

AMENDED IN SENATE JULY 16, 2001

CALIFORNIA LEGISLATURE—2001–02 SECOND EXTRAORDINARY SESSION

**SENATE BILL**

**No. 18**

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**Introduced by Senator Escutia Burton**  
**(Principal coauthor: Senator Burton)**  
**(Coauthors: Senators Polanco and Vincent)**  
**(Coauthors: Assembly Members Firebaugh and Frommer)**

May 17, 2001

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~~An act to add Section 366.7 to the Public Utilities Code, relating to public utilities. An act to amend Sections 80010, 80100, 80110, 80122, 80130, 80132, 80134, and 80200 of, and to add Section 80131 to, the Water Code, relating to electric power, making an appropriation therefor, and declaring the urgency therefor, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 18, as amended, ~~Escutia Burton~~. ~~Public utilities~~ Department of Water Resources: electricity: bond financing order.

(1) Existing law authorizes the Department of Water Resources to contract with an electrical corporation to transmit or provide for the transmission of, and distribute the power and provide billing, collection, and other related services, as the agent of the department, on terms and conditions that reasonably compensate the electrical corporation for its services, and requires the commission, at the request of the department, to order such actions. Existing law authorizes the department to issue revenue bonds for certain purposes not to exceed a certain amount, containing specified terms and conditions, upon authorization by written determination of the department and with the approval of the Director of Finance and the Treasurer. Existing law

*permits the department to have the Public Utilities Commission issue finance orders to recover revenue requirements, and delegates to the department the authority to determine if the revenue requirements are just and reasonable. Existing law requires the department, before the issuance of bonds, to establish a mechanism to ensure that the bonds will be sold at investment grade ratings and repaid on a timely basis from pledged revenues. Certain of these provisions enacted by Senate Bill 31 of the 2001–02 First Extraordinary Session become effective on August 13, 2001.*

*This bill would require the bond repayment mechanism to include a DWR Bond Set-Aside, as defined, fixed by an irrevocable Public Utilities Commission bond financing order, sufficient to pay the costs of issuing, servicing, and retiring the bonds, and to be adjusted as required, applicable to all electric power delivered in this state by an electrical corporation subject to the jurisdiction of the commission. The bill would require the total of DWR Bond Set-Asides to be designated as a separate rate component of a retail end user’s bill for electrical services and would require any DWR Bond Set-Aside to consist of and be derived from a portion of the rate levels in effect on August 31, 2001. The bill would establish the DWR Bond Repayment Fund, to be continuously appropriated to the department and available for the purpose of the payment of principal, premium, if any, and interest on bonds and associated issuance costs, thereby making an appropriation. The bill would require the revenues from the DWR Bond Set-Aside to be deposited in the DWR Bond Repayment Fund.*

*(2) Existing law requires the Department of Water Resources to establish and revise certain revenue requirements relating to the purchase and sale of electric power and to advise the commission as the department determines to be appropriate.*

*This bill would define the term “revenue requirements.” The bill would entitle the commission to any information necessary to review the revenue requirements of the department and, would require the commission to conduct at least one public hearing and provide an opportunity for public comment on the revenue requirements prior to their adoption.*

*(3) This bill would revise certain of the provisions enacted by SB 31 of the 2001–02 First Extraordinary Session and make other conforming changes.*

*(4) A violation of an order of the Public Utilities Commission is a crime. The bill by requiring specified financing orders and related*



*orders by the commission would change the definition of a crime and thus impose a state-mandated local program.*

*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.*

(5) The bill would declare it is to take effect immediately as an urgency statute.

~~Existing law imposes various duties and responsibilities on the Public Utilities Commission with respect to electrical corporations.~~

~~This bill would require the commission to direct, after it has determined that the rate freeze for an electrical corporation has ended, the electrical corporation to establish a portfolio of electric supplies to serve the needs of the electrical corporation's bundled core customers, as defined. The bill would also require the core supply portfolio to include the output of the generation assets retained by the electrical corporation under commission regulation, along with supplies purchased by the electrical corporation under contracts to serve the needs of core customers, and any spot market supplies required to match core load.~~

~~The bill would authorize the commission to establish guidelines for the appropriate composition of the core portfolio, as specified.~~

~~The bill would prohibit, beginning 90 days after the end of a corporation's rate freeze, as determined by the commission, or 90 days after the effective date of this bill, whichever is later, customers with a maximum peak demand of 500 kilowatts or greater from being served from the core portfolio. The bill would require those customers to be designated as nonecore. The bill would require that any nonecore customer that does not obtain service through a direct transaction be provided with energy purchased by the electrical corporation exclusively from the spot market, and would require the customer to be charged the cost incurred by the electrical corporation in providing such service.~~

~~Because, under existing law, a violation of the above provisions would be a crime, the bill would impose a state-mandated local program by creating a new crime.~~

~~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~~<sup>2/3</sup>. Appropriation: ~~no~~<sup>yes</sup>. Fiscal committee: yes. State-mandated local program: yes.

