Except as otherwise provided in this
24 section, the board may assign to the executive director, by
25 resolution, those duties generally necessary or convenient to carry
26 out its powers and purposes under this division. Any action
27 involving final approval of any bonds, notes, loans, or other
28 financial assistance shall require the approval of a majority of the
29 members of the board.

30

31 Article 4. Powers of the Authority

32

33 3340. The authority is authorized and empowered to do any
34 of the following:

35 (a) Adopt an official seal.

36 (b) Sue and be sued in its own name.

37 (c) Employ or contract with officers and employees to
38 administer the authority. The authority may contract for the
39 services of a chief executive officer, who shall serve at the pleasure
40 of the board. The chief executive officer, subject to the approval



1 of the board, may contract for the services of other persons as are
2 needed to effectuate the purposes of this division. These contracts
3 shall not be subject to any otherwise applicable provisions of the
4 Government Code and the Public Contract Code.

5 (d) Exercise the power of eminent domain.

6 (e) Adopt rules and regulations for the regulation of its affairs
7 and the conduct of its business.

8 (f) Do all things generally necessary or convenient to carry
9 out its powers under, and the purposes of, this division.

10 3341. In connection with the purposes of this division, the
11 authority may do any or all of the following:

12 (a) Issue bonds, from time to time, as further provided in
13 Chapter 5 (commencing with Section 3380.1), to pay all or part of
14 the cost of any enterprise, project, or program, or to otherwise
15 carry out the purposes of this division.

16 (b) Enter into joint powers agreements with eligible public
17 agencies pursuant to Chapter 5 (commencing with Section 6500)
18 of Division 7 of Title 1 of the Government Code.

19 (c) Subject to any statutory or constitutional limitation on their
20 use, do any of the following as may, in the determination of the
21 authority, be necessary or convenient for the successful
22 development, conduct, or financing of a project, program, or
23 enterprise, or for carrying out the purposes of this division:

24 (1) Engage the services, including, without limitation, the
25 services of private consultants; attorneys; financial professionals
26 and advisors; engineers; architects; construction, land use and
27 environmental experts; and accountants, to render professional
28 and technical assistance and advice.

29 (2) Contract for engineering, architectural, accounting, or
30 other services of appropriate state agencies.

31 (3) Pay the reasonable costs, including, without limitation,
32 costs of consulting engineers, architects, accountants, and
33 construction, land use, and environmental experts employed by
34 the authority or any participating party.

35 (d) Charge and equitably apportion among participating parties
36 or other public or private entities the authority's administrative
37 costs and expenses, including operating and financing-related
38 costs incurred in the exercise of the powers and duties conferred
39 by this division.

1 (e) Acquire, lease, take title to, and sell by installment sale or
2 otherwise, lands, structures, real or personal property, rights,
3 rights-of-way, franchises, easements, and other interests in lands
4 that are located within the state, as the authority determines to be
5 necessary or convenient for an enterprise or the financing of a
6 project, upon terms and conditions the authority considers to be
7 reasonable.

8 (f) Make, receive, or serve as a conduit for the making of, or
9 otherwise provide for, grants, contributions, guarantees,
10 insurance, credit enhancements or liquidity of facilities, or other
11 financial enhancements to a participating party as financial
12 assistance for a project or program. The sources may include bond
13 proceeds, dedicated taxes, state appropriations, federal
14 appropriations, federal grants and loan funds, public and private
15 sector retirement system funds, and proceeds of loans from the
16 Pooled Money Investment Account, or any other source of money,
17 property, labor, or other things of value.

18 (g) Make loans to any participating party, either directly or by
19 making a loan to a lending institution or other financial
20 intermediary, in connection with the financing of a project or
21 program in accordance with an agreement between the authority
22 and a participating party, either as a sole lender or in participation
23 with other lenders.

24 (h) Make loans to any participating party, either directly or by
25 making a loan to a lending institution, in accordance with an
26 agreement between the authority and the participating party to
27 refinance indebtedness incurred by the participating party in
28 connection with projects undertaken and completed prior to any
29 agreement with the authority or expectation that the authority
30 would provide financing, either as a sole lender or in participation
31 with other lenders. The power generated by those projects shall be
32 subject to the terms and conditions specified by the authority in the
33 agreement and pursuant to Section 3351.

