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AMENDED IN SENATE FEBRUARY 15, 2001

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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,
Hertzberg, and Shelley)

(Coauthors: Senators Escutia, Karnette, Kuehl, Murray, *Polanco, Scott, and Vincent*)

(Coauthors: Assembly Members Aroner, Cedillo, *Chan*, Firebaugh,
Frommer, Keeley, *Koretz*, Papan, Romero, Steinberg, Strom-Martin,
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 approving any new program, financing, or project, on or after January 1, 2007, unless authority to approve such an activity 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

encourage energy efficiency and conservation as well as the use of renewable energy resources, and to protect the public health, welfare, and safety, the state needs to finance, purchase, lease, own, operate, acquire, or otherwise provide financial assistance for public and private facilities for the generation and transmission of electricity and for renewable energy, energy efficiency, and conservation programs.

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

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

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

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

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

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

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

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

(g) “Cost,” as applied to a program, project or portion thereof financed under this division, means all or any part of the cost of construction, improvement, repair, reconstruction, renovation, and acquisition of all lands, structures, improved or unimproved real or personal property, rights, rights-of-way, franchises,

1 licenses, easements, and interests acquired or used for a project;
2 the cost of demolishing or removing or relocating any buildings or
3 structures on land so acquired, including the cost of acquiring any
4 lands to which the buildings or structures may be moved; the cost
5 of all machinery and equipment; financing charges; the costs of
6 issuance of bonds or other indebtedness; interest prior to, during,
7 and for a period after, completion of the project, as determined by
8 the authority; provisions for working capital; reserves for
9 principal and interest; reserves for reduction of costs for loans or
10 other financial assistance; reserves for maintenance, extension,
11 enlargements, additions, replacements, renovations, and
12 improvements; and the cost of architectural, engineering,
13 financial, appraisal, and legal services, plans, specifications,
14 estimates, administrative expenses, and other expenses necessary
15 or incidental to determining the feasibility of any project or
16 program or incidental to the completion or financing of any project
17 or program.

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

20 (i) “Energy Commission” means the State Energy Resources
21 Conservation and Development Commission.

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

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

including, but not limited to, bonds, the security for which is provided in whole or in part pursuant to the powers granted by this division; bonds for which the authority has provided a guarantee or enhancement, including, but not limited to, the purchase of the subordinated bonds of the participating party, or the retention of the subordinated bonds of the authority pursuant to this division; or any other type of assistance deemed appropriate by the authority.

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

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

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

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

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

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

(p) “Program” means a program that provides financial assistance, as provided in Article 6 (commencing with Section 3365).

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

(r) “Revenues” means all receipts, purchase payments, loan repayments, lease payments, rents, fees and charges, and all other income or receipts derived by the authority from an enterprise, or by the authority or a participating party from any other financing arrangement undertaken by the authority or a participating party, including, but not limited to, all receipts from a bond purchase agreement, and any income or revenue derived from the investment of any money in any fund or account of the authority or a participating party.

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

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

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

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

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

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

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

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

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 seven-member board of directors that shall consist of the following persons:

(1) Four individuals appointed by the Governor, subject to confirmation by the Senate. These 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. Four of the members shall constitute a quorum, and the affirmative vote of 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

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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. Those costs shall be
35 recovered from participating parties.

36 (d) Acquire, lease, take title to, and sell by installment sale or
37 otherwise, lands, structures, real or personal property, rights,
38 rights-of-way, franchises, easements, and other interests in lands
39 that are located within the state, as the authority determines to be
40 necessary or convenient for an enterprise or the financing of a

1 project, upon terms and conditions the authority considers to be
2 reasonable.

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

13 (f) Make loans to any participating party, either directly or by
14 making a loan to a lending institution or other financial
15 intermediary, in connection with the financing of a project or
16 program in accordance with an agreement between the authority
17 and a participating party, either as a sole lender or in participation
18 with other lenders.

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

29 (h) Mortgage all or any portion of the authority's interest in a
30 project or enterprise and the property on which any project or
31 enterprise is located, whether owned or thereafter acquired,
32 including the granting of a security interest in any property,
33 tangible or intangible.