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

1 ~~SECTION 1. Section 366.7 is added to the Public Utilities~~  
2 *SECTION 1. Section 80010 of the Water Code is amended to*  
3 *read:*

4 80010. As used in this division, unless the context otherwise  
5 requires, the following terms have the following meanings:

6 (a) “Administrative costs” means those reasonable expenses,  
7 including any consulting, legal, technical, or engineering  
8 services, incurred by the department in administering this division.  
9 The administrative costs of the department incurred in  
10 administering this division may only be paid for from  
11 appropriations by the Legislature. The department may not incur  
12 administrative costs in excess of those appropriations.

13 (b) “Bonds” means bonds, notes, or other evidences of  
14 indebtedness issued solely for the purposes of paying the cost of  
15 electric power and transmission, scheduling, and other related  
16 expenses incurred by the department on and after the effective date  
17 of this division, or to reimburse expenditures from the fund for  
18 those purposes; repaying to the General Fund any advances made  
19 to the department from appropriations made to the fund pursuant  
20 hereto or hereafter for purposes of this division, any advances  
21 made to the department from the Water Resources Electric Power  
22 Fund, and General Fund moneys expended by the department  
23 pursuant to the Governor’s Emergency Proclamation dated  
24 January 17, 2001; establishing or maintaining reserves in  
25 connection with the bonds; costs of issuance of bonds or incidental  
26 to their payment or security; capitalized interest; or to renew or  
27 refund any bonds.

28 ~~(b)~~  
29 (c) “Commission” means the Public Utilities Commission.

30 (d) “DWR Bond Set-Aside” means a rate to recover a separate  
31 dedicated revenue stream fixed by a commission bond financing



1 *order pursuant to Section 80131. The total of all DWR Bond*  
2 *Set-Asides shall be designated as a separate rate component of a*  
3 *retail end-user’s bill for electrical services.*

4 ~~(e)~~

5 (e) “Electrical corporation” has the same meaning as that term  
6 is defined in Section 218 of the Public Utilities Code.

7 ~~(d)~~

8 (f) “Fund” means the Department of Water Resources Electric  
9 Power Fund established by Section 80200.

10 ~~(e)~~

11 (g) “Local publicly owned electric utility” includes the entities  
12 defined in subdivision (d) of Section 9604 of the Public Utilities  
13 Code and publicly owned utilities that provide electricity.

14 ~~(f)~~

15 (h) “Power” means electric power and energy, including, but  
16 not limited to, capacity and output, or any of them.

17 ~~(g)~~

18 (i) “Public utility” has the same meaning as that term is  
19 defined in Section 216 of the Public Utilities Code.

20 (j) (1) “Revenue requirements” means only the revenue  
21 necessary to pay the actual costs for any of the following:

22 (A) Purchasing power.

23 (B) Contracting for the purchase of power.

24 (C) Administrative costs.

25 (D) Purchasing natural gas as required pursuant to a contract  
26 for the purchase of power.

27 (E) Using transmission or distribution facilities prior to the  
28 delivery or utilization of purchased power, including scheduling  
29 and other related expenses.

30 (F) Amounts to enable the department to comply with Section  
31 80134.

32 (2) “Revenue requirements” does not include costs incurred  
33 under conservation, load management, or other programs  
34 implemented by the commission, the department, or any other  
35 entity.

36 SEC. 2. Section 80100 of the Water Code is amended to read:

37 80100. Upon those terms, limitations, and conditions as it  
38 prescribes, the department may contract with any person, local  
39 publicly owned electric utility, or other entity for the purchase of  
40 power on such terms and for such periods as the department



1 determines and at such prices the department deems appropriate  
2 taking into account all of the following:

3 (a) The intent of the program described in this division is to  
4 achieve an overall portfolio of contracts for energy resulting in  
5 reliable service at the lowest possible price per kilowatthour.

