

**ASSEMBLY BILL**

**No. 311**

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**Introduced by Assembly Member V. Manuel Pérez**

February 12, 2013

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An act to amend Sections 63000, 63010, 63025.1, 63045, and 63084 of, and to add Article 5.5 (commencing with Section 63047.1) to Chapter 2 of Division 1 of Title 6.7 of, the Government Code, relating to economic development, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 311, as introduced, V. Manuel Pérez. Economic development projects.

The Bergeson-Peace Infrastructure and Economic Development Bank Act authorizes the California Infrastructure and Economic Development Bank, governed by a board of directors, to make loans and provide other assistance to public and private entities for various types of economic development projects, among other things. The activities of the bank under these provisions are funded from the California Infrastructure and Economic Development Bank Fund, which is continuously appropriated for these purposes.

This bill would authorize the board of directors to enter into development and financing agreements for projects within the California-Mexico border region, as defined. The bill would authorize the bank to establish and participate in a binational financing authority to facilitate and support the economic development of communities within the border region. The bill would require the bank to develop guidelines for the selection, review, and approval of border region projects and authorize the bank to issue bonds, the proceeds of which would be deposited in the Binational Development Account, which the

bill would create within the fund. By expanding the purposes for which a continuously appropriated fund may be used, the bill would make an appropriation. The bill would state that certain provisions of this bill shall become operative only if the Executive Director of the California Infrastructure and Economic Development Bank determines that there are sufficient funds available to implement those provisions and submits a letter to the Legislature to that effect.

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

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

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

3 (a) Mexico is California’s largest trading partner in the world.  
 4 The two economies are highly integrated with a substantial  
 5 dependence on cross-border trade, especially in southern California.  
 6 A modern border that provides for safe and efficient movement  
 7 of people and goods is therefore critical to both entities to maintain  
 8 continued growth in the economy and trade.

9 (b) The increased security demands since September 11, 2001,  
 10 have resulted in the need to have an even greater focus on the  
 11 operations of border crossings and approaches so that efficiency  
 12 improvements are made in concert with the implementation of  
 13 enhanced safety and security measures.

14 (c) One barrier to the expansion of trade and binational  
 15 commerce is the deficit in border infrastructure, which has not  
 16 kept pace with increases in trade and transit since ratification of  
 17 the North American Free Trade Agreement. Increased federal  
 18 spending on ports of entry is essential, as well as encouraging  
 19 recapitalization of binational border financing entities that include  
 20 the North American Development Bank. Even with increased  
 21 federal funding, however, the long-term success of the binational  
 22 region is attracting more private sector investment. Attracting new  
 23 private capital will require new ways of financing infrastructure  
 24 and other economic development-related projects and streamlining  
 25 local and environmental approvals.

26 (d) A binational approach to economic development also serves  
 27 to provide a vital, yet often overlooked, component to  
 28 comprehensive immigration reform. Workers from Mexico have

1 historically served a valuable role within many California industry  
2 sectors including the agriculture and tourism sectors. In some  
3 instances, however, immigration creates economic and social  
4 challenges to the sending and receiving countries, as well as  
5 workers and businesses. It is therefore in the interest of the state  
6 to find appropriate, cost-effective actions to limit immigration by  
7 supporting economic development and job creation.

8 (e) Funding business development and job creation activities  
9 along the California-Mexico border region is a practical strategy  
10 for minimizing and discouraging undocumented flows of  
11 immigration from Mexico. Economic development projects along  
12 the border and within the north-south economic corridors benefit  
13 communities on both sides of the border. Projects that stimulate  
14 job creation and strengthen the local and regional economies can  
15 serve as a cost-effective immigration control method, while  
16 strengthening the manufacturing, trade, and goods movement  
17 capacity of California communities.

18 (f) A coherent economic strategy for the border region, based  
19 on expediting legitimate commerce, relaxing federally imposed  
20 restrictions on what border communities can do to build new  
21 infrastructure, and endowing existing development institutions  
22 with greater authority will result in immediate and long-term  
23 benefits to the people of California.

24 (g) Supporting economic development activities within the  
25 border region is not in conflict with Clause 3 of Section 8 of Article  
26 1 of the United States Constitution, because facilitating economic  
27 development activities does not rise to the level of regulating  
28 commerce with foreign nations and is consistent with the prior  
29 actions of the United States Congress that have sanctioned and  
30 defined the trade and commerce relationship between the United  
31 States and Mexico through a range of legislative actions, including,  
32 but not limited to, the approval of the North American Free Trade  
33 Agreement.

34 SEC. 2. Section 63000 of the Government Code is amended  
35 to read:

36 63000. The Legislature finds and declares the following:

37 (a) Economic revitalization, future development, and a healthy  
38 climate for jobs in California will depend upon a well-conceived  
39 system of public improvements that are essential to the economic

1 well-being of the citizens of the state and are necessary to maintain,  
2 as well as create, employment within the state for business.

3 (b) It is necessary for public policy to support the efforts of  
4 businesses attempting to expand, businesses seeking to locate in  
5 California, and local economic development organizations, public  
6 agencies, and new entrepreneurs by dedicating public fiscal  
7 resources to confront obstacles and barriers that impede economic  
8 growth.

9 (c) Existing mechanisms that coordinate federal, state, local,  
10 and private financial resources are inadequate to attract and sustain  
11 ~~that~~ *the* level of private investment that is essential to a growth  
12 economy.

