12-0017

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RECEIVED
DEC 10 2012
INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

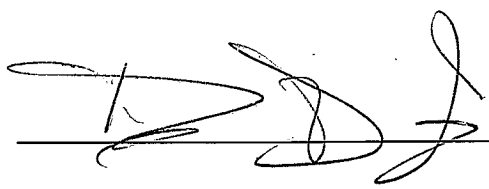
Attorney General's Initiative Coordinator
P. O. Box 944255
Sacramento, CA 94244-2550

Subject: Initiative Petition Title and Summary

Ben Davis Jr. hereby requests a Title and Summary for the attached state-wide initiative petition pursuant to California Election Code Section 9001, 9002. The measure would halt generation of nuclear power in California pending certain actions by the United States government. Two Hundred Dollars is submitted herewith.

Submitted this 10th day of December, 2012.

I declare under penalty of perjury that I am a citizen of the United States, 18 years of age or older, and a resident of Santa Cruz County, California.



Ben Davis Jr.

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

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The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

(Here set forth the title and summary prepared by the Attorney General. This title and summary must also be printed across the top of each page of the petition whereon signatures are to appear.)

TO THE HONORABLE SECRETARY OF STATE OF CALIFORNIA

Type: Roman Boldface not smaller than 12-point

We, the undersigned, registered, qualified voters of California, residents of _____ County (or City and County), hereby propose amendments to the Public Utilities Code, relating to electric service, and petition the Secretary of State to submit the same to the voters of California for their adoption or rejection at the next succeeding general election or at any special statewide election held prior to that general election or otherwise provided by law. The proposed statutory amendments (full title and text of measure) read as follows:

SECTION 1. Section 224.3 of the Public Utilities Code is amended to read:

224.3. "Local publicly owned electric utility" means a municipality or municipal corporation operating as a "public utility" furnishing electric service as provided in Section 10001, a municipal utility district furnishing electric service formed pursuant to Division 6 (commencing with Section 11501), a public utility district furnishing electric services formed pursuant to the Public Utility District Act set forth in Division 7 (commencing with Section 15501), the California Electrical Utility District formed and operating pursuant to Division 1.5 (commencing with Section 3300), an irrigation district furnishing electric services formed pursuant to the Irrigation District Law set forth in Division 11 (commencing with Section 20500) of the Water Code, or a joint powers authority that includes one or more of these agencies and that owns generation or transmission facilities, or furnishes electric services over its own or its member's electric distribution system.

SEC. 2. Division 1.5 (commencing with Section 3300) of the Public Utilities Code is repealed.

SEC. 3. Division 1.5 (commencing with Section 3300) is added to the Public Utilities Code, to read:

DIVISION 1.5. CALIFORNIA ELECTRICAL UTILITY DISTRICT ACT

CHAPTER 1. GENERAL PROVISIONS

Article 1. Title

3300. This act shall be known and may be cited as the California Electrical Utility District Act.

Article 2. Definitions and General Provisions

3301. For purposes of this division, the following terms have the following meanings:

(a) "Bundled electrical service" means the combination of generation, transmission, distribution, metering, and other components of service that are necessary to provide a reliable supply of electricity to retail end-use customers at rates that are just and reasonable.

(b) "District" means the California Electrical Utility District formed and operating pursuant to this division.

(c) "Percent of the total vote cast," when used with reference to the requirements of any petition, means the percent of the total vote cast within the district at the last statewide general election.

(d) "Voter" means any elector who is registered under the Elections Code.

3302. (a) Except as otherwise provided in this division, elections shall be held and conducted and the result ascertained, determined, and declared in all respects as nearly as practicable in conformity with the general election laws of the state.

(b) Except as otherwise provided in this division, all ordinances, summaries of ordinances, and notices that are required to be published shall be published once a week for two successive weeks (two publications) in a newspaper of general circulation

published within the district, and shall be published on an Internet Web site maintained by the district.

(c) Whenever the signature of any officer or employee of the district or of any member of the retirement board, established pursuant to Article 3 (commencing with Section 3327) of Chapter 5, or of any officer or employee of the retirement system, established pursuant to Chapter 5 (commencing with Section 3325), is authorized or required under this division, except in the single instance provided in Section 3398, the signature may be made by the use of a plate bearing facsimiles of the signatures.

3303. The district has the rights and obligations of a local publicly owned electric utility pursuant to Article 8 (commencing with Section 385) and Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1, Division 4.1 (commencing with Section 8301), Division 4.8 (commencing with Section 9500), and Division 4.9 (commencing with Section 9600).

CHAPTER 2. FORMATION OF DISTRICT

3305. (a) There is hereby created the California Electrical Utility District, which shall be responsible for providing bundled electrical service within its service territory, consistent with the provisions of this division.

(b) For those customers within its service territory that receive electric service through a community choice aggregator operating pursuant to Section 366.2, the district shall be responsible for providing transmission and distribution services.

(c) For those customers of an electrical corporation that receive electric service through a direct transaction as of December 31, 2012, the district shall be responsible for providing transmission and distribution services until the end of the term of the direct transaction contract. The governing board of the district may elect to authorize customers of the district to continue to enter into direct transactions pursuant to Division 4.9 (commencing with Section 9600). If the governing board of the district elects to authorize direct transactions, for those customers within its service territory that receive electric service through a direct transaction, the district shall be responsible for providing transmission and distribution services.