6 (b) The need to have contract supplies to fit each aspect of the  
7 overall energy load profile.

8 (c) The desire to secure as much low-cost power as possible  
9 under contract.

10 (d) The duration and timing of contracts made available from  
11 sellers.

12 (e) The length of time sellers of electricity offer to sell such  
13 electricity.

14 (f) The desire to secure as much firm and nonfirm renewable  
15 energy as possible. Prior to commencement of the program  
16 described in this division, the department shall assess the need for  
17 power in the state in consultation with the Public Utilities  
18 Commission and local publicly owned electric utilities and  
19 electrical corporations in the state and such other entities in the  
20 state as the department determines are appropriate. The  
21 department may also enter into options or forward contracts with  
22 respect to the foregoing, and contract with any person, local  
23 publicly owned electric utility, or other entity for transmission,  
24 ~~and scheduling, and other related power services necessary or~~  
25 ~~desirable to accomplish the purposes of this division.~~

26 *SEC. 3. Section 80110 of the Water Code is amended to read:*

27 80110. The department shall retain title to all power sold by  
28 it to the retail end use customers. The department shall be entitled  
29 to recover, ~~as a revenue requirement, amounts and~~ at the times  
30 necessary, ~~to enable it to comply with Section 80134 its revenue~~  
31 ~~requirements,~~ and shall advise the commission as the department  
32 determines to be appropriate. ~~Such revenue requirements may also~~  
33 ~~include any advances made to the department hereunder or~~  
34 ~~hereafter for purposes of this division, or from the Department of~~  
35 ~~Water Resources Electric Power Fund, and General Fund moneys~~  
36 ~~expended by the department pursuant to the Governor's~~  
37 ~~Emergency Proclamation dated January 17, 2001.~~ For purposes of  
38 this division and except as otherwise provided in this section, the  
39 ~~Public Utility~~ *Utilities* Commission's authority as set forth in  
40 Section 451 of the Public Utilities Code shall apply, except any just



1 and reasonable review under Section 451 shall be conducted and  
2 determined by the department. *However, the commission shall be*  
3 *entitled to any information necessary to review the revenue*  
4 *requirements of the department and shall conduct at least one*  
5 *public hearing with an opportunity for public comment on the*  
6 *revenue requirements prior to their adoption.* The commission  
7 may enter into an agreement with the department with respect to  
8 charges under Section 451 for purposes of this division, and that  
9 agreement shall have the force and effect of a financing order  
10 adopted in accordance with Article 5.5 (commencing with Section  
11 840) of Chapter 4 of Part 1 of Division 1 of the Public Utilities  
12 Code, as determined by the commission. In no case shall the  
13 commission increase the electricity charges in effect on the date  
14 that the act that adds this section becomes effective for residential  
15 customers for existing baseline quantities or usage by those  
16 customers of up to 130 percent of existing baseline quantities, until  
17 such time as the department has recovered the costs of power it has  
18 procured for the electrical corporation's retail end use customers  
19 as provided in this division. After the passage of such period of  
20 time after the effective date of this section as shall be determined  
21 by the commission, the right of retail end use customers pursuant  
22 to Article 6 (commencing with Section 360) of Chapter 2.3 of Part  
23 1 of Division 1 of the Public Utilities Code to acquire service from  
24 other providers shall be suspended until the department no longer  
25 supplies power hereunder. The department shall have the same  
26 rights with respect to the payment by retail end use customers for  
27 power sold by the department as do providers of power to such  
28 customers.

29 *SEC. 4. Section 80122 of the Water Code is amended to read:*  
30 80122. The department may do any of the following as may  
31 be, in the determination of the department, necessary for the  
32 purposes of this division:

33 (a) Hire and appoint employees as required, at salary levels  
34 determined by the director to be competitive to attract and retain  
35 persons with the necessary expertise and skills. Prior to hiring or  
36 appointing an employee at a salary in excess of a salary approved  
37 by the Department of Personnel Administration, the director shall  
38 submit the proposed salary to the Director of Finance who shall  
39 submit it to the Legislature in accordance with Section 27.00 of the  
40 annual Budget Act. No excess salary authorized under this section



1 may be paid on or after January 1, 2003. The excess portion of a  
 2 salary authorized under this section may not be considered salary  
 3 in the calculation of final compensation for purposes of benefits  
 4 under the Public Employees' Retirement System.

