

**Senate Bill No. 1184**

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Passed the Senate      February 13, 1998

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*Secretary of the Senate*

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Passed the Assembly      September 8, 1997

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_ day  
of \_\_\_\_\_, 1998, at \_\_\_\_ o'clock \_\_M.

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*Private Secretary of the Governor*

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## CHAPTER \_\_\_\_

An act to amend Sections 63000, 63010, 63021, 63025.1, 63026, 63055, and 63071 of, to amend and renumber Sections 63042 and 63048 of, to amend and renumber the headings of Article 4 (commencing with Section 63042) and Article 6 (commencing with Section 63048) of Chapter 2 of Division 1 of Title 6.7 of, to add Sections 63027, 63028, 63040, 63084, 63085, 63086, and 63087 to, to repeal Section 63001 of, to repeal Article 3 (commencing with Section 63040) of Chapter 2 of Division 1 of Title 6.7 of, to repeal the heading of Article 1 (commencing with Section 63050) of Chapter 3 of Division 1 of Title 6.7 of, to repeal Part 10.2 (commencing with Section 15710) of Division 3 of Title 2 of, and to repeal and add Article 5 (commencing with Section 63043) of Chapter 2 of Division 1 of Title 6.7 of, the Government Code, relating to state infrastructure.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1184, M. Thompson. California Infrastructure and Economic Development Bank.

(1) Under the Bergeson-Peace Infrastructure and Economic Development Bank Act, the California Infrastructure and Economic Development Bank is established within state government with a board of directors having specified duties. The act authorizes the bank to make secured loans and undertake related activities for the purpose of financing projects, as defined, that relate to infrastructure improvements.

The bill would define “economic development facilities” and “public development facilities,” and revise the definition of “sponsor” and “project,” for the purposes of the act. This bill would specify that the bank is within the Trade and Commerce Agency.

This bill would revise the authority of the bank board of directors with regard to the duties it may perform or delegate to the executive director. This bill would also revise the authority of the bank to perform various



functions, including, among other things, providing insurance or reinsurance of loans or their debt service, providing financing for public development facilities, as defined, and issuing revenue bonds. This bill would also require the legislative body of the sponsor applying for financing to make specified findings prior to submitting a project for bank consideration.

(2) Existing law establishes the California Economic Development and Financing Authority within the Trade and Commerce Agency to perform various activities in providing or arranging for the financing of specified economic development projects.

This bill would repeal the California Economic Development and Financing Authority, but would require the bank to assume and perform all the responsibilities of that authority.

(3) This bill would incorporate additional changes in Sections 63010 and 63025.1 of the Government Code, proposed by SB 477, to be operative only if SB 477 and this bill are both chaptered and become effective on or before January 1, 1998, and this bill is chaptered last. The bill would include in amendments to Sections 63010 and 63025.1 of the Government Code changes that were made to those sections by Chapter 275 of the Statutes of 1997.

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

SECTION 1. Part 10.2 (commencing with Section 15710) of Division 3 of Title 2 of the Government Code is repealed.

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

63000. The Legislature finds and declares the following:

(a) Economic revitalization, future development, and a healthy climate for jobs in California will depend upon a well-conceived system of public improvements that are essential to the economic well-being of the citizens of the state and are necessary to maintain, as well as create, employment within the state for business.



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

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

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

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

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

- (1) Health care technology.
- (2) Multimedia.
- (3) Environmental technology.
- (4) Information technology.

(g) The high cost and limited availability of loans and capital has led a number of states to take action to remedy these conditions through concerted public and private



investment programs that include efforts to do the following:

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

(2) Create financing pools to access national capital markets or help government sponsors and public-private economic development organizations obtain credit enhancement on their own.

(3) Facilitate credit enhancement for selected specific projects.

(4) Provide or arrange for loan insurance.

(5) Create and support secondary markets for loan portfolios of urban and rural economic development corporations and others.

(6) Improve access to international capital markets.

(7) Provide opportunities for public pension funds and other institutional investors to play a larger role in state economic development.

(8) Arrange for or provide subordinated debt for selected projects.

(9) Increase support for local infrastructure development.