3306. (a) The service territory of the district includes the service territory of each electrical corporation that as of December 31, 2012, was serviced by the transmission system under the operational control of the Independent System Operator. The district shall succeed to the obligation of each of the described electrical corporations to provide bundled electrical service to the retail customers of each electrical corporation pursuant to this division.

(b) The service territory of the district does not include the service territory of an electrical corporation that as of December 31, 2012, was not serviced by the transmission system under the operational control of the Independent System Operator.

(c) The service territory of the district does not include the service territory of a local publicly owned electric utility that was providing bundled electrical service to retail customers as of December 31, 2012, unless that utility elects to be annexed by the district, or the local publicly owned electric utility's service territory includes territory that is also served by an electrical corporation that as of December 31, 2012,

was serviced by the transmission system under the operational control of the Independent System Operator.

(d) Nothing in this section limits the formation of a local publicly owned electric utility or the expansion of its territory pursuant to Division 5 (commencing with Section 10001), Division 6 (commencing with Section 11501), or Division 7 (commencing with Section 15501) of this code, or pursuant to Division 11 (commencing with Section 20500) of the Water Code. Upon completing the formation or expansion process, the new or expanded service territory of that local publicly owned electric utility shall be excluded from the service territory of the district.

3307. (a) Within 120 days after approval of the act adding this division, the Governor, by proclamation, shall call an election of the first board of directors of the district. Before the election for electing the first board of directors, the Secretary of State shall divide the district into 11 wards, the boundaries of which shall be drawn so that each ward shall be equal in population, as nearly as practicable. A map of the single-member wards shall be prepared using the criteria set forth in paragraphs (1) to (5), inclusive, of subdivision (d), and subdivisions (e) and (f), of Section 2 of Article XXI of the California Constitution, insofar as those provisions can be made applicable. The Secretary of State may petition the California Supreme Court for an order directing the appointment of special masters who are retired judges to prepare the map of the district containing the boundaries of each ward.

(b) Upon certification of a final map establishing the wards, the Secretary of State shall publish notice of the first election for electing the first board of directors of the district. The election of the first board of directors shall be held on the same day

as, and may be consolidated with, the first statewide general election that is more than 120 days after the Secretary of State certifies the final map that establishes the geographical boundaries of the 11 wards pursuant to this section.

(c) Any person may be nominated for the office of director upon written petition of at least 50 registered voters of the ward in which that person resides. No person may serve as director unless he or she is a resident and registered voter of the ward. Candidates for the office of director shall be voted upon by ward, and every registered voter in the ward may vote for the director to be elected from that ward. The Secretary of State shall determine, and publish notice of, the last date by which persons may file nominating papers for the office of director in order to be included on the ballot.

(d) No person shall be entitled to vote at the election for the first board of directors unless he or she is a registered voter of the territory included in the proposed district.

3308. (a) The election of the first board of directors of the district shall be conducted in accordance with all applicable procedural requirements of the Elections Code pertaining to that election. If consolidated with a statewide election, the consolidated election shall be held and conducted, and all proceedings incidental to, and connected with, the election shall be regulated and done in accordance with the provisions of law regulating the statewide election.

(b) Upon receipt of the returns of the canvass by the respective boards of supervisors, the Secretary of State shall determine the results of the election and declare the candidates elected.

(c) The Secretary of State shall issue certificates of election, signed by him or her and duly authenticated, immediately following the determination of the results of the election of the first board of directors of the district.

CHAPTER 3. INTERNAL ORGANIZATION OF THE DISTRICT

Article 1. Government

3310. The governance of the district is vested in an 11-member board of directors, one director from each ward, together with the other officers mentioned in this division. The directors shall be residents and voters of the respective wards from which they are nominated.

3311. (a) The Secretary of State shall call and convene the first meeting of the board of directors, to be held in Sacramento.

(b) The first order of business at the first meeting of the board of directors shall be the selection of a president and vice president pursuant to Section 3315. Upon the selection of a president and vice president, the president shall assume responsibility for running the first meeting of the board of directors, or in the absence of the president, the vice president shall assume responsibility for running the first meeting of the board of directors.

(c) The president, or in the absence of the president, the vice president, shall be responsible for calling and convening subsequent meetings of the board of directors consistent with the requirements of this chapter.

(d) The board shall select the headquarters of the district and those other offices of the district as are necessary or convenient to conduct the business of the district.

Article 2. Election of Directors

3312. (a) The first directors are to be elected as provided in Chapter 2 (commencing with Section 3305). All elections of directors subsequent to the first election of directors shall be held at the same time as the statewide general election in the manner provided in this article. Each director elected subsequent to the first directors shall be elected for a term of four years.

(b) The Secretary of State, subsequent to the election of the first board of directors of the district pursuant to Chapter 2 (commencing with Section 3305), shall fix the boundaries of the wards for the purpose of electing directors therefrom. After each federal decennial census, and using that census as a basis, the Secretary of State shall adjust the boundaries of the wards consistent with the factors specified in paragraphs (1) to (5), inclusive, of subdivision (d), and subdivisions (e) and (f), of Section 2 of Article XXI of the California Constitution, insofar as those provisions can be made applicable, so that the wards are equal in population, as nearly as practicable. The Secretary of State may petition the California Supreme Court for an order directing the appointment of special masters who are retired judges to prepare the map of the district containing the boundaries of each ward.

(c) The board shall give notice of election, which shall be published and no other notice of the election need be given. The notice of election shall refer to the wards established in the final map of the district certified by the Secretary of State.