5 (b) Engage the services of private parties to render professional  
 6 and technical assistance and advice and other services in carrying  
 7 out the purposes of this division, *if funds for any of these*  
 8 *administrative costs have been appropriated by the Legislature.*

9 (c) Contract for the services of other public agencies.

10 (d) The State Personnel Board and the Department of  
 11 Personnel Administration shall assist the department in expediting  
 12 the hiring of personnel necessary and desirable for the timely and  
 13 successful implementation and administration of the department's  
 14 duties and responsibilities pursuant to this division.

15 *SEC. 5. Section 80130 of the Water Code is amended to read:*

16 80130. (a) The department may incur indebtedness and issue  
 17 bonds as evidence thereof, provided that bonds may not be issued  
 18 in an amount the debt service on which, to the extent payable from  
 19 the ~~fund~~ *DWR Repayment Fund*, is ~~expected~~ *estimated* by the  
 20 department to exceed the amounts ~~expected~~ *estimated* to be  
 21 available in the ~~fund~~ *DWR Repayment Fund* for their payment. ~~In~~  
 22 ~~no event shall the~~ *The department may authorize the issuance of*  
 23 bonds (excluding notes issued in anticipation of the issuance of  
 24 bonds and retired from the proceeds of those bonds) in an  
 25 aggregate amount ~~greater than the amount calculated by~~  
 26 ~~multiplying by a factor of four the annual revenues generated by~~  
 27 ~~the California Procurement Adjustment, as determined by the~~  
 28 ~~commission pursuant to Section 360.5 up to thirteen billion four~~  
 29 ~~hundred twenty-three million dollars (\$13,423,000,000). Nothing~~  
 30 ~~in this section shall prohibit the department from issuing bonds~~  
 31 ~~prior to the effective date of this bill based upon the authorization~~  
 32 ~~granted to the department by the provisions of Chapter 4 of the~~  
 33 ~~Statutes of the 2001–02 First Extraordinary Session. Refunding of~~  
 34 ~~bonds to obtain a lower interest rate may not be included in the~~  
 35 ~~calculation of the aggregate amount. In~~

36 (b) *In addition, before the issuance of bonds in a public*  
 37 *offering, the department shall establish a mechanism to ensure that*  
 38 *the bonds will be sold at investment grade ratings and repaid on a*  
 39 *timely basis from pledged revenues. This mechanism may include;*  
 40 ~~but is not limited to, an agreement between the department and the~~

1 ~~commission as described in Section 80110.~~ *The mechanism shall*  
2 *include, but is not limited to, a DWR Bond Set-Aside.*

3 *SEC. 6. Section 80131 is added to the Water Code, to read:*

4 *80131. (a) Whenever the department proposes to issue bonds*  
5 *pursuant to this article, the department shall apply to the Public*  
6 *Utilities Commission for a bond financing order establishing a*  
7 *DWR Bond Set-Aside.*

8 *(b) The commission shall, within 30 days from the date of the*  
9 *application, issue a bond financing order establishing a DWR*  
10 *Bond Set-Aside that shall be applicable to all electric power*  
11 *delivered in this state by electrical corporations that are subject to*  
12 *the jurisdiction of the commission and whose customers are*  
13 *deemed to have purchased power from the department pursuant to*  
14 *Section 80104. The revenues from the DWR Bond Set-Aside shall*  
15 *be dedicated to the payment of the obligations of the bonds and no*  
16 *person or entity, including, the electrical corporation delivering*  
17 *energy, shall have any right, title, interest, or claim to any portion*  
18 *of the DWR Bond Set-Aside, except the department or the trustee*  
19 *designated pursuant to Section 80132. To the extent any moneys*  
20 *are received by an electrical corporation pursuant to this section*  
21 *in the process of collection, and pending their payment to the DWR*  
22 *Bond Repayment Fund established in subdivision (i), they shall be*  
23 *segregated by the electrical corporation on terms and conditions*  
24 *established by the department and shall be held in trust for the*  
25 *benefit of the department.*

26 *(c) The amount of the DWR Bond Set-Aside shall be sufficient*  
27 *to pay the costs of issuing, servicing, and retiring the bonds in*  
28 *accordance with their terms as applied for by the department. The*  
29 *bond financing order shall include a provision for payment of the*  
30 *DWR Bond Set-Aside to the department for deposit in the DWR*  
31 *Bond Repayment Fund within five days of the date of receipt by the*  
32 *electrical corporation.*