34 (i) Mortgage all or any portion of the authority's interest in a
35 project or enterprise and the property on which any project or
36 enterprise is located, whether owned or thereafter acquired,
37 including the granting of a security interest in any property,
38 tangible or intangible.

39 (j) Assign or pledge all or any portion of the authority's interest
40 in assets, things of value, mortgages, deeds of trust, bonds, bond



1 purchase agreements, loan agreements, indentures of mortgage or
2 trust, or similar instruments, notes, and security interests in
3 property, tangible or intangible and the revenues therefrom, of a
4 participating party to which the authority has made loans, and the
5 revenues therefrom, including payment or income from any
6 interest owned or held by the authority, for the benefit of the
7 holders of bonds.

8 (k) Lease the project being financed to a participating party,
9 upon terms and conditions that the authority deems proper; charge
10 and collect rents therefor; terminate any lease upon the failure of
11 the lessee to comply with any of the obligations thereof; include
12 in any lease, if desired, provisions that the lessee shall have options
13 to renew the lease for a period or periods, and at rents determined
14 by the authority; purchase any or all of the project; or, upon
15 payment of all the indebtedness incurred by the authority for the
16 financing of the project, the authority may convey, any or all of the
17 project to the lessee or lessees. The power generated by those
18 projects shall be subject to the terms and conditions specified by
19 the authority in the agreement and pursuant to Section 3351.

20 (l) (1) Issue, obtain, or aid in obtaining, from any department
21 or agency of the United States, from other agencies of the state, or
22 from any private company, any insurance or guarantee to or for, or
23 any letter or line of credit regarding, the payment or repayment of
24 interest or principal, or both, or any part thereof, on any bond, loan,
25 lease, or obligation or any instrument evidencing or securing the
26 same, made or entered into pursuant to this division.

27 (2) Notwithstanding any other provision of this division, enter
28 into any agreement, contract or other instrument regarding any
29 insurance, guarantee, letter or line of credit specified in paragraph
30 (1), and accept payment in the manner and form provided therein
31 in the event of default by a participating party.

32 (3) Assign any insurance, guarantee, letter or line of credit
33 specified in paragraph (1) as security for bonds issued by the
34 authority.

35 (m) Enter into any agreement or contract, execute any
36 instrument, and perform any act or thing necessary or convenient
37 to, directly or indirectly, secure the authority's bonds or a
38 participating party's obligations to the authority, including, but not
39 limited to, bonds of a participating party purchased by the
40 authority for retention or sale, with funds or moneys that are



1 legally available and that are due or payable to the participating
2 party by reason of any grant, allocation, apportionment, or
3 appropriation of the state or agencies thereof, to the extent that the
4 Controller shall be the custodian at any time of these funds or
5 moneys, or with funds or moneys that are or will be legally
6 available to the participating party, the authority, or the state or any
7 agencies thereof by reason of any grant, allocation,
8 apportionment, or appropriation of the federal government or
9 agencies thereof; and in the event of written notice that the
10 participating party has not paid or is in default on its obligations
11 to the authority, direct the Controller to withhold payment of those
12 funds or moneys from the participating party over which it is or
13 will be custodian and to pay the same to the authority or its
14 assignee, or direct the state or any agencies thereof to which any
15 grant, allocation, apportionment, or appropriation of the federal
16 government or agencies thereof is or will be legally available to
17 pay the same upon receipt to the authority or its assignee, until the
18 default has been cured and the amounts then due and unpaid have
19 been paid to the authority or its assignee, or until arrangements
20 satisfactory to the authority have been made to cure the default.

21 (n) Purchase, with the proceeds of the authority's bonds, bonds
22 issued by, or for the benefit of, any participating party in
23 connection with a project, pursuant to a bond purchase agreement
24 or otherwise. Bonds purchased pursuant to this division may be
25 held by the authority, pledged or assigned by the authority, or sold
26 to public or private purchasers at public or negotiated sale, in
27 whole or in part, separately or together with other bonds issued by
28 the authority, and notwithstanding any other provision of law, may
29 be bought by the authority at private sale.

30 (o) Enter into purchase and sale agreements with all entities,
31 public and private, including state and local government pension
32 funds, with respect to the sale or purchase of bonds.

33 3341.1. In connection with an enterprise, the authority may do
34 any or all of the following:

35 (a) Acquire any enterprise by gift, purchase, or eminent
36 domain.