13 (d) In order to secure and enhance the economic well-being of  
14 Californians, promote economic development in the state, and  
15 provide a healthy climate for the creation of jobs, it is necessary  
16 for public policy to support the efforts of expanding businesses,  
17 businesses seeking to locate in California, local development  
18 organizations, public bodies, and new entrepreneurs to gain access  
19 to capital through current and potential operations of financial  
20 markets.

21 (e) The high cost and the lack of availability of industrial loans  
22 for small- and medium-size businesses is making it difficult for  
23 thousands of these enterprises to get established, to maintain their  
24 present employment levels, or to expand employment.

25 (f) The problem of access to capital is acute in the high  
26 technology industry clusters because companies must often finance  
27 large capital expenditures early in their development cycle, and  
28 cannot obtain financing sufficient to cover the cost of those  
29 expenditures. Consideration should be given to industry clusters  
30 that may include the following:

- 31 (1) Health care technology.
- 32 (2) Multimedia.
- 33 (3) Environmental technology.
- 34 (4) Information technology.

35 (g) The high cost and limited availability of loans and capital  
36 has led a number of states to take action to remedy these conditions  
37 through concerted public and private investment programs that  
38 include efforts to do the following:

- 39 (1) Use the state's access to capital markets more effectively  
40 for economic development.

- 1 (2) Create financing pools to access national *and international*  
2 capital markets or help government sponsors and public-private  
3 economic development organizations obtain credit enhancement  
4 on their own.
- 5 (3) Facilitate credit enhancement for selected specific projects.
- 6 (4) Provide or arrange for loan insurance.
- 7 (5) Create and support secondary markets for loan portfolios of  
8 urban and rural economic development corporations and others.
- 9 (6) Improve access to international capital markets.
- 10 (7) Provide opportunities for public pension funds and other  
11 institutional investors to play a larger role in state economic  
12 development.
- 13 (8) Arrange for or provide subordinated debt for selected  
14 projects.
- 15 (9) Increase support for ~~local~~ *local, regional, and state*  
16 infrastructure development.
- 17 (10) *Improve access to global markets by supporting*  
18 *manufacturing-linked goods and movement-related infrastructure*  
19 *within state, national, and international transportation corridors.*
- 20 (h) Local governments in California bear a primary  
21 responsibility for the business of promoting job creation and  
22 economic development efforts. California's continued reliance on  
23 autonomous local entities often fails to adequately consider regional  
24 impacts of business expansion. Projects of a regional nature need  
25 the benefit of a state coordinating function to augment and enhance  
26 local economic development and environmental efforts.
- 27 (i) The State of California has not embarked on a major  
28 infrastructure financing effort since the decade of the ~~1960's~~,  
29 *1960s*, despite persistent unemployment and soaring population  
30 growth.
- 31 (j) California's ability to compete in a global economy depends  
32 upon its capacity to implement policies that take maximum  
33 advantage of public and private resources at the local, regional,  
34 state, and national levels. These policies should be coordinated  
35 with any future legislative plan involving growth management  
36 strategies designed to make economic growth compatible with  
37 environmental protections. It is the intent of the Legislature in  
38 enacting this act to create a mechanism to finance projects needed  
39 to implement economic development and job creation and growth  
40 management strategies, and to provide a secure and stable funding

1 source for implementation of this act in order to meet critical  
2 economic, social, and environmental concerns.

3 (k) The State of California needs a financing entity structured  
4 with broad authority to issue bonds, provide guarantees, and  
5 leverage state and federal funds using techniques that will target  
6 public investment to facilitate *private sector* economic  
7 ~~development~~. *growth*. The goal is to *expand private sector*  
8 *investment within the state and* produce more private sector jobs  
9 with less public sector investment.

10 (l) The mechanisms for financing public improvements and  
11 private job creation strategies provided for in this act are in the  
12 public interest, serve a public purpose, and will promote the health,  
13 welfare, and safety of the citizens of the state.

14 (m) *The lack of economic development along the border region*  
15 *with Mexico has caused economic challenges to the state. The*  
16 *existence of an economic development authority that addresses*  
17 *economic development needs in these areas serves a public purpose*  
18 *and promotes the health, welfare, and safety of the citizens of the*  
19 *state.*

20 ~~(m)~~

21 (n) The public policies and responsibilities of the state,  
22 including all of the above purposes and functions, cannot be fully  
23 obtained without the use of financing assistance and can be most  
24 effectively furthered by the creation of the California Infrastructure  
25 and Economic Development Bank.

26 SEC. 3. Section 63010 of the Government Code is amended  
27 to read:

28 63010. For purposes of this division, the following words and  
29 terms shall have the following meanings unless the context clearly  
30 indicates or requires another or different meaning or intent:

31 (a) “Act” means the Bergeson-Peace Infrastructure and  
32 Economic Development Bank Act.

33 (b) “Bank” means the California Infrastructure and Economic  
34 Development Bank.

35 (c) “Board” or “bank board” means the Board of Directors of  
36 the California Infrastructure and Economic Development Bank.

37 (d) “Bond purchase agreement” means a contractual agreement  
38 executed between the bank and a sponsor, or a special purpose  
39 trust authorized by the bank or a sponsor, or both, whereby the

1 bank or special purpose trust authorized by the bank agrees to  
2 purchase bonds of the sponsor for retention or sale.