(d) Not more than 113 days prior to the election, upon request, the Secretary of State shall issue nomination papers and all other forms required for nomination to the office of director. No person may serve as director unless he or she is a resident and registered voter of the ward for which he or she is nominated.

(e) Except as otherwise provided in this division, the provisions of the Elections Code prescribed for independent nominations shall substantially govern the manner of appointment of circulators, the form of nomination papers and other forms, the securing of signatures, the filing of the candidate's declaration of candidacy, and all other things necessary to get the name of the candidate upon the ballot. At the time of issuance of nomination papers, the Secretary of State shall cause to be entered on the first page of each section of the nomination papers the name of the candidate and the office for which he or she is a candidate. The Secretary of State shall imprint a stamp on the first page of each section of the nomination papers which reads "Official Filing Form," and shall affix his or her signature. The Secretary of State shall keep a list containing the name and address of each candidate, the office for which he or she is a candidate, and the date on which the nomination papers were issued, which list shall be a public record.

(f) Circulators may obtain signatures to the nomination paper of any candidate at any time not more than 113 days nor less than 88 days prior to the election. Each section of the nomination papers shall bear the name of a county and only qualified

voters of that county shall sign the section. Nomination papers shall be signed by not less than 50 registered voters from within the ward. Nomination papers shall be filed with the Secretary of State not more than 113 nor less than 88 days before the date of the election and shall be examined by the Secretary of State. If nomination papers for an incumbent director are not filed by 5 p.m. on the 88th day before the election, the voters shall have until 5 p.m. on the 83rd day before the election to nominate candidates other than the incumbent for that office. As soon as possible under the circumstances, the Secretary of State shall determine the number of valid signatures. If there are less than 50 valid signatures, the Secretary of State shall notify the candidate of that fact, and shall accept additional valid signatures at any time prior to the close of the period for circulating nomination papers. Each candidate, at least 88 days prior to the election, shall file a sufficient candidate's declaration of candidacy with the Secretary of State. The Secretary of State shall certify the names of all candidates at least 76 days prior to the date of the election so that their names may be placed upon the ballot.

(g) The Secretary of State shall establish the filing fee that a candidate for director shall pay when the candidate submits his or her nomination papers to the Secretary of State. A filing fee proportionate to the costs of processing a candidate's nomination papers, but not exceeding one thousand two hundred fifty dollars ($1,250), may be imposed, to be paid upon the filing of the nomination papers. However, in lieu of a filing fee, a candidate may submit a petition containing the signatures of registered voters pursuant to Section 8106 of the Elections Code insofar as applicable. The Secretary of State shall remit that portion of the filing fees collected to pay for the

incremental costs of county elections officials to the county elections official or to the registrar of voters. All filing fees received by the Secretary of State are nonrefundable.

(h) The board, in the ordinance or resolution calling an election, shall consolidate it with the general election to be held at the same time and authorize the Secretary of State to canvass the returns and certify the result of the canvass to the board.

(I) Candidates for the office of director shall be voted upon by ward, and every registered voter in the ward may vote for the director to be elected from that ward.

(j) Upon receipt of the returns of the canvass by the Secretary of State the board shall meet and determine results of the election and declare the candidate or candidates elected. The secretary of the district shall issue certificates of election, signed by him or her and duly authenticated, immediately following the determination of the result of the election by the board.

Article 3. Terms of Office of Directors

3313. (a) Of the directors elected at the first election for directors, those five elected by the highest vote shall hold office for four years, and the other six for two years, and until their successors are elected and qualified. Thereafter, at each biennial general election, a number of directors corresponding to the number whose terms of office expire shall be elected for the term of four years.

(b) Directors elected at the first election for directors shall enter upon their official duties immediately upon the filing of the order declaring the result of the election with the Secretary of State, after qualifying according to law. The terms of directors elected

after the first election for directors shall commence on the first day of January next following their election.

3314. Vacancies on the board shall be filled as provided in this section:

(a) The remaining board members may fill the vacancy by appointment until the next district general election that is scheduled 90 or more days after the effective date of the vacancy. The appointment shall be made within a period of 60 days immediately subsequent to the effective date of the vacancy. A notice of the vacancy shall be posted in three or more conspicuous places in the district and be prominently posted on the district's Internet Web site at least 15 days before the appointment is made. In lieu of making an appointment, the remaining members of the board may, within 60 days of the vacancy, call a special election to fill the vacancy. The person elected at a special election shall hold office for the remainder of the term in which the vacancy occurred.

(b) If the vacancy is not filled by appointment as provided in subdivision (a), or if the board has not called for an election within 60 days of the vacancy, the Governor may fill the vacancy by appointment within 90 days of the effective date of the vacancy or may order the district to call a special election to fill the vacancy.

(c) If within 90 days of the effective date of the vacancy, the remaining members of the board or the Governor have not filled the vacancy by appointment and no election has been called for, the district shall call a special election to fill the vacancy.

(d) A person elected at an election to fill a position to which an appointment was made pursuant to this section shall take office immediately upon issuance of the

certificate of election by the Secretary of State, after qualifying according to law, and shall hold office for the remainder of the term in which the vacancy occurs.

Article 4. Powers and Duties of Directors

3315. (a) The oath of office of directors shall be taken, subscribed, and filed with the secretary of the district at any time after the director has notice of his or her election or appointment but not later than 15 days after the commencement of his or her term of office. No other filing is required.