33 *(d) Notwithstanding Sections 455.5 or 1708 of the Public*  
34 *Utilities Code, or any other provision of law, a bond financing*  
35 *order shall be irrevocable and the commission does not have*  
36 *authority to determine, either by rescinding, altering, or amending*  
37 *the bond financing order, or otherwise, that the DWR Bond*  
38 *Set-Aside is unjust or unreasonable, or to in any way reduce or*  
39 *impair the recovery of the DWR Bond Set-Aside, either directly or*  
40 *indirectly, nor shall the amount of revenues arising with respect*



1 *thereto be subject to reduction, impairment, postponement, or*  
2 *termination until the costs of issuing, servicing, and retiring the*  
3 *bonds, together with the interest thereon, are fully met and*  
4 *discharged. Except as otherwise provided in this division, the State*  
5 *of California does hereby pledge and agree with the owners of and*  
6 *holders of bonds issued pursuant to this article that the state shall*  
7 *neither limit nor alter the DWR Bond Set-Aside, bond financing*  
8 *orders, or any rights thereunder until the costs of issuing,*  
9 *servicing, and retiring the bonds, together with the interest*  
10 *thereon, are fully met and discharged, provided that nothing*  
11 *contained in this section precludes the limitation or alteration if*  
12 *adequate provision is made by law for the protection of the owners*  
13 *and holders. The department as agent for the state is authorized*  
14 *to include this pledge and undertaking for the state in these*  
15 *obligations.*

16 *(e) Notwithstanding any other provision of this section, the*  
17 *commission shall approve the adjustments to the DWR Bond*  
18 *Set-Aside as it determines to be necessary to ensure timely recovery*  
19 *of all revenues required by the pertinent bond financing order, and*  
20 *the costs associated with the provision, recovery, financing, or*  
21 *refinancing thereof, including the costs of issuing, servicing, and*  
22 *retiring the bonds contemplated by the bond financing order.*

23 *(f) (1) Bond financing orders issued under this article do not*  
24 *constitute a debt or liability of the state or of any political*  
25 *subdivision thereof, other than the department, and do not*  
26 *constitute a pledge of the full faith and credit of the state or any of*  
27 *its political subdivisions, but are payable solely from the funds*  
28 *provided therefor under this article and shall be consistent with*  
29 *Sections 1 and 18 of Article XVI of the California Constitution.*  
30 *This subdivision shall in no way preclude bond guarantees or*  
31 *enhancements pursuant to this article. All the bonds issued under*  
32 *this article shall contain on the face thereof a statement to the*  
33 *following effect:*

34 *“Neither the full faith and credit nor the taxing power of the*  
35 *State of California is pledged to the payment of the principal of,*  
36 *or interest on, this bond.”*

37 *(2) The issuance of bonds under this article may not directly,*  
38 *indirectly, or contingently obligate the state or any political*  
39 *subdivision thereof to levy or to pledge any form of taxation*  
40 *therefore or to make any appropriation for their payment.*



1 (g) *The commission shall establish procedures for the*  
2 *expeditious processing of applications for bond financing orders,*  
3 *including the approval or disapproval thereof within 30 days of*  
4 *date of the department's making such an application. The*  
5 *commission shall provide in any bond financing order for a*  
6 *procedure for the expeditious approval by the commission of*  
7 *periodic adjustments to the DWR Bond Set-Aside that are the*  
8 *subject of the pertinent bond financing order, as required by*  
9 *subdivision (e). The procedures shall require the commission to*  
10 *determine not less frequently than annually whether adjustments*  
11 *to the DWR Bond Set-Aside are required, and for the adjustments,*  
12 *if required, to be approved within 30 days of the date of completion*  
13 *of the review.*

14 (h) *Any DWR Bond Set-Aside shall consist of and be derived*  
15 *from a portion of the rate levels in effect on August 31, 2001, and*  
16 *may not result in an increase in those rate levels. This subdivision*  
17 *does not affect any legal authority the commission has for*  
18 *changing rate levels for any other purpose not related to the DWR*  
19 *Bond Set-Aside.*

20 (i) *There is hereby established in the State Treasury the DWR*  
21 *Bond Repayment Fund. Notwithstanding Section 13340 of the*  
22 *Government Code, all moneys in the fund are continuously*  
23 *appropriated, without regard to fiscal year, to the department, and*  
24 *shall be available solely for the purpose of the payment of*  
25 *principal, and premium, if any, and interest on all bonds issued*  
26 *under this division and associated issuance costs.*