3 (e) (1) “Bonds” means bonds, including structured, senior, and  
4 subordinated bonds or other securities; loans; notes, including  
5 bond, revenue, ~~tax~~ tax, or grant anticipation notes; commercial  
6 paper; floating rate and variable maturity securities; and any other  
7 evidences of indebtedness or ownership, including certificates of  
8 participation or beneficial interest, asset backed certificates, or  
9 lease-purchase or installment purchase agreements, whether taxable  
10 or excludable from gross income for federal income taxation  
11 purposes.

12 (2) “*Border region*” means the area within 125 miles on each  
13 side of the California-Mexico border, including areas along the  
14 north-south and east-west transportation networks on both sides  
15 of the border.

16 (f) “Cost,” as applied to a project or portion thereof financed  
17 under this division, means all or any part of the cost of construction,  
18 renovation, and acquisition of all lands, structures, real or personal  
19 property, rights, rights-of-way, franchises, licenses, easements,  
20 and interests acquired or used for a project; the cost of demolishing  
21 or removing any buildings or structures on land so acquired,  
22 including the cost of acquiring any lands to which the buildings  
23 or structures may be moved; the cost of all machinery, equipment,  
24 and financing charges; interest prior to, during, and for a period  
25 after completion of construction, renovation, or acquisition, as  
26 determined by the bank; provisions for working capital; reserves  
27 for principal and interest and for extensions, enlargements,  
28 additions, replacements, renovations, and improvements; and the  
29 cost of architectural, engineering, financial and legal services,  
30 plans, specifications, estimates, administrative expenses, and other  
31 expenses necessary or incidental to determining the feasibility of  
32 any project or incidental to the construction, acquisition, or  
33 financing of any project, and transition costs in the case of an  
34 electrical corporation.

35 (g) “Economic development facilities” means real and personal  
36 property, structures, buildings, equipment, and supporting  
37 components thereof that are used to provide industrial, recreational,  
38 research, commercial, utility, *goods movement*, or service enterprise  
39 facilities, community, educational, cultural, or social welfare  
40 facilities and any parts or combinations thereof, and all facilities

1 or infrastructure necessary or desirable in connection therewith,  
 2 including provision for working capital, but shall not include any  
 3 housing.

4 (h) “Electrical corporation” has the meaning set forth in Section  
 5 218 of the Public Utilities Code.

6 (i) “Executive director” means the Executive Director of the  
 7 California Infrastructure and Economic Development Bank  
 8 appointed pursuant to Section 63021.

9 (j) “Financial assistance” in connection with a project, includes,  
 10 but is not limited to, any combination of grants, loans, the proceeds  
 11 of bonds issued by the bank or special purpose trust, insurance,  
 12 guarantees or other credit enhancements or liquidity facilities, and  
 13 contributions of money, property, labor, or other things of value,  
 14 as may be approved by resolution of the board or the sponsor, or  
 15 both; the purchase or retention of bank bonds, the bonds of a  
 16 sponsor for their retention or for sale by the bank, or the issuance  
 17 of bank bonds or the bonds of a special purpose trust used to fund  
 18 the cost of a project for which a sponsor is directly or indirectly  
 19 liable, including, but not limited to, bonds, the security for which  
 20 is provided in whole or in part pursuant to the powers granted by  
 21 Section 63025; bonds for which the bank has provided a guarantee  
 22 or enhancement, including, but not limited to, the purchase of the  
 23 subordinated bonds of the sponsor, the subordinated bonds of a  
 24 special purpose trust, or the retention of the subordinated bonds  
 25 of the bank pursuant to Chapter 4 (commencing with Section  
 26 63060); or any other type of assistance deemed appropriate by the  
 27 bank or the sponsor, except that no direct loans shall be made to  
 28 nonpublic entities other than in connection with the issuance of  
 29 rate reduction bonds pursuant to a financing order or in connection  
 30 with a financing for an economic development ~~facility.~~ *facility*  
 31 *located within the state or the border region, or both. Financial*  
 32 *assistance within areas outside of California shall meet the*  
 33 *requirements under Article 5.5 (commencing with Section 63047.1).*

34 For purposes of this subdivision, “grant” does not include grants  
 35 made by the bank except when acting as an agent or intermediary  
 36 for the distribution or packaging of financing available from  
 37 federal, private, or other public sources.

38 (k) “Financing order” has the meaning set forth in Section 840  
 39 of the Public Utilities Code.

1 (l) “Guarantee trust fund” means the California Infrastructure  
2 Guarantee Trust Fund.

3 (m) “Infrastructure bank fund” means the California  
4 Infrastructure and Economic Development Bank Fund.

5 (n) “Loan agreement” means a contractual agreement executed  
6 between the bank or a special purpose trust and a sponsor that  
7 provides that the bank or special purpose trust will loan funds to  
8 the sponsor and that the sponsor will repay the principal and pay  
9 the interest and redemption premium, if any, on the loan.