(b) The board shall choose one of its members to sit as president, another to sit as vice president, who shall be authorized to act for the president during his or her absence or disability, and shall provide for the time and place of holding its meetings, which shall be held at least once each month.

(c) The board is the legislative body of the district and determines all questions of policy.

(d) All matters and things necessary for the proper administration of the affairs of the district that are not provided for in this division shall be provided for by the board.

(e) The board shall supervise and regulate the district, including the fixing of rates, rentals, charges, and classifications, and the making and enforcement of rules, regulations, contracts, practices, and schedules, for or in connection with the provision of electric service by the district.

(f) The board shall by resolution determine and create the number and character of positions as are necessary to properly carry on the functions of the district and shall establish an appropriate salary, salary range, or wage for each position so created. The board may by resolution abolish any position. Except as otherwise provided, appointments to the positions shall be made by the general manager in accordance with the civil service provisions applicable to the district. The board may delegate to the general manager the authority to take any or all of the actions provided in this subdivision.

(g) (1) The board may determine the number of employees to be appointed to positions requiring peculiar and exceptional qualifications, including those of a scientific, professional, or expert character or of special confidence, or positions with significant managerial responsibility, that shall be exempt from the district civil service. The total number of these exempt positions shall not exceed 5 percent of the total civil service positions of the district. The board may not determine any position to be exempt as long as that position is filled by an employee appointed pursuant to the district civil service.

(2) The board may, notwithstanding any other provision of this division, appoint or remove only those officers or employees who are exempt from the district civil service and who either report directly to the board or report to another officer who reports directly to the board. All other officers and employees exempt from the district civil service shall be appointed by, and serve at the pleasure of, the general manager. The board may contract for the services of any officer who reports directly to the board or who reports to an officer who reports directly to the board and may authorize the

general manager to contract for the services of other officers and exempt employees. The term of these contracts may not exceed five years in duration.

(3) The board may from time to time contract for or employ any professional service required by the district or for the performance of work or services which cannot satisfactorily be performed under the civil service provisions of this division.

(h) The board shall employ an expert who shall examine and report, at least annually, upon the system of accounts kept by the district.

(i) The salaries or wages of all officers and employees of the district shall be paid periodically as the board may prescribe. At the expiration of the period fixed for the payment of salaries or wages a payroll shall be prepared, showing all persons employed during the preceding salary period and stating the amount of compensation to which each person is entitled. Payment of the salary or wages of each person specified in the payroll may be made after approval of the payroll by the board or the general manager in accordance with rules adopted by the board.

(j) (1) The board may provide by resolution, under those terms and conditions as it sees fit, for the payment of demands against the district without the prior specific approval of the board if the demand is for a purpose for which an expenditure has been previously approved by the board and in an amount not greater than the amount so authorized, and if the demand is approved by the general manager.

(2) The board may provide, by resolution, under those terms and conditions as it sees fit, for the payment, without prior specific approval by the board, of demands against the district that relate to obligations incurred for purposes and within the amounts specified for those purposes in a projection of the district's operations for a period of

not longer than one year, if the demands are approved by the general manager. The projection shall be expressed in terms of the major groups of accounts in the system of accounts and shall be incorporated in the resolution.

(3) To facilitate the business of the district, the board may provide for the creation and administration of revolving funds as the needs of the district may require. The board shall establish an aggregate limitation of the amount of the revolving funds. The revolving funds shall be disbursed in accordance with rules established by the board, and all payments from any revolving fund shall be reported to the board and vouchers filed therefor.

(k) (1) If a legal holiday falls on a Saturday, the board may provide by resolution that the Friday preceding is a holiday within the district for the purpose of closing its offices and excusing its employees from work.

(2) The board may provide by resolution, if necessary to implement a memorandum of understanding adopted pursuant to Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code, that the Friday following the Thursday in November appointed as Thanksgiving Day is a holiday within the district for the purpose of closing its offices and excusing its employees from work.

Article 5. Meetings and Legislation

3316. (a) A majority of the board constitutes a quorum for the transaction of business.

(b) The board may provide, by ordinance or resolution, that each director shall receive compensation in an amount not to exceed one hundred dollars ($100) per day for each day's attendance at public meetings of the board or for each day's service rendered as a director by request of the board, not exceeding a total of 10 days in any calendar month, together with any expenses incurred in the performance of his or her duties required or authorized by the board. The board may, by resolution or ordinance, increase the compensation per day by not more than 5 percent for each calendar year following the operative date of the last adjustment. No resolution or ordinance establishing compensation pursuant to this subdivision shall provide for any automatic increase in that compensation. For purposes of this section, the determination of whether a director's activities on any specific day are compensable shall be made pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code. Reimbursement for these expenses is subject to Sections 53232.2 and 53232.3 of the Government Code.

(c) (1) The acts of the board shall be expressed by motion, resolution, or ordinance. No ordinance, resolution, or motion shall have any validity or effect unless passed by the affirmative votes of at least six directors of the district.

(2) No ordinance shall be passed by the board within five days of the day of its introduction or at any time other than a regular or adjourned regular meeting. All ordinances or summaries of ordinances shall be published after passage. The publication of ordinances may be satisfied by either of the following actions:

(A) Within 15 days after adoption of the ordinance or amendment to an ordinance, the board shall publish a summary of the ordinance or amendment with the names of

those directors voting for and against the ordinance or amendment and the secretary shall post in the office of the secretary of the board a certified copy of the full text of the adopted ordinance or amendment along with the names of those directors voting for and against the ordinance or amendment. The secretary shall post this information on the district's Internet Web site.

