

AMENDED IN SENATE APRIL 13, 1998

AMENDED IN SENATE MARCH 23, 1998

**SENATE BILL**

**No. 1838**

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**Introduced by Senator Kopp**

February 19, 1998

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An act to amend ~~Sections 374 and~~ *Section* 701.8 of the Public Utilities Code, relating to electric restructuring.

LEGISLATIVE COUNSEL'S DIGEST

SB 1838, as amended, Kopp. Public utilities: electric restructuring: BART.

Existing law requires the Public Utilities Commission to begin providing electric utility customers direct access to electric suppliers not later than January 1, 1998, and for direct access to be completed for all customers by January 1, 2002. Existing law requires 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 San Francisco Bay Area Rapid Transit District's (BART) system, to deliver to BART preference power purchased from a federal power marketing agency or its successor.

This bill would exempt the delivery of that preference power from statutes that provide for direct transactions and from commission regulations, orders, and tariffs, that implement direct transactions, and would make related changes. The bill would authorize BART to elect to obtain electric power from multiple sources, as specified. Because,

under existing law, a violation of these 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. 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 374 of the Public Utilities Code~~  
 2     ~~is amended to read:~~  
 3     ~~374. (a) In recognition of statutory authority and past~~  
 4     ~~investments existing as of December 20, 1995, and subject~~  
 5     ~~to the firewall specified subdivision (c) of Section 367, the~~  
 6     ~~obligation to pay the uneconomic costs identified in~~  
 7     ~~Sections 367, 368, 375, and 376 shall not apply to the~~  
 8     ~~following:~~  
 9     ~~(1) One hundred ten megawatts of load served by~~  
 10    ~~irrigation districts, as hereafter allocated by this~~  
 11    ~~paragraph:~~  
 12    ~~(A) The 110 megawatts of load shall be allocated~~  
 13    ~~among the service territories of the three largest~~  
 14    ~~electrical corporations in the ratio of the number of~~  
 15    ~~irrigation districts in the service territory of each utility~~  
 16    ~~to the total number of irrigation districts in the service~~  
 17    ~~territories of all three utilities.~~  
 18    ~~(B) The total amount of load allocated to each utility~~  
 19    ~~service area shall be phased in over five years beginning~~  
 20    ~~January 1, 1997, so that one-fifth of the allocation is~~  
 21    ~~allocated in each of the five years. Any allocation which~~  
 22    ~~remains unused at the end of any year shall be carried~~  
 23    ~~over to the succeeding year and added to the allocation~~  
 24    ~~for that year.~~  
 25    ~~(C) The load allocated to each utility service territory~~  
 26    ~~pursuant to subparagraph (A) shall be further allocated~~



1 among the respective irrigation districts within that  
2 service territory by the California Energy Resources  
3 Conservation and Development Commission. An  
4 individual irrigation district requesting such an allocation  
5 shall submit to the commission by January 31, 1997,  
6 detailed plans that show the load that it serves or will  
7 serve and for which it intends to utilize the allocation  
8 within the timeframe requested. These plans shall  
9 include specific information on the irrigation districts'  
10 organization for electric distribution, contracts, financing  
11 and engineering plans for capital facilities, as well as  
12 detailed information about the loads to be served, and  
13 shall not be less than eight megawatts or more than 40  
14 megawatts. Provided, however, any portion of the 110  
15 megawatts that remains unallocated may be reallocated  
16 to projects without regard to the 40 megawatts limitation.  
17 In making such an allocation among irrigation districts,  
18 the Energy Resources Conservation and Development  
19 Commission shall assess the viability of each submission  
20 and whether it can be accomplished in the timeframe  
21 proposed. The Energy Resources Conservation and  
22 Development Commission shall have the discretion to  
23 allocate the load covered by this section in a manner that  
24 best ensures its usage within the allocation period.

25 (D) At least 50 percent of each year's allocation to a  
26 district shall be applied to that portion of load that is used  
27 to power pumps for agricultural purposes.

28 (E) Any load pursuant to this subdivision shall be  
29 served by distribution facilities owned by, or leased to, the  
30 district in question.

31 (F) Any load allocated pursuant to paragraph (1) shall  
32 be located within the boundaries of the affected irrigation  
33 district, or within the boundaries specified in an  
34 applicable service territory boundary agreement  
35 between an electrical corporation and the affected  
36 irrigation district; additionally, the provisions of  
37 subparagraph (C) of paragraph (1) shall be applicable to  
38 any load within the Counties of Stanislaus or San Joaquin,  
39 or both, served by any irrigation district that is currently  
40 serving or will be serving retail customers.