10 (o) “Participating party” means any person, company,  
11 corporation, association, ~~state~~ *state, international*, or municipal  
12 governmental entity, partnership, firm, or other entity or group of  
13 entities, whether organized for profit or not for profit, engaged in  
14 business or operations within the state *or border region* and that  
15 applies for financing from the bank in conjunction with a sponsor  
16 for the purpose of implementing a project. However, in the case  
17 of a project relating to the financing of transition costs or the  
18 acquisition of transition property, or both, on the request of an  
19 electrical corporation, or in connection with a financing for an  
20 economic development facility, or for the financing of insurance  
21 claims, the participating party shall be deemed to be the same  
22 entity as the sponsor for the financing.

23 (p) “Project” means designing, acquiring, planning, permitting,  
24 entitling, constructing, improving, extending, restoring, financing,  
25 and generally developing public development facilities or economic  
26 development facilities within the state *or border region or*  
27 financing transition costs or the acquisition of transition property,  
28 or both, upon approval of a financing order by the Public Utilities  
29 Commission, as provided in Article 5.5 (commencing with Section  
30 840) of Chapter 4 of Part 1 of Division 1 of the Public Utilities  
31 Code. *Projects within areas outside of California shall meet the*  
32 *requirements under Article 5.5 (commencing with Section 63047.1)*  
33 *of Chapter 2.*

34 (q) “Public development facilities” means real and personal  
35 property, structures, conveyances, equipment, thoroughfares,  
36 buildings, and supporting components thereof, excluding any  
37 housing, that are directly related to providing the following:

38 (1) “City streets” including any street, avenue, boulevard, road,  
39 parkway, drive, or other way that is any of the following:

40 (A) An existing municipal roadway.

1 (B) Is shown upon a plat approved pursuant to law and includes  
2 the land between the street lines, whether improved or unimproved,  
3 and may comprise pavement, bridges, shoulders, gutters, curbs,  
4 guardrails, sidewalks, parking areas, benches, fountains, plantings,  
5 lighting systems, and other areas within the street lines, as well as  
6 equipment and facilities used in the cleaning, grading, clearance,  
7 maintenance, and upkeep thereof.

8 (2) “County highways” including any county highway as defined  
9 in Section 25 of the Streets and Highways Code, that includes the  
10 land between the highway lines, whether improved or unimproved,  
11 and may comprise pavement, bridges, shoulders, gutters, curbs,  
12 guardrails, sidewalks, parking areas, benches, fountains, plantings,  
13 lighting systems, and other areas within the street lines, as well as  
14 equipment and facilities used in the cleaning, grading, clearance,  
15 maintenance, and upkeep thereof.

16 (3) “Drainage, water supply, and flood control” including, but  
17 not limited to, ditches, canals, levees, pumps, dams, conduits,  
18 pipes, storm sewers, and dikes necessary to keep or direct water  
19 away from people, equipment, buildings, and other protected areas  
20 as may be established by lawful authority, as well as the  
21 acquisition, improvement, maintenance, and management of  
22 floodplain areas and all equipment used in the maintenance and  
23 operation of the foregoing.

24 (4) “Educational facilities” including libraries, child care  
25 facilities, including, but not limited to, day care ~~facilities~~, *facilities*  
26 and employment training facilities.

27 (5) “Environmental mitigation measures” including required  
28 construction or modification of public infrastructure and purchase  
29 and installation of pollution control and noise abatement  
30 equipment.

31 (6) “Parks and recreational facilities” including local parks,  
32 recreational property and equipment, ~~parkways~~ *parkways*, and  
33 property.

34 (7) “Port facilities” including *airports, landports, waterports,*  
35 *railports*, docks, harbors, ports of entry, piers, ships, small boat  
36 harbors and marinas, and any other facilities, additions, or  
37 improvements in connection ~~therewith~~. *therewith, that transport*  
38 *goods or persons.*

1 (8) “Power and communications” including facilities for the  
2 transmission or distribution of electrical energy, natural gas, and  
3 telephone and telecommunications service.

4 (9) “Public transit” including air and rail ~~transport of goods,~~  
5 *transport*, airports, guideways, vehicles, rights-of-way, passenger  
6 stations, maintenance and storage yards, and related structures,  
7 including public parking facilities; *and* equipment used to provide  
8 or enhance transportation by bus, rail, ferry, or other conveyance,  
9 either publicly or privately owned, that provides to the public  
10 general or special service on a regular and continuing basis.

11 (10) “Sewage collection and treatment” including pipes, pumps,  
12 and conduits that collect wastewater from residential,  
13 manufacturing, and commercial establishments, the equipment,  
14 structures, and facilities used in treating wastewater to reduce or  
15 eliminate impurities or contaminants, and the facilities used in  
16 disposing of, or transporting, remaining sludge, as well as all  
17 equipment used in the maintenance and operation of the foregoing.

18 (11) “Solid waste collection and disposal” including vehicles,  
19 vehicle-compatible waste receptacles, transfer stations, recycling  
20 centers, sanitary landfills, and waste conversion facilities necessary  
21 to remove solid waste, except that which is hazardous as defined  
22 by law, from its point of origin.

23 (12) “Water treatment and distribution” including facilities in  
24 which water is purified and otherwise treated to meet residential,  
25 manufacturing, or commercial purposes and the conduits, pipes,  
26 and pumps that transport it to places of use.

27 (13) “Defense conversion” including, but not limited to, facilities  
28 necessary for successfully converting military bases consistent  
29 with an adopted base reuse plan.