(B) If the general manager determines that it is not feasible to prepare a fair and adequate summary of the adopted ordinance or amendment, and if the board of directors so orders, within 15 days after adoption of the ordinance or amendment to an ordinance, the district manager shall cause to be displayed on the district's Internet Web site, a description of the general nature of, and provide information about, the proposed or adopted ordinance or amendment, including information sufficient to enable the public to obtain copies of the complete text of the ordinance or amendment, and the names of those directors voting for and against the ordinance or amendment.

(3) The enacting clause of all ordinances shall be as follows:

"Be it enacted by the board of directors of the California Electrical Utility District."

(4) All ordinances shall be signed by the president of the board or the vice president, and attested by the secretary.

Article 6. Other Officers

3317. (a) The board shall appoint and fix the salary of a general manager, who shall have full charge and control of the construction of the works of the district and

of their maintenance and operation, and also of the administration of the business affairs of the district.

(b) The general manager need not be a resident of this state at the time of his or her appointment.

(c) The general manager shall hold office for an indefinite term and may be removed by the board only upon the adoption of a resolution by the affirmative vote of not less than six members of the board. Before the general manager may be removed, if demanded by the general manager, the general manager shall be given a written statement of the reasons alleged for his or her removal and shall have the right to be publicly heard thereon at a meeting of the board prior to the final vote on the resolution providing for removal, but, pending and during the hearing, the board may suspend the general manager from office. The board may not reduce the salary of the general manager below the amount fixed at the time of the general manager's original appointment except upon the adoption of a resolution by a like vote and after a like opportunity to be heard. The action of the board in suspending or removing the general manager or reducing the general manager's salary, if approved by a majority of the membership of the board, is final.

(d) Notwithstanding subdivision (d), until such time as the district has operated, controlled, or used works or parts of works for providing the inhabitants and public agencies within the boundaries of the district with the bundled electric services, or any of them, specified in this division, for a period of six months, the board may or may not appoint a general manager, who during such time holds office at the pleasure of the majority of the board.

(e) The powers of the general manager are:

(1) To see that all ordinances of the district are enforced.

(2) To administer the civil service system of the district and, except as otherwise provided in this division, to appoint to the positions created by the board which are subject to the civil service provisions of this division, those employees as are necessary for the administration of the affairs of the district, and to remove those employees, in accordance with the provisions of the civil service system.

(3) To attend all meetings of the board and submit a general report of the affairs of the district.

(4) To keep the board advised as to the needs of the district.

(5) To prepare or cause to be prepared all plans and specifications for the construction of the works of the district.

(6) To devote his or her entire time to the business of the district.

(7) To perform those other and additional duties as the board may require.

(f) The general manager shall, within 90 days from the end of each fiscal year, cause to be published a summary of the financial report showing the result of operations for the preceding fiscal year and the financial status of the district on the last day thereof. The publication shall be made in the manner provided in this division for the publication of ordinances and notices generally.

3318. (a) (1) The board may appoint an accountant, a secretary, a treasurer, and an attorney, who shall hold office at the pleasure of the board.

(2) The oath of office of all appointive officers of the district shall be taken, subscribed, and filed with the secretary of the district at any time after the officer has

notice of his or her appointment but not later than 15 days after the commencement of his or her term of office. No other filing is required.

(3) Each appointive officer shall give a bond and in an amount as the board may require.

(b) (1) The attorney shall be admitted to practice law in the state, and shall have been actively engaged in the practice of his or her profession for not less than three years next preceding his or her appointment.

(2) The attorney shall take charge of all suits and other legal matters to which the district is a party or in which it is legally interested. The attorney shall give his or her advice or opinion in writing whenever required by the board. The attorney shall be the legal adviser of the general manager and other district officers and shall prepare and approve the forms of all ordinances, resolutions, contracts, bonds, and other legal documents connected with the business of the district. The attorney shall perform such other and additional services as the board may require.

(c) The accountant shall install and maintain a system of auditing and accounting that shall completely and at all times show the financial condition of the district and provide reasonable assurance that the financial transactions of the district were executed in accordance with the instructions of the board. The accountant shall prepare all instruments necessary for the payment of demands against the district in accordance with the instructions of the board. The accountant shall perform such other duties as the board may require.

(d) (1) The treasurer shall be the custodian of the funds of the district and shall make payments and execute instruments for the payment of demands against the district

after determination by the accountant that the demands are authorized. The treasurer shall keep an account of all receipts and disbursements.

(2) With the consent of the board, the treasurer may do either of the following:

(A) Authorize the trust department of any state or national bank, or a trust company authorized to act as such, to receive as his or her agent, deposits of any securities acquired by the district.

(B) Place and maintain for safekeeping as a trust deposit with the trust department of any state or national bank, or a trust company authorized to act as such, any securities owned by the district. The board of directors may establish minimum paid-in capital requirements for banks and trust companies to be eligible for trust deposits by the treasurer. The treasurer shall take from the trust department or trust company a receipt for the securities, and neither the treasurer nor the district is responsible for the custody and safe return of the securities until they are withdrawn from the trust department or trust company by the treasurer. Any trust department or trust company to which securities are delivered, either as agent or depositary for the treasurer, shall make such disposition of the securities as the treasurer directs and is responsible only for strict compliance with written instructions given to it by the treasurer. All securities are at all times subject to the order of the treasurer.