37 (b) Construct or improve any enterprise. By gift, lease,
38 purchase, eminent domain, or otherwise, it may acquire any real
39 or personal property, for an enterprise, except that no property of
40 a state public body may be acquired without its consent. The



1 authority may sell, lease, exchange, transfer, assign, or otherwise
2 dispose of any real or personal property or any interest in such
3 property. It may lay out, open, extend, widen, straighten, establish,
4 or change the grade of any real property or public rights-of-way
5 necessary or convenient for any enterprise.

6 (c) Operate, maintain, repair, or manage all or any part of any
7 enterprise, including the leasing for commercial purposes of
8 surplus space or other space that is not economic to use for such
9 enterprise.

10 (d) Adopt reasonable rules or regulations for the conduct of the
11 enterprise.

12 (e) Prescribe, revise, and collect charges for the services,
13 facilities, or energy furnished by the enterprise. The charges shall
14 be established and adjusted so as to provide funds sufficient with
15 other revenues and moneys available therefor, if any, to (1) pay the
16 principal of and interest on outstanding bonds of the authority
17 financing such enterprise as the same shall become due and
18 payable, (2) create and maintain reserves, including, without
19 limitation, operating and maintenance reserves and reserves
20 required or provided for in any resolution authorizing, or trust
21 agreement securing such bonds, and (3) pay operating and
22 administrative costs of the authority.

23 (f) Execute all instruments, perform all acts, and do all things
24 necessary or convenient in the exercise of the powers granted by
25 this article.

26 3341.2. In connection with a project, the authority may do any
27 or all of the following:

28 (a) Determine the location and character of any project to be
29 financed under this division.

30 (b) Acquire, construct, enlarge, remodel, renovate, alter,
31 improve, furnish, equip, own, maintain, manage, repair, operate,
32 lease as lessee or lessor, or regulate any project to be financed
33 under this division.

34 (c) Contract with any participating party for the construction of
35 a project by such participating party.

36 (d) Enter into leases and agreements, as lessor or lessee, with
37 any participating party relating to the acquisition, construction,
38 and installation of any project, including real property, buildings,
39 equipment, and facilities of any kind or character.

1 (e) Establish, revise, charge and collect rates, rents, fees and
2 charges for a project. The rates, rents, fees, and charges shall be
3 established and adjusted in respect of the aggregate rates, rents,
4 fees, and charges from all projects so as to provide funds sufficient
5 with other revenues and moneys available therefor, if any, to (1)
6 pay the principal of and interest on outstanding bonds of the
7 authority financing such project as the same shall become due and
8 payable, (2) create and maintain reserves, including, without
9 limitation, operating and maintenance reserves and reserves
10 required or provided for in any resolution authorizing, or trust
11 agreement securing such bonds, and (3) pay operating and
12 administrative costs of the authority.

13 (f) Enter into contracts of sale with any participating party
14 covering any project financed by the authority.

15 (g) As an alternative to leasing or selling a project to a
16 participating party, finance the acquisition, construction, or
17 installation of a project by means of a loan to the participating
18 party.

19 (h) Execute all instruments, perform all acts, and do all things
20 necessary or convenient in the exercise of the powers granted by
21 this article.

22 3342. The fiscal powers granted to the authority by this
23 division may be exercised without regard or reference to any other
24 department, division, or agency of the state, except the Legislature
25 or as otherwise stated in this division. This division shall be
26 deemed to provide an alternative method of doing the things
27 authorized by this division, and shall be regarded as supplemental
28 and additional to powers conferred by other laws.

29 3343. No member of the board or any person executing bonds
30 of the authority pursuant to this division shall be personally liable
31 on the bonds or subject to any personal liability or accountability
32 by reason of the issuance thereof.

33 3344. All expenses incurred in carrying out this division shall
34 be payable solely from funds provided under the authority of this
35 division and no liability or obligation shall be imposed upon the
36 State of California and, none shall be incurred by the authority
37 beyond the extent to which moneys shall have been provided under
38 this division. Under no circumstances shall the authority create
39 any debt, liability, or obligation on the part of the State of

California payable from any source whatsoever other than the moneys provided under this division.

Article 5. Generation Facilities

~~3350. All generation facilities constructed or improved pursuant to this division shall comply with Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.~~

3350. In evaluating the need for additional generation facilities, the authority shall utilize the expertise and data of the Energy Commission and the Independent System Operator, or its successor, as that expertise and data relate to forecasts of electric supply and demand for the state.