30 (14) “Public safety facilities” including, but not limited to, police  
31 stations, fire stations, court buildings, jails, juvenile halls, and  
32 juvenile detention facilities.

33 (15) “State highways” including any state highway as described  
34 in Chapter 2 (commencing with Section 230) of Division 1 of the  
35 Streets and Highways Code, and the related components necessary  
36 for safe operation of the highway.

37 (16) (A) ~~Military infrastructure,~~ “*Military infrastructure*”  
38 including, but not limited to, facilities on or near a military  
39 installation, that enhance the military operations and mission of  
40 one or more military installations in this state. To be eligible for

1 funding, the project shall be endorsed by the Office of Military  
 2 and Aerospace Support established pursuant to Section 13998.2.

3 (B) For purposes of this subdivision, “military installation”  
 4 means any facility under the jurisdiction of the Department of  
 5 Defense, as defined in paragraph (1) of subsection (e) of Section  
 6 2687 of Title 10 of the United States Code.

7 (17) “*Goods movement-related infrastructure*” including port  
 8 facilities, roads, rail, and other facilities and projects that move  
 9 goods, energy, and information.

10 (r) “Rate reduction bonds” has the meaning set forth in Section  
 11 840 of the Public Utilities Code.

12 (s) “Revenues” means all receipts, purchase payments, loan  
 13 repayments, lease payments, and all other income or receipts  
 14 derived by the bank or a sponsor from the sale, lease, or other  
 15 financing arrangement undertaken by the bank, a ~~sponsor~~ sponsor,  
 16 or a participating party, including, but not limited to, all receipts  
 17 from a bond purchase ~~agreement~~, agreement and any income or  
 18 revenue derived from the investment of any money in any fund or  
 19 account of the bank or a sponsor and any receipts derived from  
 20 transition property. Revenues shall not include moneys in the  
 21 General Fund of the state.

22 (t) “Special purpose trust” means a trust, partnership, limited  
 23 partnership, association, corporation, nonprofit corporation, or  
 24 other entity authorized under the laws of the state to serve as an  
 25 instrumentality of the state to accomplish public purposes and  
 26 authorized by the bank to acquire, by purchase or otherwise, for  
 27 retention or sale, the bonds of a sponsor or of the bank made or  
 28 entered into pursuant to this division and to issue special purpose  
 29 trust bonds or other obligations secured by these bonds or other  
 30 sources of public or private revenues. Special purpose trust also  
 31 means any entity authorized by the bank to acquire transition  
 32 property or to issue rate reduction bonds, or both, subject to the  
 33 approvals by the bank and powers of the bank as are provided by  
 34 the bank in its resolution authorizing the entity to issue rate  
 35 reduction bonds.

36 (u) “Sponsor” means any subdivision of the state or local  
 37 government including departments, agencies, commissions, cities,  
 38 counties, nonprofit corporations formed on behalf of a sponsor,  
 39 special districts, assessment districts, and joint powers authorities  
 40 within the state or any combination of these subdivisions that

1 makes an application to the bank for financial assistance in  
2 connection with a project in a manner prescribed by the bank. This  
3 definition shall not be construed to require that an applicant have  
4 an ownership interest in the project. In addition, an electrical  
5 corporation shall be deemed to be the sponsor as well as the  
6 participating party for any project relating to the financing of  
7 transition costs and the acquisition of transition property on the  
8 request of the electrical corporation and any person, company,  
9 corporation, partnership, firm, or other entity or group engaged in  
10 business or operation within the state that applies for financing of  
11 any economic development facility, shall be deemed to be the  
12 sponsor as well as the participating party for the project relating  
13 to the financing of that economic development facility.

14 (v) “State” means the State of California.

15 (w) “Transition costs” has the meaning set forth in Section 840  
16 of the Public Utilities Code.

17 (x) “Transition property” has the meaning set forth in Section  
18 840 of the Public Utilities Code.

19 SEC. 4. Section 63025.1 of the Government Code is amended  
20 to read:

21 63025.1. The bank board may do or delegate the following to  
22 the executive director:

23 (a) Sue and be sued in its own name.

24 (b) As provided in Chapter 5 (commencing with Section 63070),  
25 issue bonds and authorize special purpose trusts to issue bonds,  
26 including, at the option of the board, bonds bearing interest that  
27 is taxable for the purpose of federal income taxation, or borrow  
28 money to pay all or any part of the cost of any project, or to  
29 otherwise carry out the purposes of this division.

30 (c) Engage the services of private consultants to render  
31 professional and technical assistance and advice in carrying out  
32 the purposes of this division.

33 (d) Employ attorneys, financial consultants, and other advisers  
34 as may, in the bank’s judgment, be necessary in connection with  
35 the issuance and sale, or authorization of special purpose trusts for  
36 the issuance and sale, of any bonds, notwithstanding Sections  
37 11042 and 11043.

38 (e) Contract for engineering, architectural, accounting, or other  
39 services of appropriate state agencies as may, in its judgment, be  
40 necessary for the successful development of a project.

1 (f) Pay the reasonable costs of consulting engineers, architects,  
2 accountants, and construction, land use, recreation, and  
3 environmental experts employed by any sponsor or participating  
4 party if, in the bank's judgment, those services are necessary for  
5 the successful development of a project.