3318.5. The board may also provide for assistants to any officer of the district who shall hold office at the pleasure of the board and may perform any and all acts that their principal may perform, when authorized so to do by the board.

Article 7. Initiative and Referendum

3319. The initiative and referendum provisions of Chapter 4 (commencing with Section 9300) of Division 9 of the Elections Code shall apply to the California Electrical Utility District.

CHAPTER 4. CIVIL SERVICE SYSTEM

Article 1. Establishment

3320. (a) The general manager shall adopt a civil service system for the selection, examination, employment, classification, advancement, suspension, and discharge of employees included in the district civil service.

(b) The general manager shall adopt rules and regulations to carry out the purposes of the civil service provisions of this division and may from time to time amend existing rules. Except as otherwise provided herein, the rules shall govern applications, examinations, eligibility, and the duration of eligible lists; certifications of eligibles; appointments; promotions; transfers; resignations; layoffs or reductions in force, both permanent and temporary, due to lack of work or funds, retrenchment, or completion of work; the filling of positions, temporary, seasonal, and permanent; classification; and those other matters as are not in conflict with the civil service provisions of this division.

(c) The rules and regulations or any proposed amendments thereto shall be in writing and a copy thereof shall be posted in a conspicuous place in the office of the district and shall not become effective until 20 days after the posting thereof. The rules

and regulations or any proposed amendments thereto shall additionally be posted in a conspicuous manner on the district's Internet Web site. The board may require that such rules and regulations or amendments thereof be submitted to it for approval prior to posting. Any person interested may, within 10 days after the posting, file written objections to the proposed rules or amendments, or any part thereof, with the general manager, in which event the rules or amendments shall not become effective until the general manager has given notice of a hearing and heard objections thereto and announced his decision on the objections.

(d) The civil service provisions of this chapter shall become operative once the district commences to provide electric service. A civil service system may, however, be adopted at any time after the district commences to operate, control, or use works or parts of works for the providing of electric services, and the civil service system shall be adopted within six months thereafter.

(e) For purposes of this chapter, the "district civil service" includes every employee of the district except all of the following:

(1) Officers elected by the people.

(2) Officers, assistant officers, and other persons and employees appointed by the board of directors.

(3) Temporary construction employees.

(4) Part-time employees.

(5) The unfilled positions requiring peculiar and exceptional qualifications, including those of a scientific, professional, or expert character or of special confidence, as may be exempted from district civil service pursuant to paragraph (1) of subdivision

(g) of Section 3315, upon the recommendation of the general manager, as approved by the board.

(6) Limited-term employees appointed for a period not to exceed two years. Limited-term appointments may be extended for an additional period not to exceed two years upon approval of the general manager.

(7) Employees occupying positions determined to be exempt from the district civil service pursuant to paragraph (2) of subdivision (g) of Section 3315.

Article 2. Appointments

3321. (a) All appointments under the civil service system shall be made for the good of the public service and solely on the basis of integrity, character, merit, fitness, and industry as established by appropriate competitive tests, without regard to partisan, political, social, or other considerations, and shall be made from lists of eligibles prepared by the general manager.

(b) When no list of eligibles is available for a position in the class requisitioned by the department or division head, the general manager of the district may make a noncivil service appointment thereto for a period of not exceeding 12 months and only until a regular appointment can be made.

(c) Every appointee to a permanent position shall be on probation for six months, except that the general manager may establish a probationary period for up to 12 months for professional, scientific, technical, administrative, management, or executive positions. The general manager may terminate the appointment during the probationary

period. If the appointment is not then terminated it shall be permanent, subject to this division and the rules and regulations adopted pursuant to this division.

Article 3. Blanketing-In

3322. (a) The incumbents of permanent positions who have held their positions for a period of at least six months continuously next preceding the time that a civil service system is first adopted shall be continued in their positions as if appointed thereto after examination and certification from a list of eligibles, and shall be governed thereafter by this division and the rules and regulations adopted pursuant thereto, but shall not be subject to the six months' probation period.

(b) Whenever the district acquires existing facilities from an electrical corporation or local publicly owned electric utility, whether by proceedings in eminent domain or otherwise, any or all of the officers or employees of the utility whose duties pertained to the facilities acquired may be appointed to positions in the district's civil service system without examination and certification from a list of eligibles and shall be governed thereafter by this division and the rules and regulations adopted pursuant thereto but shall not be subject to the six months' probation period.

(c) During the period of a leave of absence granted under Section 395.4 of the Military and Veterans Code or similar statute, the officer or employee shall, on the termination of his or her leave of absence, be restored to a position in the district's civil service system wherein he or she shall have the same or equivalent status as of the last working day before his or her leave of absence began. The officer or employee

shall hold that position as if appointed thereto after examination and certification from a list of eligibles, and shall be governed thereafter by the rules and regulations of the civil service system, except that if the officer or employee had held a permanent position with the district for a period of six months continuously next preceding the beginning of his or her leave of absence, he or she shall not be subject to the six months' probation period.

Article 4. Discipline

3323. (a) A person employed under the civil service provisions of this division or any rules and regulations adopted pursuant thereto in a permanent position shall not be removed, discharged, or suspended except for cause.

(b) Removal or discharge may be made for any of the following causes: incompetence, habitual intemperance, immoral conduct, insubordination, discourteous treatment of the public, dishonesty, or inattention to public service.

(c) The department or division head may, for disciplinary purposes, suspend a subordinate for a period of not exceeding 15 days and suspension shall carry with it a loss of salary for the period of suspension.