(h) Local governments in California bear a primary responsibility for the business of promoting job creation and economic development efforts. California's continued reliance on autonomous local entities often fails to adequately consider regional impacts of business expansion. Projects of a regional nature need the benefit of a state coordinating function to augment and enhance local economic development and environmental efforts.

(i) The State of California has not embarked on a major infrastructure financing effort since the decade of the 1960's, despite persistent unemployment and soaring population growth.

(j) California's ability to compete in a global economy depends upon its capacity to implement policies that take maximum advantage of public and private resources at the local, regional, state, and national levels. These policies should be coordinated with any future legislative plan involving growth management strategies designed



to make economic growth compatible with environmental protections. It is the intent of the Legislature in enacting this act to create a mechanism to finance projects needed to implement economic development and job creation and growth management strategies, and to provide a secure and stable funding source for implementation of this act in order to meet critical economic, social, and environmental concerns.

(k) The State of California needs a financing entity structured with broad authority to issue bonds, provide guarantees, and leverage state and federal funds using techniques that will target public investment to facilitate economic development. The goal is to produce more private sector jobs with less public sector investment.

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

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

SEC. 3. Section 63001 of the Government Code is repealed.

SEC. 4. Section 63010 of the Government Code is amended to read:

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

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

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

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



(d) “Bond purchase agreement” means a contractual agreement executed between the bank and a sponsor, or a special purpose trust authorized by the bank or a sponsor, or both, whereby the bank or special purpose trust authorized by the bank agrees to purchase bonds of the sponsor for retention or sale.

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

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

(g) “Economic development facilities” means real and personal property, structures, buildings, equipment,



and supporting components thereof that are used to provide industrial, recreational, research, commercial, utility, or service enterprise facilities, community, educational, cultural, or social welfare facilities and any parts or combinations thereof, and all facilities or infrastructure necessary or desirable in connection therewith, including provision for working capital, but shall not include any housing.

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

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

(j) “Financial assistance” in connection with a project, includes, but is not limited to, any combination of grants, loans, the proceeds of bonds issued by the bank or special purpose trust, insurance, guarantees or other credit enhancements or liquidity facilities, and contributions of money, property, labor, or other things of value, as may be approved by resolution of the board or the sponsor, or both; the purchase or retention of bank bonds, the bonds of a sponsor for their retention or for sale by the bank, or the issuance of bank bonds or the bonds of a special purpose trust used to fund the cost of a project for which a sponsor is directly or indirectly liable, including, but not limited to, bonds, the security for which is provided in whole or in part pursuant to the powers granted by Section 63025; bonds for which the bank has provided a guarantee or enhancement, including, but not limited to, the purchase of the subordinated bonds of the sponsor, the subordinated bonds of a special purpose trust, or the retention of the subordinated bonds of the bank pursuant to Chapter 4 (commencing with Section 63060); or any other type of assistance deemed appropriate by the bank or the sponsor, except that no direct loans shall be made to nonpublic entities other than in connection with the issuance of rate reduction bonds pursuant to a financing order or in connection with a financing for an economic development facility.



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

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

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

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

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

(o) “Participating party” means any person, company, corporation, partnership, firm, or other entity or group of entities, whether organized for profit or not for profit, engaged in business or operations within the state and that applies for financing from the bank in conjunction with a sponsor for the purpose of implementing a project. However, in the case of a project relating to the financing of transition costs or the acquisition of transition property, or both, on the request of an electrical corporation, or in connection with a financing for an economic development facility, the participating party shall be deemed to be the same entity as the sponsor for the financing.

(p) “Project” means designing, acquiring, planning, permitting, entitling, constructing, improving, extending, restoring, financing, and generally developing public development facilities or economic development facilities within the state or financing transition costs or the acquisition of transition property, or both, upon approval of a financing order by the Public Utilities Commission, as provided in Article 5.5 (commencing with Section 840) of Chapter 4 of Part 1 of Division 1 of the Public Utilities Code.



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

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

(A) An existing municipal roadway.

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

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

(3) “Drainage and flood control” including ditches, canals, levees, pumps, dams, conduits, pipes, storm sewers, and dikes necessary to keep or direct water away from people, equipment, buildings, and other protected areas as may be established by lawful authority, as well as the acquisition, improvement, maintenance, and management of floodplain areas and all equipment used in the maintenance and operation of the foregoing.