3351. All generation-related projects financed pursuant to this division shall provide power to the consumers of this state at rates based on the cost of providing electricity, as determined by the authority. In the case of a participating party, cost of service may include a reasonable rate of return pursuant to the terms and conditions of the agreements entered into by the authority and the participating party for financial assistance under this division. The authority may sell power outside the state when it determines that supplies are sufficient to meet the purposes of this division.

3352. In addition to the other powers provided in this division, the activities of the authority under this ~~division~~ article are intended to supplement private sector power generation, consistent with achieving reasonable energy capacity reserves within five years of the effective date of the division.

3353. The authority shall have the authority to receive and act on applications for financial assistance from owners of existing powerplants that are 30 years old or older whose owners or operators commit to undertake capacity expansion through facility retrofits, new construction, or both, that will improve the efficiency and environmental performance of generation facilities.

3354. All generation facilities constructed or improved pursuant to this division shall comply with Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

Article 6. Renewable Energy and Conservation

3365. ~~(a) The authority may establish programs that provide loans, under terms and conditions approved by the authority, to any participating party, which, in turn, shall use that loan to make financial assistance available to California consumers and businesses for electric and natural gas energy conservation, and for the use of renewable energy resources.~~

~~(b) The purposes for which loans provided pursuant to subdivision (a) may include, but shall not be limited to, any of the following:~~

~~(1) all of the following purposes:~~

~~(a) The purchase of consumer appliances and home improvements with electric and gas energy efficiency or renewable energy characteristics, as approved by the Energy Commission, the commission, or a participating public utility local publicly owned electric utility, as applicable, and certified by the applicable party as having been installed or completed.~~

~~(2)~~

~~(b) The purchase or lease of business equipment and facility improvements with electric and gas energy efficiency or renewable energy characteristics, as approved by the Energy Commission, the commission, or a participating public utility local publicly owned electric utility, as applicable, and certified by the applicable party as having been installed or completed.~~

~~(c) Any other electric or natural gas energy conservation program or any program for the use of renewable energy resources, as approved by the Energy Commission, the commission, or a participating local publicly owned electric utility, as applicable, and certified by the applicable party as having been installed or completed.~~

3366. As a condition of receipt of a loan pursuant to Section 3365, a participating party shall be required to conduct a comprehensive marketing program that makes consumers aware of the availability of these financial assistance programs, and to provide appropriate security for repayment of the loan, including, without limitation, a pledge to the authority of consumer and business loan repayments collected through utility bills, as applicable.

Article. 7. Natural Gas Plans

3368. The commission shall obtain from each natural gas supplier under its jurisdiction, plans regarding the supplier's future investments in natural gas exploration, development, and transportation to meet California's needs at reasonable costs to the consumers, and shall provide these reports to the authority, as prescribed by subdivision (a).

(a) Each natural gas supplier shall, within 90 calendar days of the effective date of this division, submit the report required by this section to the commission, and the commission shall forward that report to the authority not later than 10 business days after receipt of the report.

(b) The authority, based on these reports and in consultation with the commission, shall develop appropriate strategies for the authority to facilitate a dependable supply of natural gas at reasonable prices to the public. These strategies may include the ability of the authority to finance activities to supplement private sector supplies of natural gas, if it is determined to be in the best interests of the state, using the same powers under this division applicable to supplementing private sector supplies of electricity.

CHAPTER 4. CALIFORNIA CONSUMER POWER AND CONSERVATION
FINANCING AUTHORITY FUND

3370. (a) There is hereby created in the State Treasury the California Consumer Power and Conservation Financing Authority Fund for expenditure by the authority for the purpose of implementing the objectives and provisions of this division. For the purposes of subdivision (e), or as necessary or convenient to the accomplishment of any other purpose of the authority, the authority may establish within the fund additional and separate accounts and subaccounts.

(b) The assets of the fund shall be available for the payment of the salaries and other expenses charged against it in accordance with this division.

(c) All moneys in the fund, upon appropriation, may be used for any reasonable costs which may be incurred by the authority in the exercise of its powers under this division.

(d) The fund, on behalf of the authority, may borrow or receive moneys from the authority, or from any federal, state, or local agency or private entity, to create reserves in the fund as provided in this division and as authorized by the board.