(d) Within five days after the mailing of written notice of removal, discharge, or suspension, any employee may file a written request with the general manager for an opportunity to be heard in his or her own defense or, at the employee's option, may utilize a grievance procedure if the district and a recognized employee organization have agreed after meeting and conferring in good faith pursuant to Section 3505 of the

Government Code that a grievance procedure may be used in disciplinary proceedings involving removals, discharges, and suspensions as an alternative to the procedure provided for in subdivisions (e) and (f).

(e) When a request is made the general manager shall immediately appoint from officers or assistant officers of the district (other than elected officials), or heads of departments or divisions, a committee of three to hear and determine the charges and shall notify the person accused of the time and place when the charges will be heard by mailing a notice to his or her last known address.

(f) The committee shall examine into the case and make the decision as it deems just and may among other things order the employee discharged, suspended, or reinstated. Its order or decision shall be final unless the employee within 10 days after the date of the order requests the general manager to review the order, in which event the general manager may require any additional evidence he or she deems material, and his or her order or decision, with or without the additional evidence, shall be final.

(g) Nothing in the civil service provisions of this division deprives any person of his or her rights and remedies in a court of competent jurisdiction.

CHAPTER 5. RETIREMENT SYSTEM

Article 1. Establishment

3325. (a) The board may establish a retirement system for the officers, whether elective or appointive, or both, and employees of the district and provide for the payment

of annuities, pensions, retirement allowances, disability payments, and death benefits, or any of them.

(b) The district may maintain its own retirement fund or may provide for benefits to eligible officers and employees, or their beneficiaries, by means of group insurance or other insurance, or by those means as in the opinion of the board will satisfactorily provide an adequate and sure method of meeting the payments contemplated by the retirement system.

(c) Before establishing any retirement system the board shall secure a report from a qualified actuary, which shall show the cost of the benefits provided by the system, and the prospective assets and liabilities of the system.

(d) The board may adopt all ordinances and resolutions and perform all acts necessary or convenient to the initiation, maintenance, and administration of the retirement system.

(e) The district may make all or part of its officers, whether elective or appointive, or both, and employees members of the Public Employees' Retirement System by contract entered into between the district and the board of administration of the system under the Public Employees' Retirement Law (Part 3 (commencing with Section 20000) of Division 5 of Title 2 of the Government Code), and the district may perform all acts necessary or convenient for that participation.

(f) The board may classify and determine the officers, whether elective or appointive, or both, and employees who shall be included as members in the retirement system and may change the classification from time to time. Membership of all officers and employees so classified and included in the retirement system is compulsory.

(g) A participant in a deferred compensation plan may also participate in the district's retirement system, and, in ascertaining the amount of compensation of the participant, for purposes of computing the amount of his or her contributions or benefits under the district's retirement system, any amount deducted from the participant's wages pursuant to subdivision (I) of Section 3326 shall be included.

Article 2. Benefits and Contributions

3326. (a) The board may prescribe the terms and conditions upon which the officers and employees of the district or their beneficiaries shall be entitled to benefits and the amounts thereof.

(b) The retirement allowance may be predicated in part upon service rendered to the district by a member prior to the establishment of the retirement system, which service is known as "prior service."

(c) The board shall provide that both the district and the members shall contribute to the retirement system. Based on tables and assumptions adopted by the board, it shall fix the rates of contributions by officers and employees of the district who are members of the retirement system.

(d) All members of the retirement system shall contribute in the manner and amount fixed by the board and those contributions may be collected by deducting the amounts thereof from the salary, wages, or compensation due those members.

(e) Liabilities accruing under the retirement system because of benefits other than those that are equivalent to contributions by the members, with accumulated

interest, shall be met by contributions by the district. Prior service or other liabilities of the district may be met by annual appropriations instead of by one appropriation for the total of the liabilities, but until the present value of regular contributions for current service, together with assets then available, equals the present value of all allowances and benefits granted or to be granted under the system, the appropriation for any one year when added to any unused balance of any previous appropriations for that purpose shall not be less than the amount disbursed during that year on account of prior service or other liabilities of the district.

(f) If any member withdraws from the retirement system prior to retirement the total amount contributed by him or her with the interest credited thereto shall be returned to the member, provided, however, that the board may prescribe the terms and conditions upon which a member, whose district service is terminated except by death or retirement, may elect to leave his or her contributions and interest thereon in the retirement fund, and the terms and conditions upon which a retirement allowance may be made to the member after termination based upon his or her contributions prior to termination.

(g) All money received by any person as an annuity, pension, retirement allowance, disability payment, or death benefit from the retirement system, and all contributions and interest thereon returned to any member of the retirement system, whether in the actual possession of that person or deposited, loaned, or invested by that person, is unassignable, and is exempt from execution or any other process except to the extent permitted by Section 704.110 of the Code of Civil Procedure.

(h) Notwithstanding subdivision (g), the retirement board may comply with and give effect to a revocable written authorization signed by a retired member or beneficiary

of a retired member entitled to a retirement allowance or benefit under this chapter, authorizing the district to deduct appropriate amounts from the retirement allowance or benefit payable to the retired member or beneficiary of the retired member for the purpose of paying premiums of any group medical or hospital service plan, or both, approved by the district, for the benefit of the retired member or his or her dependents, for the payment of personal income taxes to the Government of the United States or of the State of California, or for the purchase of shares in, or the payment of money to, the district credit union.