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

(5) “Environmental mitigation measures” including required construction or modification of public



infrastructure and purchase and installation of pollution control and noise abatement equipment.

(6) “Parks and recreational facilities” including local parks, recreational property and equipment, parkways and property.

(7) “Port facilities” including docks, harbors, ports of entry, piers, ships, small boat harbors and marinas, and any other facilities, additions, or improvements in connection therewith.

(8) “Communications” including facilities for telephone and telecommunications service.

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

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

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

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



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

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

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

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

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

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



(u) “Sponsor” means any subdivision of the state or local government including departments, agencies, commissions, cities, counties, nonprofit corporations formed on behalf of a sponsor, special districts, assessment districts, and joint powers authorities within the state or any combination of these subdivisions that has, or proposes to acquire, an interest in a project and that makes application to the bank for financial assistance in connection with a project in a manner prescribed by the bank. In addition, an electrical corporation shall be deemed to be the sponsor as well as the participating party for any project relating to the financing of transition costs and the acquisition of transition property on the request of the electrical corporation and any person, company, corporation, partnership, firm, or other entity or group engaged in business or operation within the state that applies for financing of any economic development facility, shall be deemed to be the sponsor as well as the participating party for the project relating to the financing of that economic development facility.

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

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

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

SEC. 5. Section 63021 of the Government Code is amended to read:

63021. (a) There is within the Trade and Commerce Agency the Infrastructure and Economic Development Bank which shall be responsible for administering this division.

(b) The bank shall be under the direction of an executive director appointed by the Governor, and who shall serve at the pleasure of the Governor. The appointment shall be subject to confirmation by the Senate.

SEC. 6. Section 63025.1 of the Government Code is amended to read:

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



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

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

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

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

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

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

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

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

(i) Make loans to any sponsor or participating party, either directly or by making a loan to a lending



institution, in connection with the financing of a project in accordance with an agreement between the bank and the sponsor or a participating party, either as a sole lender or in participation with other lenders. However, no loan shall exceed the total cost of the project as determined by the sponsor or the participating party and approved by the bank.

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

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

(l) Assign or pledge all or any portion of the bank's interests in transition property and the revenues therefrom, or assets, things of value, mortgages, deeds of trust, bonds, bond purchase agreements, loan agreements, indentures of mortgage or trust, or similar instruments, notes, and security interests in property, tangible or intangible and the revenues therefrom, of a sponsor or a participating party to which the bank has made loans, and the revenues therefrom, including payment or income from any interest owned or held by the bank, for the benefit of the holders of bonds.

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

(n) Lease the project being financed to a sponsor or a participating party, upon terms and conditions that the



bank deems proper but shall not be leased at a loss; charge and collect rents therefor; terminate any lease upon the failure of the lessee to comply with any of the obligations thereof; include in any lease, if desired, provisions that the lessee shall have options to renew the lease for a period or periods, and at rents determined by the bank; purchase any or all of the project; or, upon payment of all the indebtedness incurred by the bank for the financing of the project, the bank may convey any or all of the project to the lessee or lessees.

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

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

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

(r) Enter into any agreement or contract, execute any instrument, and perform any act or thing necessary or convenient to, directly or indirectly, secure the bank's bonds, the bonds issued by a special purpose trust, or a sponsor's obligations to the bank or to a special purpose trust, including, but not limited to, bonds of a sponsor purchased by the bank or a special purpose trust for retention or sale, with funds or moneys that are legally available and that are due or payable to the sponsor by reason of any grant, allocation, apportionment or appropriation of the state or agencies thereof, to the



extent that the Controller shall be the custodian at any time of these funds or moneys, or with funds or moneys that are or will be legally available to the sponsor, the bank, or the state or any agencies thereof by reason of any grant, allocation, apportionment, or appropriation of the federal government or agencies thereof; and in the event of written notice that the sponsor has not paid or is in default on its obligations to the bank or a special purpose trust, direct the Controller to withhold payment of those funds or moneys from the sponsor over which it is or will be custodian and to pay the same to the bank or special purpose trust or their assignee, or direct the state or any agencies thereof to which any grant, allocation, apportionment or appropriation of the federal government or agencies thereof is or will be legally available to pay the same upon receipt by the bank or special purpose trust or their assignee, until the default has been cured and the amounts then due and unpaid have been paid to the bank or special purpose trust or their assignee, or until arrangements satisfactory to the bank or special purpose trust have been made to cure the default.