34 (i) Assign or pledge all or any portion of the authority's interest
35 in assets, things of value, mortgages, deeds of trust, bonds, bond
36 purchase agreements, loan agreements, indentures of mortgage or
37 trust, or similar instruments, notes, and security interests in
38 property, tangible or intangible and the revenues therefrom, of a
39 participating party to which the authority has made loans, and the
40 revenues therefrom, including payment or income from any



interest owned or held by the authority, for the benefit of the holders of bonds.

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

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

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

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

(l) Enter into any agreement or contract, execute any instrument, and perform any act or thing necessary or convenient to, directly or indirectly, secure the authority's bonds or a participating party's obligations to the authority, including, but not limited to, bonds of a participating party purchased by the authority for retention or sale, with funds or moneys that are legally available and that are due or payable to the participating party by reason of any grant, allocation, apportionment, or appropriation of the state or agencies thereof, to the extent that the Controller shall be the custodian at any time of these funds or moneys, or with funds or moneys that are or will be legally

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

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

25 (n) Enter into purchase and sale agreements with all entities,
26 public and private, including state and local government pension
27 funds, with respect to the sale or purchase of bonds.

28 3341.1. In connection with an enterprise, the authority may do
29 any or all of the following:

30 (a) Acquire any enterprise by gift, purchase, or eminent
31 domain.

32 (b) Construct or improve any enterprise. By gift, lease,
33 purchase, eminent domain, or otherwise, it may acquire any real
34 or personal property, for an enterprise, except that no property of
35 a state public body may be acquired without its consent. The
36 authority may sell, lease, exchange, transfer, assign, or otherwise
37 dispose of any real or personal property or any interest in such
38 property. It may lay out, open, extend, widen, straighten, establish,
39 or change the grade of any real property or public rights-of-way
40 necessary or convenient for any enterprise.



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

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

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

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

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

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

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

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

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

(e) Establish, revise, charge and collect rates, rents, fees and charges for a project. The rates, rents, fees, and charges shall be established and adjusted in respect of the aggregate rates, rents, fees, and charges from all projects so as to provide funds sufficient with other revenues and moneys available therefor, if any, to (1) pay the principal of and interest on outstanding bonds of the

1 authority financing such project as the same shall become due and
2 payable, (2) create and maintain reserves, including, without
3 limitation, operating and maintenance reserves and reserves
4 required or provided for in any resolution authorizing, or trust
5 agreement securing such bonds, and (3) pay operating and
6 administrative costs of the authority.

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

9 (g) As an alternative to leasing or selling a project to a
10 participating party, finance the acquisition, construction, or
11 installation of a project by means of a loan to the participating
12 party.

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

16 3341.5. In connection with the purposes of this division, the
17 authority shall charge and equitably apportion among
18 participating parties or other public or private entities the
19 authority's administrative costs and expenses, including operating
20 and financing-related costs incurred in the exercise of the powers
21 and duties conferred by this division, except to the extent that those
22 costs are related to one of the authority's own projects, in which
23 case costs shall be included in rates.

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

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

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

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.

3345. The authority's operating budget shall be subject to review and appropriation in the annual Budget Act.

3346. The authority shall, on or before January 1 of each year, prepare and submit to the Governor, the Chairperson of the Joint Legislative Budget Committee, and the chairperson of the committee in each house that considers appropriations, a report regarding its activities and expenditures pursuant to this division.

3347. The authority shall contract for an independent evaluation of the effectiveness of the authority's efforts in achieving its purposes as described in Section 3310. The evaluation shall include recommendations as to whether there is a continued need for the authority beyond January 1, 2007. The evaluation shall be submitted to the Governor and the Legislature on or before January 1, 2005.

Article 5. Generation Facilities

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. If the participating party is an electrical corporation subject to the ratemaking authority of the commission, the authority shall consult with the commission in determining rates in accordance with this section. 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 article are intended to

1 supplement private sector power generation, consistent with
2 achieving reasonable energy capacity reserves within five years of
3 the effective date of the division.

4 3353. The authority shall have the authority to receive and act
5 on applications for financial assistance from owners of existing
6 powerplants that are 30 years old or older whose owners or
7 operators commit to undertake capacity expansion through facility
8 retrofits, new construction, or both, that will improve the
9 efficiency and environmental performance of generation facilities.

10 3354. All generation facilities constructed or improved
11 pursuant to this division shall comply with Chapter 1
12 (commencing with Section 1720) of Part 7 of Division 2 of the
13 Labor Code.

