

**Introduced by Senator Torlakson**

February 10, 2004

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An act to amend Section 701.8 of the Public Utilities Code, relating to electrical restructuring.

LEGISLATIVE COUNSEL'S DIGEST

SB 1201, as introduced, Torlakson. Electrical restructuring: BART.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. The Public Utilities Act requires the commission to authorize direct transactions between electricity suppliers and retail end-use customers. However, other existing law suspends the right of retail end-use customers to acquire service from certain electricity suppliers after a period of time to be determined by the commission until the Department of Water Resources no longer supplies electricity under that law. Existing law authorizes the San Francisco Bay Area Rapid Transit District's (BART) system to elect to obtain electricity from multiple sources, including (1) preference power purchased from a federal power marketing agency or its successor, (2) electricity supplied by one or more direct transactions, and (3) electricity supplied by any electric utility regulated by the commission that owns and operates transmission and distribution facilities that deliver electricity at one or more locations to the BART District's system.

This bill would delete the authorization for BART to purchase electricity supplied by one or more direct transactions, and would instead authorize BART to elect to obtain electricity from suppliers other than federal power marketing agencies or electrical corporations subject to the jurisdiction of the commission. The bill would provide

that electricity supplied pursuant to this authorization is not supplied pursuant to a direct transaction, that no entity supplying electricity to the BART District pursuant to this provision is a public utility subject to the jurisdiction of the commission as a result, and that any electrical corporation subject to the jurisdiction of the commission that owns and operates transmission and distribution facilities would be required, upon request by the BART District, to deliver electricity to the BART District pursuant to this authorization without discrimination or delay. Because a violation of the Public Utilities Act or an order of the commission is a crime under existing law, the bill would impose a state-mandated local program by creating a new crime.

The bill would declare that, due to the special circumstances applicable only to the BART District, a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution, and the enactment of a special statute is therefore necessary.

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

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

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

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

1 SECTION 1. Section 701.8 of the Public Utilities Code is  
 2 amended to read:  
 3 701.8. (a) To ensure that the commission regulated electric  
 4 utilities do not operate their transmission and distribution  
 5 monopolies in a manner that impedes the ability of the San  
 6 Francisco Bay Area Rapid Transit District (BART District) to  
 7 reduce its electricity cost through the purchase and delivery of  
 8 preference power, electrical corporations shall meet the  
 9 requirements of this section.  
 10 (b) Any electric utility regulated by the commission that owns  
 11 and operates transmission and distribution facilities that deliver  
 12 electricity at one or more locations to the BART District's system  
 13 shall, upon request by the BART District, and without



1 discrimination or delay, use the same facilities to deliver  
2 preference power purchased from a federal power marketing  
3 agency or its successor.

4 (c) Where the BART District purchases electric power at more  
5 than one location, at any voltage, from an electric utility under  
6 tariffs regulated by the commission, the utility shall bill the BART  
7 District for usage as though all the electricity purchased at  
8 transmission level voltages were metered by a single meter at one  
9 location and all the electricity purchased at subtransmission  
10 voltages were metered by a single meter at one location, provided  
11 that any billing for demand charges would be based on the  
12 coincident demand of transmission and distribution metering.

13 (d) If, on or after January 1, 1996, the BART District leases or  
14 has agreed to lease, as special facilities, utility plants for the  
15 purpose of receiving power at transmission level voltages, an  
16 electric utility regulated by the commission may not terminate the  
17 lease without concurrence from the BART District.

18 (e) When the BART District elects to have delivered pursuant  
19 to subdivision (b), preference power purchased from a federal  
20 power marketing agency, or its successor, neither Sections 365 and  
21 366, and any commission regulations, orders, or tariffs, that  
22 implement direct transactions, are applicable, nor is the BART  
23 District an electricity supplier. Neither the commission, nor any  
24 electric utility that delivers the federal power to the BART District,  
25 shall require that an electricity supplier be designated as a  
26 condition of the delivery of that power.

27 (f) The BART District may elect to obtain electric power from  
28 the following multiple sources at the same time:

- 29 (1) Electric power delivered pursuant to subdivision (b).
- 30 (2) Electric power supplied by one or more ~~direct transactions~~  
31 *suppliers other than federal power marketing agencies or*  
32 *electrical corporations subject to the jurisdiction of the*  
33 *commission.*
- 34 (3) Electric power from any electric utility regulated by the  
35 commission that owns and operates transmission and distribution  
36 facilities that deliver electricity at one or more locations to the  
37 BART District's system.

38 (g) *Any electricity supplied to the BART District pursuant to*  
39 *paragraph (2) of subdivision (f) is not supplied pursuant to a direct*  
40 *transaction. Any electrical corporation subject to the jurisdiction*



1 *of the commission that owns and operates transmission and*  
 2 *distribution facilities that deliver electricity to the BART District*  
 3 *shall, upon request by the BART District, deliver electricity*  
 4 *supplied pursuant to paragraph (2) of subdivision (b), without*  
 5 *discrimination or delay. No entity is a public utility subject to the*  
 6 *jurisdiction of the commission because it supplies electricity to the*  
 7 *BART District pursuant to paragraph (2) of subdivision (f).*

8 SEC. 2. The Legislature finds and declares that, because of the  
 9 unique circumstances applicable only to the San Francisco Bay  
 10 Area Rapid Transit District, a statute of general applicability  
 11 cannot be enacted within the meaning of subdivision (b) of Section  
 12 16 of Article IV of the California Constitution. Therefore, this  
 13 special statute is necessary.

14 SEC. 3. No reimbursement is required by this act pursuant to  
 15 Section 6 of Article XIII B of the California Constitution because  
 16 the only costs that may be incurred by a local agency or school  
 17 district will be incurred because this act creates a new crime or  
 18 infraction, eliminates a crime or infraction, or changes the penalty  
 19 for a crime or infraction, within the meaning of Section 17556 of  
 20 the Government Code, or changes the definition of a crime within  
 21 the meaning of Section 6 of Article XIII B of the California  
 22 Constitution.