(e) The authority may pledge any or all of the moneys in the fund (including in any account or subaccount) as security for payment of the principal of, and interest on, any particular issuance of bonds issued pursuant to this division.

(f) The authority, may, from time to time, direct the Treasurer to invest moneys in the fund that are not required for the authority's current needs, including proceeds from the sale of any bonds, in any securities permitted by law as the authority shall designate. The authority also may direct the Treasurer to deposit moneys in interest-bearing accounts in state or national banks or other financial institutions having principal offices in this state. The authority may alternatively require the transfer of moneys in the fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of the Government Code. All interest or other increment resulting from an investment or deposit shall be deposited in the fund, notwithstanding Section 16305.7 of the Government Code. Moneys in the fund shall not be subject to transfer to any other fund pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of the Government Code, excepting the Surplus Money Investment Fund.

CHAPTER 5. BONDS

3380.1. For the purposes provided in this division, the authority is authorized to incur indebtedness and to issue securities of any kind or class, at public or private sale by the Treasurer, and to renew the same, provided that all such indebtedness, howsoever evidenced, shall be payable solely from revenues. The authority may issue bonds for the purposes of this division in the amount of five billion dollars (\$5,000,000,000).

3380.2. In connection with the issuance of bonds, in addition to the powers otherwise provided in this division, the authority may do all of the following:

(a) Issue, from time to time, bonds payable from and secured by a pledge of all or any part of the revenues in order to finance the activities authorized by this article, including, without limitation, an enterprise or multiple enterprises, a single project for a single participating party, a series of projects for a single participating party, a single project for several participating parties, or several projects for several participating parties, and to sell those bonds at public or private sale by the Treasurer, in the form and on those terms and conditions as the Treasurer, as agent for sale, shall approve.

(b) Pledge all or any part of the revenues to secure bonds and any repayment or reimbursement obligations of the authority to any provider of insurance or a guarantee of liquidity or credit facility entered into to provide for the payment or debt service on any bond.

(c) Employ and compensate bond counsel, financial consultants, underwriters, and other advisers determined necessary and appointed by the Treasurer in connection with the issuance and sale of any bond.

(d) Issue bonds to refund or purchase or otherwise acquire bonds on terms and conditions as the Treasurer, as agent for sale, shall approve.

(e) Perform all acts that relate to the function and purpose of the authority under this division, whether or not specifically designated in this chapter.

3381. Bonds issued by the authority are legal investments for all trust funds, the funds of all insurance companies, banks, both commercial and savings, trust companies, executors, administrators, trustees, and other fiduciaries, for state school funds, pension funds, and for any funds that may be invested in county, school, or municipal bonds. The bond issued under this division are securities that may legally be deposited with, and received by, any state or municipal officer or agency or political subdivision of the state, including, without limitation, local agencies, schools, and pension funds, for any purpose for which the deposit of bonds or obligations of the state is now, or may hereafter be, authorized by law, including deposits to secure public funds.

3382. The authority is authorized to obtain loans from the Pooled Money Investment Account pursuant to Sections 16312

1 and 16313 of the Government Code. These loans shall be subject
2 to the terms negotiated with the Pooled Money Investment Board,
3 including, but not limited to, a pledge of authority bond proceeds
4 or revenues.

5 3383. Bonds issued under this division shall not be deemed to
6 constitute a debt or liability of the state or of any political
7 subdivision thereof, other than the authority, or a pledge of the
8 faith and credit of the state or of any political subdivision, other
9 than the authority, but shall be payable solely from the funds herein
10 provided therefor. All bonds issued under this division shall
11 contain on the face thereof a statement to the following effect:
12 “Neither the faith and credit nor the taxing power of the State of
13 California or any local agency is pledged to the payment of the
14 principal of or interest on this bond.” The issuance of bonds under
15 this division shall not directly or indirectly or contingently
16 obligate the state or any political subdivision thereof to levy or to
17 pledge any form of taxation whatever therefor or to make any
18 appropriation for their payment. Nothing in this section shall
19 prevent nor be construed to prevent the authority from pledging its
20 full faith and credit to the payment of bonds or issue of bonds
21 authorized pursuant to this division.

22
23 CHAPTER 6. TERMINATION PROVISIONS
24

25 3384. *The authority may not undertake any new projects on or*
26 *after January 1, 2007, unless authority to undertake those new*
27 *projects is granted by statute enacted on or before January 1, 2007.*

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