27 *SEC. 7. Section 80132 of the Water Code is amended to read:*

28 80132. (a) Bonds may be issued by the department upon  
29 authorization by written determination of the director of the  
30 department with the approval of the Director of Finance and the  
31 State Treasurer. The Department of Finance shall notify the  
32 Chairperson of the Joint Legislative Budget Committee and the  
33 chairperson of the committee in each house that considers  
34 appropriations of its written determination. The bonds shall be  
35 sold at such prices and in such manner, and on such terms and  
36 conditions, as shall be specified in such determination, and such  
37 determination may contain or authorize any other provision,  
38 condition, or limitation not inconsistent herewith and such  
39 provisions as may be deemed reasonable and proper for the  
40 security of the bondholders. Bonds may mature at such time or



1 times, and bear interest at such rate or rates, which may be fixed  
2 or variable and be determined by reference to an index or such  
3 other method, as shall be specified in such determination. Neither  
4 the person executing the determination to issue bonds nor any  
5 person executing bonds shall be personally liable therefor or be  
6 subject to any personal liability or accountability by reason of the  
7 issuance thereof.

8 (b) In the discretion of the department, any bonds may be  
9 secured by a trust agreement by and between the department and  
10 a corporate trustee, which may be any trust company or bank  
11 having trust powers within or without the state, or the State  
12 Treasurer. Notwithstanding any other provision of law, the State  
13 Treasurer shall not be deemed to have a conflict of interest by  
14 reason of acting as such trustee. The department may enter into  
15 such contracts or arrangements as it shall deem to be necessary or  
16 appropriate for the issuance and further security of the bonds.

17 (c) Bonds shall be legal investments for all trust funds, the  
18 funds of all insurance companies, banks both commercial and  
19 savings, trust companies, executors, administrators, trustees, and  
20 other fiduciaries, for state school funds, pension funds, and, for  
21 any funds that may be invested in county, school, or municipal  
22 bonds.

23 (d) Notwithstanding that bonds may be payable from a special  
24 fund, they shall be deemed to be negotiable instruments for all  
25 purposes.

26 (e) Any and all bonds, their transfer and the income therefrom  
27 shall at all times be free from taxation of every kind by the state  
28 and by all political subdivisions of the state.

29 (f) Bonds shall not be deemed to constitute a debt or liability of  
30 the state or of any political subdivision thereof, other than the  
31 department, or a pledge of the *full* faith and credit of the state or  
32 of any such political subdivision, ~~other than the department~~, but  
33 shall be payable solely from the funds herein provided for. All  
34 bonds shall contain a statement to the following effect:

35 “Neither the *full* faith and credit nor the taxing power of the  
36 State of California is pledged to the payment of the principal of or  
37 interest on this bond.”

38 The issuance of bonds shall not directly or indirectly or  
39 contingently obligate the state or any political subdivision thereof



1 to levy or to pledge any form of taxation whatever therefor or to  
2 make any appropriation for their payment.

3 (g) The department may pledge or assign ~~any revenues under~~  
4 ~~any obligation entered into the revenues from a DWR Bond~~  
5 ~~Set-Aside~~, and rights to receive the same, and moneys on deposit  
6 in the ~~fund~~ *DWR Bond Repayment Fund* and income or revenue  
7 derived from the investment thereof, as security for the  
8 ~~department's obligations hereunder~~ *repayment of the bonds*. It is  
9 the intention of the Legislature that any pledge of moneys,  
10 revenues, or property made by the department shall be valid and  
11 binding from the time when the pledge is made; that the ~~moneys;~~  
12 ~~revenues, or property~~ *DWR Bond Set-Aside* so pledged and  
13 ~~moneys derived therefrom~~ thereafter collected from retail end use  
14 customers, or paid directly or indirectly to or for the account of the  
15 department, is hereby made, and shall immediately be, subject to  
16 the lien of such pledge without any physical delivery thereof or  
17 further act; that the lien of any such pledge shall be valid and  
18 binding as against all parties having claims of any kind in tort,  
19 contract, or otherwise against the department irrespective of  
20 whether such parties have notice thereof, and that no resolution or  
21 instrument by which such pledge or lien created pursuant to this  
22 subdivision is expressed, confirmed, or approved need be filed or  
23 recorded in order to perfect such pledge or lien. The provisions  
24 hereof shall in all respects govern the creation, perfection, priority,  
25 and enforcement of any lien created hereby or hereunder.

