

Senate Bill No. 1201

CHAPTER 613

An act to amend Section 701.8 of the Public Utilities Code, relating to electrical restructuring, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 2004. Filed with Secretary of State September 21, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1201, 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. Existing law requires any electrical corporation that owns and operates transmission and distribution facilities that deliver electricity to BART, upon request by BART, to deliver preference power purchased from a federal power marketing agency or its successor, without discrimination or delay.

This bill would additionally require any electrical corporation that owns and operates transmission and distribution facilities that deliver electricity to BART, upon request by BART, to deliver electricity purchased from a local publicly owned electric utility, as defined, without discrimination or delay.

Under existing law, a violation of the Public Utilities Act is a crime.

Certain provisions of the bill would be a part of the act. Because a violation of those provisions would be a crime, 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.

The bill would declare that it is to take effect immediately as an urgency statute.

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

SECTION 1. The Legislature finds and declares all of the following:

(a) The San Francisco Bay Area Rapid Transit (BART) District provides essential public transit services that are funded by fares and taxes.

(b) The BART District has qualified under the Reclamation Project Act of 1939 as amended and supplemented as a preference entity for purposes of purchasing electricity from federal power marketing agencies (preference power).

(c) The BART system has been continuously served by preference power, a publicly owned electricity supply, since before electrical restructuring and before the energy crisis of 2000–01, pursuant to the terms and conditions established by the enactment of Senate Bill 184 (Chapter 681 of the Statutes of 1995).

(d) It is the intent of the Legislature in enacting this act, to authorize the BART District to receive electric service from another publicly owned supplier of electricity on the same terms authorized by Chapter 206 of the Statutes of 1998.

SEC. 2. Section 701.8 of the Public Utilities Code is amended to read:

701.8. (a) To ensure that the commission regulated electric utilities do not operate their transmission and distribution monopolies in a manner that impedes the ability of the San Francisco Bay Area Rapid Transit District (BART District) to reduce its electricity cost through the purchase and delivery of preference power, electrical corporations shall meet the requirements of this section.

(b) 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 shall, upon request by the BART District, and without discrimination or delay, use the same facilities to deliver preference power purchased from a federal power marketing agency or its successor, or electricity purchased from a local publicly owned electric utility, as defined in Section 9604.

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

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

(e) When the BART District elects to have electricity delivered pursuant to subdivision (b), neither Sections 365 and 366, and any commission regulations, orders, or tariffs, that implement direct transactions, are applicable, nor is the BART District an electricity supplier. Neither the commission, nor any electric utility that delivers the federal power or electricity purchased from a local publicly owned electric utility to the BART District, shall require that an electricity supplier be designated as a condition of the delivery of that power.

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

- (1) Electric power delivered pursuant to subdivision (b).
- (2) Electric power supplied by one or more direct transactions.
- (3) Electric power from 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.

SEC. 3. The Legislature finds and declares that, because of the unique circumstances applicable only to the San Francisco Bay Area Rapid Transit District, a statute of general applicability cannot be enacted within the meaning of subdivision (b) of Section 16 of Article IV of the California Constitution. Therefore, this special statute is necessary.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the



only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure the continued delivery of electricity to the San Francisco Bay Area Rapid Transit District at an affordable rate, it is necessary for this act to take effect immediately.