1 ~~(2) Seventy-five megawatts of load served by the~~  
2 ~~Mereed Irrigation District hereafter prescribed in this~~  
3 ~~paragraph:~~

4 ~~(A) The total allocation provided by this paragraph~~  
5 ~~shall be phased in over five years beginning January 1,~~  
6 ~~1997, so that one-fifth of the allocation is received in each~~  
7 ~~of the five years. Any allocation which remains unused at~~  
8 ~~the end of any year shall be carried over to the succeeding~~  
9 ~~year and added to the allocation for that year.~~

10 ~~(B) Any load to which the provision of this paragraph~~  
11 ~~is applicable shall be served by distribution facilities~~  
12 ~~owned by, or leased to, Mereed Irrigation District.~~

13 ~~(C) A load to which the provisions of this paragraph~~  
14 ~~are applicable shall be located within the boundaries of~~  
15 ~~Mereed Irrigation District as those boundaries existed on~~  
16 ~~December 20, 1995, together with the territory of Castle~~  
17 ~~Air Force Base which was located outside of the district~~  
18 ~~on that date.~~

19 ~~(D) The total allocation provided by this paragraph~~  
20 ~~shall be phased in over five years beginning January 1,~~  
21 ~~1997, with the exception of load already being served by~~  
22 ~~the district as of June 1, 1996, which shall be deducted~~  
23 ~~from the total allocation and shall not be subject to the~~  
24 ~~costs provided in Sections 367, 368, 375, and 376.~~

25 ~~(3) To loads served by irrigation districts, water~~  
26 ~~districts, water storage districts, municipal utility~~  
27 ~~districts, and other water agencies which, on December~~  
28 ~~20, 1995, were members of the Southern San Joaquin~~  
29 ~~Valley Power Authority, or the Eastside Power Authority;~~  
30 ~~provided, however, that this paragraph shall be~~  
31 ~~applicable only to that portion of each district or agency's~~  
32 ~~load that is used to power pumps which are owned by that~~  
33 ~~district or agency as of December 20, 1995, or~~  
34 ~~replacements thereof, and is being used to pump water~~  
35 ~~for district purposes. The rates applicable to these~~  
36 ~~districts and agencies shall be adjusted as of January 1,~~  
37 ~~1997.~~

38 ~~(4) The provisions of this subdivision shall no longer be~~  
39 ~~operative after March 31, 2002.~~



1 ~~(5) The provisions of paragraph (1) shall not be~~  
2 ~~applicable to any irrigation district, water district or~~  
3 ~~water agency described in paragraph (2) or (3).~~

4 ~~(6) Transmission services provided to any irrigation~~  
5 ~~district described in paragraph (1) or (2) shall be~~  
6 ~~provided pursuant to otherwise applicable tariffs.~~

7 ~~(7) Nothing in this chapter shall be deemed to grant~~  
8 ~~the commission any jurisdiction over irrigation districts~~  
9 ~~not already granted to the commission by existing law.~~

10 ~~(b) To give the full effect to the legislative intent in~~  
11 ~~enacting Section 701.8, the costs provided in Sections 365,~~  
12 ~~367, 368, 370, 375, and 376 shall not apply to the load served~~  
13 ~~by preference power purchased from a federal power~~  
14 ~~marketing agency, or its successor, pursuant to Section~~  
15 ~~701.8 as it existed on January 1, 1996, provided the power~~  
16 ~~is used solely for the customer's own systems load and not~~  
17 ~~for sale. The costs of this provision shall be borne by all~~  
18 ~~ratepayers in the affected service territory,~~  
19 ~~notwithstanding the firewall established in subdivision~~  
20 ~~(e) of Section 367.~~

21 ~~(c) To give effect to an existing relationship, the~~  
22 ~~obligation to pay the uneconomic costs specified in~~  
23 ~~Sections 367, 368, 375, and 376 shall not apply to that~~  
24 ~~portion of the load of the University of California campus~~  
25 ~~situated in Yolo County that was being served as of May~~  
26 ~~31, 1996, by preference power purchased from a federal~~  
27 ~~marketing agency, or its successor, provided the power is~~  
28 ~~used solely for the facility load of that campus and not,~~  
29 ~~directly or indirectly, for sale.~~

30 ~~SEC. 2.—~~

31 ~~SECTION 1.~~ Section 701.8 of the Public Utilities Code  
32 is amended to read:

33 701.8. (a) To ensure that the commission regulated  
34 electric utilities do not operate their transmission and  
35 distribution monopolies in a manner that impedes the  
36 ability of the San Francisco Bay Area Rapid Transit  
37 District (BART District) to reduce its electricity cost  
38 through the purchase and delivery of preference power,  
39 electrical corporations shall meet the requirements of  
40 this section.



1 (b) Any electric utility regulated by the commission  
2 that owns and operates transmission and distribution  
3 facilities that deliver electricity at one or more locations  
4 to the BART District's system shall, upon request by the  
5 BART District, and without discrimination or delay, use  
6 the same facilities to deliver preference power purchased  
7 from a federal power marketing agency or its successor.

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

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

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

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

38 (1) Electric power delivered pursuant to subdivision  
39 (b).



1 (2) Electric power supplied by one or more direct  
2 transactions.

3 (3) Electric power from any electric utility regulated  
4 by the commission that owns and operates transmission  
5 and distribution facilities that deliver electricity at one or  
6 more locations to the BART District's system.

7 ~~SEC. 3.~~

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

18 Notwithstanding Section 17580 of the Government  
19 Code, unless otherwise specified, the provisions of this act  
20 shall become operative on the same date that the act  
21 takes effect pursuant to the California Constitution.