6 (g) Acquire, take title to, and sell by installment sale or  
7 otherwise, lands, structures, real or personal property, rights,  
8 rights-of-way, franchises, easements, and other interests in lands  
9 that are located within the state, or transition property as the bank  
10 may deem necessary or convenient for the financing of the project,  
11 upon terms and conditions that it considers to be reasonable.

12 (h) Receive and accept from any ~~source~~ *source*, including, but  
13 not limited to, the federal government, the state, or any agency  
14 thereof, loans, contributions, or grants, in money, property, labor,  
15 or other things of value, for, or in aid of, a project, or any portion  
16 thereof.

17 (i) Make loans to any sponsor or participating party, either  
18 directly or by making a loan to a lending institution, in connection  
19 with the financing of a project in accordance with an agreement  
20 between the bank and the sponsor or a participating party, either  
21 as a sole lender or in participation with other lenders. However,  
22 no loan shall exceed the total cost of the project as determined by  
23 the sponsor or the participating party and approved by the bank.

24 (j) Make loans to any sponsor or participating party, either  
25 directly or by making a loan to a lending institution, in accordance  
26 with an agreement between the bank and the sponsor or  
27 participating party to refinance indebtedness incurred by the  
28 sponsor or participating party in connection with projects  
29 undertaken and completed prior to any agreement with the bank  
30 or expectation that the bank would provide financing, either as a  
31 sole lender or in participation with other lenders.

32 (k) Mortgage all or any portion of the bank's interest in a project  
33 and the property on which any project is located, whether owned  
34 or thereafter acquired, including the granting of a security interest  
35 in any property, tangible or intangible.

36 (l) Assign or pledge all or any portion of the bank's interests in  
37 transition property and the revenues therefrom, or assets, things  
38 of value, mortgages, deeds of trust, bonds, bond purchase  
39 agreements, loan agreements, indentures of mortgage or trust, or  
40 similar instruments, notes, and security interests in property,

1 tangible or intangible and the revenues therefrom, of a sponsor or  
2 a participating party to which the bank has made loans, and the  
3 revenues therefrom, including payment or income from any interest  
4 owned or held by the bank, for the benefit of the holders of bonds.

5 (m) Make, receive, or serve as a conduit for the making of, or  
6 otherwise provide for, grants, contributions, guarantees, insurance,  
7 credit enhancements or liquidity facilities, or other financial  
8 enhancements to a sponsor or a participating party as financial  
9 assistance for a project.

10 (n) Lease the project being financed to a sponsor or a  
11 participating party, upon terms and conditions that the bank deems  
12 proper but shall not be leased at a loss; charge and collect rents  
13 therefor; terminate any lease upon the failure of the lessee to  
14 comply with any of the obligations thereof; include in any lease,  
15 if desired, provisions that the lessee shall have options to renew  
16 the lease for a period or periods, and at rents determined by the  
17 bank; purchase any or all of the project; or, upon payment of all  
18 the indebtedness incurred by the bank for the financing of the  
19 project, the bank may convey any or all of the project to the lessee  
20 or lessees.

21 (o) Charge and equitably apportion among sponsors and  
22 participating parties the bank's administrative costs and expenses  
23 incurred in the exercise of the powers and duties conferred by this  
24 division.

25 (p) Issue, obtain, or aid in obtaining, from any department or  
26 agency of the United States, from other agencies of the state, or  
27 from any private company, any insurance or guarantee to, or for,  
28 the payment or repayment of interest or principal, or both, or any  
29 part thereof, on any loan, lease, or obligation or any instrument  
30 evidencing or securing the same, made or entered into pursuant to  
31 this division.

32 (q) Notwithstanding any other provision of this division, enter  
33 into any agreement, contract, or any other instrument with respect  
34 to any insurance or guarantee; accept payment in the manner and  
35 form as provided therein in the event of default by a sponsor or a  
36 participating party; and issue or assign any insurance or guarantee  
37 as security for the bank's bonds.

38 (r) Enter into any agreement or contract, execute any instrument,  
39 and perform any act or thing necessary or convenient to, directly  
40 or indirectly, secure the bank's bonds, the bonds issued by a special

1 purpose trust, or a sponsor's obligations to the bank or to a special  
2 purpose trust, including, but not limited to, bonds of a sponsor  
3 purchased by the bank or a special purpose trust for retention or  
4 sale, with funds or moneys that are legally available and that are  
5 due or payable to the sponsor by reason of any grant, allocation,  
6 apportionment or appropriation of the state or agencies thereof, to  
7 the extent that the Controller shall be the custodian at any time of  
8 these funds or moneys, or with funds or moneys that are or will  
9 be legally available to the sponsor, the bank, or the state or any  
10 agencies thereof by reason of any grant, allocation, apportionment,  
11 or appropriation of the federal government or agencies thereof;  
12 and in the event of written notice that the sponsor has not paid or  
13 is in default on its obligations to the bank or a special purpose  
14 trust, direct the Controller to withhold payment of those funds or  
15 moneys from the sponsor over which it is or will be custodian and  
16 to pay the same to the bank or special purpose trust or their  
17 assignee, or direct the state or any agencies thereof to which any  
18 grant, allocation, apportionment or appropriation of the federal  
19 government or agencies thereof is or will be legally available to  
20 pay the same upon receipt by the bank or special purpose trust or  
21 their assignee, until the default has been cured and the amounts  
22 then due and unpaid have been paid to the bank or special purpose  
23 trust or their assignee, or until arrangements satisfactory to the  
24 bank or special purpose trust have been made to cure the default.