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



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

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

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

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

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



(y) Approve the issuance of rate reduction bonds by an entity other than the bank or a special purpose trust to acquire transition property upon approval of the transaction in a financing order by the Public Utilities Commission, as provided in Article 5.5 (commencing with Section 840) of Chapter 4 of Part 1 of Division 1 of the Public Utilities Code.

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

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

SEC. 7. Section 63026 of the Government Code is amended to read:

63026. The fiscal powers granted to the bank by this part may be exercised without regard or reference to any other department, division, or agency of the state, except the Legislature. This division shall be deemed to provide an alternative method of doing the things authorized by this division, and shall be regarded as supplemental and additional to powers conferred by other laws.

SEC. 8. Section 63027 is added to the Government Code, to read:

63027. (a) The bank may provide insurance or reinsurance of loans or portions thereof, or their debt service, including amounts payable as premiums of penalties in the event of mandatory or optional prepayment, made to finance a project, and to provide



insurance or reinsurance or reserves, or portions thereof, or the yield therefrom, established to secure bonds issued to fund those loans or reserves.

(b) The bank may enter into or arrange agreements for insurance or reinsurance with users, mortgagors, lending institutions, insurers, and others, the bank being authorized to reinsure or cede risks to the insurers in any amounts as the bank may determine and the insurers, if otherwise authorized to reinsure or insure those risks in California, being hereby authorized to reinsure the bank or cede risks to the bank to the same extent as if the bank were a company authorized to reinsure or insure those risks.

(c) The bank may fix a rate or rates of premium for insurance or reinsurance, which need not be uniform, and may reflect any risks and classifications of risk as the bank determines to be reasonable.

(d) The bank may exercise those other powers as are necessary or incidental to insurance, reinsurance, and related matters.

(e) The bank shall make reasonable provisions for the security of loans made by the bank, and any insurance, reinsurance, and other financing arrangements negotiated by the bank.

(f) The insurance or reinsurance provided for by the bank shall not constitute a debt or pledge of the faith and credit of the state or any subdivision of the state.

SEC. 9. Section 63028 is added to the Government Code, to read:

63028. The bank assumes and shall observe, keep, and perform all of the responsibilities, liabilities, and obligations of the former California Economic Development Financing Authority established under Part 10.2 (commencing with Section 15710) of Division 2 of Title 2, as it read prior to the effective date of this section, and the assumption of the responsibilities, liabilities, and obligations of the former California Economic Development Financing Authority shall occur without any execution or filing of any paper or any further act. Any reference in any law, contract, bond,



indenture, or other document to the former California Economic Development Financing Authority shall be deemed, hereafter, to mean the bank.

SEC. 10. Article 3 (commencing with Section 63040) of Chapter 2 of Division 1 of Title 6.7 of the Government Code is repealed.

SEC. 11. Section 63040 is added to the Government Code, to read:

63040. (a) Following consultation with appropriate state and local agencies, the bank shall establish criteria, priorities, and guidelines for the selection of projects to receive assistance from the bank. Projects shall comply with the criteria, priorities, and guidelines adopted by the bank.

(b) The criteria, priorities, and guidelines shall, at a minimum, be based upon the following:

(1) The State Environmental Goals and Policy Report, or its successor, approved pursuant to Article 5 (commencing with Section 65041) of Chapter 1.5 of Division 1 of Title 7.

(2) If the sponsor is a state agency, board, commission, or department, the Capital and Infrastructure Project Planning Report, prepared by the Director of Finance pursuant to Article 2 (commencing with Section 13100) of Chapter 2 of Part 3 of Division 3 of Title 2.

(c) The resolution required in Section 63041 shall have been adopted prior to the project's selection by the bank.