14

15 Article 6. Renewable Energy and Conservation

16

17 3365. The authority may provide loans, under terms and
18 conditions approved by the authority, to any participating party,
19 which shall use that loan to make loans available to California
20 consumers and businesses for electric and natural gas energy
21 conservation, and for all of the following purposes:

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

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

34 (c) Any other electric or natural gas energy conservation
35 program or any program for the use of renewable energy
36 resources, as approved by the Energy Commission, the
37 commission, or a participating local publicly owned electric
38 utility, as applicable, and certified by the applicable party as
39 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 and a certification that the duration of a loan will not exceed the useful life of a purchase.

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

1 interest-bearing accounts in state or national banks or other
2 financial institutions having principal offices in this state. The
3 authority may alternatively require the transfer of moneys in the
4 fund to the Surplus Money Investment Fund for investment
5 pursuant to Article 4 (commencing with Section 16470) of
6 Chapter 3 of Part 2 of Division 4 of the Government Code. All
7 interest or other increment resulting from an investment or deposit
8 shall be deposited in the fund, notwithstanding Section 16305.7 of
9 the Government Code. Moneys in the fund shall not be subject to
10 transfer to any other fund pursuant to any provision of Part 2
11 (commencing with Section 16300) of Division 4 of the
12 Government Code, excepting the Surplus Money Investment
13 Fund.

14
15 CHAPTER 5. BONDS
16

17 3380.1. For the purposes provided in this division, the
18 authority is authorized to incur indebtedness and to issue securities
19 of any kind or class, at public or private sale by the Treasurer, and
20 to renew the same, provided that all such indebtedness, howsoever
21 evidenced, shall be payable solely from revenues. The authority
22 may issue bonds for the purposes of this division in an amount not
23 to exceed five billion dollars (\$5,000,000,000), exclusive of any
24 refundings.

25 3380.2. In connection with the issuance of bonds, in addition
26 to the powers otherwise provided in this division, the authority
27 may do all of the following:

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

38 (b) Pledge all or any part of the revenues to secure bonds and
39 any repayment or reimbursement obligations of the authority to
40 any provider of insurance or a guarantee of liquidity or credit



1 facility entered into to provide for the payment or debt service on
2 any bond.

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

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

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

13 3381. Bonds issued by the authority are legal investments for
14 all trust funds, the funds of all insurance companies, banks, both
15 commercial and savings, trust companies, executors,
16 administrators, trustees, and other fiduciaries, for state school
17 funds, pension funds, and for any funds that may be invested in
18 county, school, or municipal bonds. The bond issued under this
19 division are securities that may legally be deposited with, and
20 received by, any state or municipal officer or agency or political
21 subdivision of the state, including, without limitation, local
22 agencies, schools, and pension funds, for any purpose for which
23 the deposit of bonds or obligations of the state is now, or may
24 hereafter be, authorized by law, including deposits to secure public
25 funds.

26 3382. The authority is authorized to obtain loans from the
27 Pooled Money Investment Account pursuant to Sections 16312
28 and 16313 of the Government Code. These loans shall be subject
29 to the terms negotiated with the Pooled Money Investment Board,
30 including, but not limited to, a pledge of authority bond proceeds
31 or revenues.

32 3383. Bonds issued under this division shall not be deemed to
33 constitute a debt or liability of the state or of any political
34 subdivision thereof, other than the authority, or a pledge of the
35 faith and credit of the state or of any political subdivision, other
36 than the authority, but shall be payable solely from the funds herein
37 provided therefor. All bonds issued under this division shall
38 contain on the face thereof a statement to the following effect:
39 “Neither the faith and credit nor the taxing power of the State of
40 California or any local agency is pledged to the payment of the

principal of or interest on this bond.” The issuance of bonds under this division shall not directly or indirectly or contingently obligate the state or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment. Nothing in this section shall prevent nor be construed to prevent the authority from pledging its full faith and credit to the payment of bonds or issue of bonds authorized pursuant to this division.

CHAPTER 6. TERMINATION PROVISIONS

3384. The authority may not approve any new program, financing, or project on or after January 1, 2007, unless authority to approve such an activity is granted by statute enacted on or before January 1, 2007.

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