25 (s) Enter into any agreement or contract, execute any instrument,  
26 and perform any act or thing necessary, convenient, or appropriate  
27 to carry out any power expressly given to the bank by this division,  
28 including, but not limited to, agreements for the sale of all or any  
29 part, including principal, interest, redemption rights or any other  
30 rights or obligations, of bonds of the bank or of a special purpose  
31 trust, liquidity agreements, contracts commonly known as interest  
32 rate swap agreements, forward payment conversion agreements,  
33 futures or contracts providing for payments based on levels of, or  
34 changes in, interest rates or currency exchange rates, or contracts  
35 to exchange ~~cash-flows~~ *cashflows* or a series of payments, or  
36 contracts, including options, puts or calls to hedge payments, rate,  
37 spread, currency exchange, or similar exposure, or any other  
38 financial instrument commonly known as a structured financial  
39 product.

1 (t) Purchase, with the proceeds of the bank's bonds, transition  
2 property or bonds issued by, or for the benefit of, any sponsor in  
3 connection with a project, pursuant to a bond purchase agreement  
4 or otherwise. Bonds or transition property purchased pursuant to  
5 this division may be held by the bank, pledged or assigned by the  
6 bank, or sold to public or private purchasers at public or negotiated  
7 sale, in whole or in part, separately or together with other bonds  
8 issued by the bank, and notwithstanding any other provision of  
9 law, may be bought by the bank at private sale.

10 (u) (1) Enter into purchase and sale agreements with all  
11 entities, public and private, including state and local government  
12 pension funds, with respect to the sale or purchase of bonds or  
13 transition property.

14 (2) *Enter into development and financing agreements for*  
15 *projects within the border region, as prescribed in Article 5.5*  
16 *(commencing with Section 63047.1).*

17 (v) Invest any moneys held in reserve or sinking funds, or any  
18 moneys not required for immediate use or disbursement, in  
19 obligations that are authorized by law for the investment of trust  
20 funds in the custody of the Treasurer.

21 (w) Authorize a special purpose trust or trusts to purchase or  
22 retain, with the proceeds of the bonds of a special purpose trust,  
23 transition property or bonds issued by, or for the benefit of, any  
24 sponsor in connection with a project or issued by the bank or a  
25 special purpose trust, pursuant to a bond purchase agreement or  
26 otherwise. Bonds or transition property purchased pursuant to this  
27 title may be held by a special purpose entity, pledged or assigned  
28 by a special purpose entity, or sold to public or private purchasers  
29 at public or negotiated sale, in whole or in part, with or without  
30 structuring, subordination or credit enhancement, separately or  
31 together with other bonds issued by a special purpose trust, and  
32 notwithstanding any other provision of law, may be bought by the  
33 bank or by a special purpose trust at private sale.

34 (x) Approve the issuance of any bonds, notes, or other evidences  
35 of indebtedness by the Rural Economic Development Infrastructure  
36 Panel, established pursuant to Section 15373.7.

37 (y) Approve the issuance of rate reduction bonds by an entity  
38 other than the bank or a special purpose trust to acquire transition  
39 property upon approval of the transaction in a financing order by  
40 the Public Utilities Commission, as provided in Article 5.5

1 (commencing with Section 840) of Chapter 4 of Part 1 of Division  
2 1 of the Public Utilities Code.

3 (z) Apply for and accept subventions, grants, loans, advances,  
4 and contributions from any source of money, property, labor, or  
5 other things of value. The sources may include bond proceeds,  
6 dedicated taxes, state appropriations, federal appropriations, federal  
7 grant and loan funds, public and private sector retirement system  
8 funds, and proceeds of loans from the Pooled Money Investment  
9 Account.

10 (aa) Do all things necessary and convenient to carry out its  
11 purposes and exercise its powers, provided, however, that nothing  
12 herein shall be construed to authorize the bank to engage directly  
13 in the business of a manufacturing, industrial, real estate  
14 development, or nongovernmental service enterprise. Further, the  
15 bank shall not be organized to accept deposits of money for time  
16 or demand deposits or to constitute a bank or trust company.

17 SEC. 5. Section 63045 of the Government Code is amended  
18 to read:

19 63045. In order to provide or arrange for the financing of  
20 economic development facilities, the bank may:

21 (a) Issue taxable revenue bonds pursuant to Chapter 5  
22 (commencing with Section 63070) to provide financing for  
23 economic development projects compatible with the public interest  
24 as specified in Section 63046.

25 (b) Issue taxable revenue bonds pursuant to Chapter 5  
26 (commencing with Section 63070) to provide financing for the  
27 revolving loan funds and economic development projects of small  
28 business development corporations, local economic development  
29 corporations, community development corporations, *community*  
30 *development financial institutions*, and nonprofit organizations,  
31 which revolving loan funds and economic development projects  
32 shall be compatible with the public interest.

33 (c) Issue tax-exempt revenue bonds pursuant to Chapter 5  
34 (commencing with Section 63070) to provide financing for  
35 economic development facilities as permitted by federal law and  
36 in accordance with applicable California law relating to the  
37 distribution of state allocations for private activity bonds. Projects  
38 so financed shall be compatible with the public interest as specified  
39 in Section 63046.