SEC. 12. The heading of Article 4 (commencing with Section 63042) of Chapter 2 of Division 1 of Title 6.7 of the Government Code is amended and renumbered to read:

Article 3. Local Resolution Applying for Bank  
Financing

SEC. 13. Section 63042 of the Government Code is amended and renumbered to read:

63041. (a) Prior to submitting a project to the bank for consideration, the legislative body or bodies of the sponsor or sponsors of the project shall find, by resolution, each of the following:



(1) The project is consistent with the general plan of both the city and county, or city and county in the case of San Francisco, or only the county for projects in unincorporated areas, in which the project is located.

(2) The proposed financing is appropriate for the specific project.

(3) The project facilitates effective and efficient use of existing and future public resources so as to promote both economic development and conservation of natural resources. The project develops and enhances public infrastructure in a manner that will attract, create, and sustain long-term employment opportunities.

(b) Upon the adoption of the resolution in subdivision (a) by the legislative body, the legislative body shall transmit the resolution to the executive director of the infrastructure bank.

SEC. 14. Article 5 (commencing with Section 63043) of Chapter 2 of Division 1 of Title 6.7 of the Government Code is repealed.

SEC. 15. Article 5 (commencing with Section 63043) is added to Chapter 2 of Division 1 of Title 6.7 of the Government Code, to read:

#### Article 5. Financing Public Development Facilities

63043. Notwithstanding any other provision of this division, Article 3 (commencing with Section 63040) and Article 4 (commencing with Section 63042), shall not apply to any conduit financing for economic development facilities by the bank directly for the benefit of a participating party.

63044. The bank shall consider a project for conduit financing for economic development facilities upon filing of an application with the bank by an appropriate participating party, on the terms and conditions the bank shall determine. The bank shall establish procedures for the expeditious review of applications for the issuance or approval of bonds to finance economic development facilities.



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

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

(b) Issue taxable revenue bonds pursuant to Chapter 5 (commencing with Section 63070) to provide financing for the revolving loan funds and economic development projects of small business development corporations, local economic development corporations, community development corporations, and nonprofit organizations, which revolving loan funds and economic development projects shall be compatible with the public interest.

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

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

63046. No financing shall be made by the bank under this article unless the bank shall have first determined that the financing or assistance meets the following public interest criteria:

(a) The financing, loan, grant, or other assistance is for a project or a use in the State of California.

(b) Those seeking funds or other assistance are capable of meeting obligations incurred under relevant agreements.

(c) In the case of loans or bonds, payments to be made under applicable financing documents are adequate to pay the current expenses of the bank in connection with the financing and to make payments on the bonds.



(d) The proposed financing is appropriate for the specific project.

63047. (a) Any loan entered into pursuant to this article may contain provisions for payment of a penalty if any recipient of funds under this article leaves this state prior to the completion of the full term of the loan.

(b) Projects that the board determines will produce long-term employment creation or retention shall receive first priority for financing.

(c) Any recipient of funds under this article that utilizes the funds for construction purposes, shall certify that the contractors are properly licensed by the Contractors' State License Board.

(d) The bank shall require that the proposed economic development facilities be consistent with any existing local or regional comprehensive plan.

(e) The bank shall develop a policy regarding financing companies that move within this state so as to minimize any displacement of jobs.

(f) In addition to any other methods the bank may use to identify economic development projects, the bank shall utilize existing local economic development networks to identify these projects and prepare a plan, in consultation with local economic development networks and their organizations and representatives, to implement this policy.

SEC. 16. The heading of Article 6 (commencing with Section 63048) of Chapter 2 of Division 1 of Title 6.7 of the Government Code is amended and renumbered to read:

#### Article 4. Financing of Transition Costs

SEC. 17. Section 63048 of the Government Code is amended and renumbered to read:

63042. Notwithstanding any other provision of this division, a project for the financing of transition costs and the acquisition of transition property upon the request of an electrical corporation shall be deemed to be in the public interest and eligible for financing by the bank, and Article 3 (commencing with Section 63040) and Article



5 (commencing with Section 63043) shall not apply to the project or financing. The bank shall consider a project for financing transition costs and the acquisition of transition property upon filing of an application by an appropriate participating party, on the terms and conditions the bank shall determine. The bank shall establish procedures for the expeditious review of applications from electrical corporations for the issuance or approval of rate reduction bonds. The review may be concurrent with the Public Utilities Commission's processing of an application for the pertinent financing order, so as to allow for the issuance of rate reduction bonds as quickly as feasible after the issuance of the pertinent financing order by the Public Utilities Commission. Notwithstanding any other provision of this division, the bank shall have no authority to alter or modify any term or condition related to the transition costs or the transition property as set forth in the pertinent financing order, and shall have no authority over any matter that is subject to the approval of the Public Utilities Commission under Article 5.5 (commencing with Section 840) of Chapter 4 of Part 1 of Division 1 of the Public Utilities Code.