26 *SEC. 8. Section 80134 of the Water Code is amended to read:*

27 80134. (a) The department shall, and in any obligation  
28 entered into pursuant to this division may covenant to, at least  
29 annually, and more frequently as required, establish and revise  
30 revenue requirements sufficient, together with any moneys on  
31 deposit in the fund, to provide all of the following:

32 (1) The amounts necessary to pay the principal of and  
33 premium, if any, and interest on all bonds as and when the same  
34 shall become due *if there are insufficient funds in the DWR Bond*  
35 *Repayment Fund*.

36 (2) The amounts necessary to pay for power purchased by it and  
37 to deliver ~~it that power~~ to purchasers, ~~including the cost of electric~~  
38 ~~power and transmission, scheduling, and other related expenses~~  
39 ~~incurred by the department, or to make payments under any other~~  
40 ~~contracts, agreements, or obligations entered into by it pursuant~~



1 ~~hereto~~ as specified in subparagraphs (A), (B), (D) and (E) of  
2 paragraph (1) of subdivision (j) of Section 80010, in the amounts  
3 and at the times the same shall become due.

4 (3) Reserves in such amount as may be determined by the  
5 department from time to time to be necessary or desirable.

6 (4) The pooled money investment rate on funds advanced for  
7 electric power purchases prior to the receipt of payment for those  
8 purchases by the purchasing entity.

9 (5) Repayment to the General Fund of appropriations made to  
10 the fund pursuant hereto or hereafter for purposes of this division,  
11 appropriations made to the Department of Water Resources  
12 Electric Power Fund, and General Fund moneys expended by the  
13 department pursuant to the Governor's Emergency Proclamation  
14 dated January 17, 2001.

15 (6) The administrative costs of the department incurred in  
16 administering this division, *if an amount for those costs has been*  
17 *appropriated by the Legislature.*

18 (b) The department shall notify the commission of its revenue  
19 ~~requirement~~ requirements pursuant to Section 80110.

20 SEC. 9. Section 80200 of the Water Code is amended to read:

21 80200. (a) There is hereby established in the State Treasury  
22 the Department of Water Resources Electric Power Fund.  
23 Notwithstanding Section 13340 of the Government Code, all  
24 moneys in the fund are continuously appropriated, without regard  
25 to fiscal year, to the department, and shall be available for the  
26 purposes of this division. It is the intent of the Legislature that this  
27 fund be a continuation of the fund created in Chapter 3 of the  
28 Statutes of 2001 (SB 7 of the First 2001–02 Extraordinary  
29 Session).

30 (b) All revenues payable to the department under this division,  
31 *including the net proceeds of bonds*, shall be deposited in the fund,  
32 *other than the revenues from the DWR Bond Set-Aside, which shall*  
33 *be deposited into the DWR Bond Repayment Fund.*  
34 Notwithstanding any other provision of law, interest accruing on  
35 money in the fund shall remain in the fund and shall be used for  
36 the purposes of this division. Payments from the fund may be made  
37 only for the purposes authorized by this division, including, but  
38 not limited to, payments for any of the following:

39 (1) The cost of electric power and transmission, scheduling,  
40 and other related expenses incurred by the department.



1 (2) The pooled money investment rate on funds advanced for  
2 electric power purchases prior to the receipt of payment for those  
3 purchases by the purchasing entity.

4 (3) Payment of any bonds or *of any* other contractual  
5 obligations authorized by this division.

6 (4) Repayment to the General Fund of appropriations made to  
7 the fund pursuant hereto or hereafter for purposes of this division,  
8 appropriations made to the Department of Water Resources  
9 Electric Power Fund, and General Fund moneys expended by the  
10 department pursuant to the Governor’s Emergency Proclamation  
11 dated January 17, 2001. ~~It is the intent of the Legislature that such~~  
12 ~~repayment.~~ *That repayment shall be made as soon as practicable.*

13 (c) Except as provided in subdivision (b) of Section 5 of the  
14 statute adding this section, the administrative costs of the  
15 department incurred in administering this division shall be  
16 provided in the annual Budget Act, *if an amount for those costs has*  
17 *been appropriated by the Legislature.*

18 (d) Obligations authorized by this division shall be payable  
19 solely from the fund. Neither the full faith and credit nor the taxing  
20 power of the state are or may be pledged for any payment under  
21 any obligation authorized by this division.