1 (d) Issue tax-exempt revenue bonds pursuant to Chapter 5  
2 (commencing with Section 63070) for economic development  
3 facilities of public sector and nonprofit organizations qualifying  
4 for exemption under federal law.

5 SEC. 6. Article 5.5 (commencing with Section 63047.1) is  
6 added to Chapter 2 of Division 1 of Title 6.7 of the Government  
7 Code, to read:

8  
9 Article 5.5. Binational Financing Authority

10  
11 63047.1. The bank is hereby authorized to establish and  
12 participate in a binational financing authority for the purpose of  
13 facilitating and supporting the economic development of  
14 communities within both sides of the border region, thereby  
15 advancing job opportunities for the economic well-being of the  
16 people of California. Other participants in the authority may  
17 include, but are not limited to, cities, counties, and other local  
18 government entities within the Imperial Valley, San Diego County,  
19 the Coachella Valley, the North American Development Bank,  
20 and governmental entities within the border region of Mexico.

21 63047.2. (a) The bank may enter into an agreement with any  
22 federal, state, local, or foreign economic and infrastructure  
23 authority for the purpose of developing projects that include, but  
24 are not limited to, predevelopment, economic development, and  
25 goods movement-related infrastructure that benefit communities  
26 within the border region. The bank's purpose is to serve a role that  
27 is similar to the North American Development Bank.

28 (b) All projects funded pursuant to this article shall be consistent  
29 with and included within an economic development plan that has  
30 been jointly developed with participation from government,  
31 business, and other stakeholders from the State of California and  
32 the States of Baja and Sonora, Mexico. Participation by federal  
33 representatives is encouraged but not required. The purpose of the  
34 plan shall be to identify synergistic opportunities to address existing  
35 problems and to meet the future needs of border crossings along  
36 the California and Mexico border in order to support trade and  
37 tourism.

38 (c) The bank shall develop guidelines for the selection, review,  
39 and approval of projects within the border region.

1 (d) The bank shall report on its activities under this article as  
2 part of its report pursuant to Section 63035.

3 (e) The bank shall have all of the powers that it has under  
4 Section 63025.1 to implement this article, including, but not limited  
5 to, the authority to receive and accept from any public or private  
6 source, loans, contributions, or grants, in money, property, labor,  
7 or other things of value, for, or in aid of, a project, or any portion  
8 thereof.

9 (f) Bank funds under this article shall not be used to finance the  
10 construction of a project outside of California unless those moneys  
11 have come from a source other than the bank, including, but not  
12 limited to, the North American Development Bank, the  
13 Export-Import Bank of the United States, or the United States  
14 Department of State.

15 (g) Funds from the state General Fund shall not be used to  
16 finance the activities authorized by this article.

17 63047.3. (a) The bank may issue taxable or tax-exempt revenue  
18 bonds pursuant to Chapter 5 (commencing with Section 63070)  
19 and deposit the proceeds from the bonds into the Binational  
20 Development Account, which is hereby created, within the  
21 California Infrastructure and Economic Development Bank Fund,  
22 established pursuant to Section 63050. The bank may use the  
23 proceeds to refund bonds previously issued under this article. Bond  
24 proceeds may also be used to fund necessary reserves, capitalized  
25 interest, or costs of issuance.

26 (b) Except as may be provided in the governing documents with  
27 respect to bond anticipation notes, each of the bonds issued under  
28 this article shall, to the extent provided in the governing documents,  
29 be payable from, and secured by, all or a portion of the revenues  
30 in the account and the assets of the fund, to the extent the revenues  
31 and assets are pledged by the board for those purposes.

32 (c) Bonds issued under this article shall not be deemed to  
33 constitute a debt or liability of the state or of any political  
34 subdivision thereof, other than the bank, or a pledge of the faith  
35 and credit of the state or of any political subdivision, but shall be  
36 payable solely from the revolving fund and the assets of the  
37 revolving fund, and the security provided by the revolving fund.  
38 All bonds issued under this article shall contain on the face of the  
39 bonds a statement to the same effect.

1 63047.4. Sections 63047.1, 63047.2, and 63047.3 shall become  
2 operative only if the executive director determines that there are  
3 sufficient funds available to implement this article and submits a  
4 letter to that effect to the Legislature.

5 SEC. 7. Section 63084 of the Government Code is amended  
6 to read:

7 63084. (a) Any issue of revenue bonds by the bank may be  
8 secured and made more attractive to capital markets through  
9 financial instruments, including, but not limited to:

10 (1) Deeds of trust on the resources, facilities, and revenues of  
11 the projects.

12 (2) Credit enhancements, including, but not limited to, letters  
13 of credit, bond insurance, and surety bonds provided by private  
14 financial institutions.

15 (3) Insurance and guarantees provided by the bank itself.

16 (b) The bank may make loans to help establish and support the  
17 revolving loan funds of small business development corporations,  
18 economic development corporations, community development  
19 corporations, and nonprofit corporations. The loans may be made  
20 from any appropriate account or subaccount of the California  
21 Infrastructure and Economic Development Bank Fund and as  
22 determined by the bank. *Loans may be made to a joint powers  
23 authority and any binational development authority undertaking  
24 economic and infrastructure development work within the border  
25 region to the extent that at least one of the participants in the  
26 authority is a nonprofit entity in good standing in California.*