SEC. 18. The heading of Article 1 (commencing with Section 63050) of Chapter 3 of Division 1 of Title 6.7 of the Government Code is repealed.

SEC. 19. Section 63055 of the Government Code is amended to read:

63055. (a) Moneys in the infrastructure bank fund received from the proceeds of bonds issued pursuant to this division may not be transferred to any other fund except as necessary to pay the expenses of operating the program authorized by this division, nor shall the bank utilize any moneys under the direction and control of the California Housing Finance Agency, including, but not limited to, moneys in the California Housing Loan Insurance Fund and the Housing Finance Fund, other than moneys in the infrastructure bank fund to satisfy liabilities arising from projects authorized by this division.

(b) The infrastructure bank fund, on behalf of the bank, may borrow or receive moneys from the bank or



from any federal, state, or local agency or private entity, in order to create reserves in the infrastructure bank fund as provided in this division and as authorized by resolution of the board.

SEC. 20. Section 63071 of the Government Code is amended to read:

63071. (a) Notwithstanding any other provision of law, but consistent with Sections 1 and 18 of Article XVI of the California Constitution, a sponsor may issue bonds for purchase by the bank pursuant to a bond purchase agreement. The bank may issue bonds or authorize a special purpose trust to issue bonds. These bonds may be issued pursuant to the charter of any city or any city and county that authorized the issuance of these bonds as a sponsor and may also be issued by any sponsor pursuant to the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Division 2 of Title 5) to pay the costs and expenses pursuant to this title, subject to the following conditions:

(1) With the prior approval of the bank, the sponsor may sell these bonds in any manner as it may determine, either by private sale or by means of competitive bid.

(2) Notwithstanding Section 54418, the bonds may be sold at a discount at any rate as the bank and sponsor shall determine.

(3) Notwithstanding Section 54402, the bonds shall bear interest at any rate and be payable at any time as the sponsor shall determine with the consent of the bank.

(b) The total amount of bonds that may be outstanding at any one time under this chapter shall not exceed five billion dollars (\$5,000,000,000), exclusive of rate reduction bonds and bonds issued by the bank pursuant to Article 5 (commencing with Section 63043) of Chapter 2 to finance economic development facilities. The total amount of rate reduction bonds that may be outstanding at any one time under this chapter shall not exceed ten billion dollars (\$10,000,000,000).

(c) Bonds for which moneys or securities have been deposited in trust, in amounts necessary to pay or redeem the principal, interest, and any redemption premium



thereon, shall be deemed not to be outstanding for purposes of this section.

SEC. 21. Section 63084 is added to the Government Code, to read:

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

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

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

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

(b) The bank may make loans to help establish and support the revolving loan funds of small business development corporations, economic development corporations, community development corporations, and nonprofit corporations. The loans may be made from any appropriate account or subaccount of the California Infrastructure and Economic Development Bank Fund and as determined by the bank.

SEC. 22. Section 63085 is added to the Government Code, to read:

63085. Whenever the bank deems that it will increase the salability or the price of the bonds to obtain, prior to or after sale, a legal opinion from private counsel as to the validity or tax-exempt nature of the bonds, the bank may obtain a legal opinion. Payment for legal services may be made out of the proceeds of the sale of the bonds.

SEC. 23. Section 63086 is added to the Government Code, to read:

63086. The bank may employ financial consultants, advisers, and accountants, as may be necessary in its judgment, in connection with the issuance and sale of any bonds of the bank. Payment for these services may be made out of the proceeds of the sale of the bonds.

SEC. 24. Section 63087 is added to the Government Code, to read:



63087. Section 10295 and Sections 10335 to 10382, inclusive, of the Public Contract Code shall not apply to agreements entered into by the bank in connection with the sale of bonds or notes authorized under this division.



Approved \_\_\_\_\_, 1998

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*Governor*