22 (e) While any obligations of the department incurred under this  
23 division remain outstanding and not fully performed or  
24 discharged, the rights, powers, duties, and existence of the  
25 department and the commission shall not be diminished or  
26 impaired in any manner that will affect adversely the interests and  
27 rights of the holders of or parties to such obligations. The  
28 department may include this pledge and undertaking of the state  
29 in the department’s obligations.

30 *SEC. 10. No reimbursement is required by this act pursuant*  
31 *to Section 6 of Article XIII B of the California Constitution*  
32 *because the only costs that may be incurred by a local agency or*  
33 *school district will be incurred because this act creates a new crime*  
34 *or infraction, eliminates a crime or infraction, or changes the*  
35 *penalty for a crime or infraction, within the meaning of Section*  
36 *17556 of the Government Code, or changes the definition of a*  
37 *crime within the meaning of Section 6 of Article XIII B of the*  
38 *California Constitution.*

39 *SEC. 11. If this act becomes effective on or before the effective*  
40 *date of Chapter 9 of the 2001–02 First Extraordinary Session, then*



1 Sections 80130, 80132, and 80200 of the Water Code, as amended  
2 by Chapter 9 of the 2001–02 First Extraordinary Session shall not  
3 be operative.

4 If this act becomes effective after the effective date of Chapter  
5 9 of the 2001–02 First Extraordinary Session, then the  
6 amendments made to Sections 80130, 80132, and 80200 of the  
7 Water Code by this act shall prevail on the effective date of this act,  
8 pursuant to Section 9605 of the Government Code.

9 SEC. 12. This act is an urgency statute necessary for the  
10 immediate preservation of the public peace, health, or safety  
11 within the meaning of Article IV of the Constitution and shall go  
12 into immediate effect. The facts constituting the necessity are:

13 In order to assure the timely issuance of revenue bonds by the  
14 Department of Water Resources to provide for the repayment of  
15 funds advanced from the General Fund to pay for the purchase of  
16 electric power needed to protect the safety, health, and well-being  
17 of the people of California, it is necessary that this act take effect  
18 immediately.

19 Code, to read:

20 ~~366.7.—(a) Once the commission has determined that the rate~~  
21 ~~freeze established pursuant to Section 368 for an electrical~~  
22 ~~corporation has ended, the commission shall direct the electrical~~  
23 ~~corporation to establish a portfolio of electric supplies to serve the~~  
24 ~~needs of the electrical corporation’s bundled core customers.~~

25 ~~(b) For the purposes of this section, “bundled core customers”~~  
26 ~~are all customers with a maximum peak demand of less than 500~~  
27 ~~kilowatts who are not being served via direct transactions.~~

28 ~~(c) The core supply portfolio shall include the output of the~~  
29 ~~generation assets retained by the electrical corporation under~~  
30 ~~commission regulation, along with supplies purchased by the~~  
31 ~~electrical corporation under contracts to serve the needs of its core~~  
32 ~~customers, and any spot market supplies required to match core~~  
33 ~~load.~~

34 ~~(d) The commission may establish guidelines for the~~  
35 ~~appropriate composition of the core portfolio, including a~~  
36 ~~minimum renewable energy component, and may also establish~~  
37 ~~appropriate financial incentives for the electrical corporation to~~  
38 ~~achieve the lowest stable price for the core portfolio.~~

39 ~~(e) Beginning 90 days after the end of the corporation’s rate~~  
40 ~~freeze, as determined by the commission, or 90 days after the~~



1 ~~effective date of this section, whichever is later, customers with a~~  
2 ~~maximum peak demand of 500 kilowatts or greater will no longer~~  
3 ~~be served from the core portfolio. These customers shall be~~  
4 ~~designated as noncore. Any noncore customer that does not obtain~~  
5 ~~service through a direct transaction shall be provided with energy~~  
6 ~~purchased by the electrical corporation exclusively from the spot~~  
7 ~~market, and shall be charged the cost incurred by the corporation~~  
8 ~~in providing the service.~~

9 ~~SEC. 2.—No reimbursement is required by this act pursuant to~~  
10 ~~Section 6 of Article XIII B of the California Constitution because~~  
11 ~~the only costs that may be incurred by a local agency or school~~  
12 ~~district will be incurred because this act creates a new crime or~~  
13 ~~infraction, eliminates a crime or infraction, or changes the penalty~~  
14 ~~for a crime or infraction, within the meaning of Section 17556 of~~  
15 ~~the Government Code, or changes the definition of a crime within~~  
16 ~~the meaning of Section 6 of Article XIII B of the California~~  
17 ~~Constitution.~~