(i) Nothing in this division shall prevent the district from establishing a deferred compensation plan for some or all of its officers and employees pursuant to Article 1.1 (commencing with Section 53212) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code.

Article 3. Retirement Board

3327. (a) The board shall create a retirement board of not more than five members, at least two members of which shall be the elected representatives of the employees, to administer the retirement system, and shall define its powers and duties and the tenure of the members.

(b) All members of the retirement board shall serve without pay.

(c) The retirement board shall determine the eligibility of officers, employees, and their dependents to participation in the system and shall be the sole authority and judge under those ordinances as may be adopted by the board as to the conditions under

which persons may be admitted to, and continue to receive benefits of, any sort under the retirement system, and may modify allowances for service and disability. The determination of the retirement board shall be final and conclusive and shall not be modified or set aside except for fraud or abuse of discretion.

(d) If the district maintains its own retirement fund, the retirement board shall have exclusive control of the administration, investment, and disbursement of the retirement fund. The retirement fund is a trust fund held for the exclusive purposes of providing benefits to members of the retirement system and their survivors and beneficiaries. Investment of the fund shall be subject to the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

(e) In addition to any other investments that are authorized by this article, the retirement board may, in its discretion, invest the assets of the retirement fund in deeds of trust and mortgages. Investments in deeds of trust and mortgages shall not exceed, in the aggregate, an amount equal to 25 percent of the assets of the system.

(f) (1) The retirement board, or the district's treasurer with the approval of the retirement board, may enter into security loan agreements with broker-dealers and with California or national banks for the purpose of prudently supplementing the income normally received from investments.

(2) "Security loan agreement" means a written contract whereby a legal owner, the lender, agrees to lend specific marketable corporate or government securities for a period not to exceed one year. The lender retains the right to collect from the borrower

all dividends, interest, premiums, rights, and any other distributions to which the lender would otherwise have been entitled. The lender waives the right to vote the securities during the term of the loan. The lender may terminate the contract upon not more than five business days' notice as agreed, and the borrower may terminate the contract upon not less than two business days' notice as agreed. The borrower shall provide collateral to the lender in the form of cash or bonds or other interest-bearing notes and obligations of the United States or federal instrumentalities eligible for investment by a lending retirement fund. The collateral shall be in an amount equal to at least 102 percent of the market value of the loaned securities as agreed. The lender shall monitor the market value of the loaned securities daily. The loan agreement shall provide for payment of additional collateral on a daily basis, or at the time the value of the loaned securities increases, to agreed-upon ratios. In no event shall the amount of the collateral be less than the market value of the loaned securities. For purposes of this paragraph, "marketable securities" means securities that are freely traded on recognized exchanges or marketplaces.

(3) The retirement board or district treasurer entering into security loan agreements shall do all of the following:

(A) Maintain detailed records of all security loans.

(B) Develop controls and reports to monitor the conduct of the transactions.

(C) Publicize the net results of the security loan transaction separate from the results of other investment activities.

(g) The retirement system may invest in any and all investments authorized by Section 802 of the Financial Code and subdivision (h) of Section 3360 of this code.

(h) Notwithstanding subdivision (d), the retirement board may contract with one or more qualified investment managers in connection with the investment program of the retirement board.

(i) The retirement board may authorize a trust company or a trust department of any state or national bank authorized to conduct the business of a trust company in this State or the Federal Reserve Bank of San Francisco or any branch thereof within this State, to act as custodian of any securities invested in by the retirement board. A bank or trust company may be authorized to collect the income from the securities or the proceeds of the sale thereof for the retirement board, and deposit the income or funds in the account of the retirement system. The compensation of the bank or trust company for custodial services shall be fixed by agreement and shall be paid in the same manner and from the same funds as are other costs of administration of the retirement system. Securities of the retirement fund held by the custodian bank or trust company may be registered in the nominee name of the custodian or of the retirement system. The custodian bank or trust company shall make dispositions of the securities as the retirement board shall authorize. All securities are at all times subject to the order of the retirement board.

(j) Funds held by a district pursuant to a written agreement between the district and the employees of the district to defer a portion of the compensation otherwise receivable by the district's employees and pursuant to a plan for deferral as adopted

by the board, may be invested in the types of investments set forth in Section 53609 of the Government Code.

Article 4. Investigation and Penalties

3328. (a) At least once in each four-year period after the establishment of the retirement system the board shall cause to be made an actuarial valuation of the assets and liabilities of the retirement fund, and upon the basis of that investigation and valuation, shall make any revision or change of the rates of contribution, the periods and conditions of service, and amounts of retirement allowances as may be necessary.

(b) Except as herein provided, no member of the board or of the retirement board, nor any member of the retirement system or employee of the district, shall have any interest, direct or indirect, in the making of any investment or in the gains or profits accruing therefrom, and no person, directly or indirectly, for himself, herself, or as an agent or partner of others, shall borrow any of its funds, nor shall any person in any manner use the same except to make current and necessary payments as are authorized by the retirement board, nor shall any person become an endorser or surety as to, or in any manner an obligor for investments of the retirement fund.

CHAPTER 6. POWERS AND FUNCTIONS OF THE DISTRICT

Article 1. Corporate Power

3330. (a) The district has perpetual succession and may adopt a seal and alter it at pleasure.

(b) The district may sue and be sued, except as otherwise provided by law, in all actions and proceedings, in all courts and tribunals of competent jurisdiction.

(c) (1) Except as specified in paragraph (2), any judicial action or proceeding against the district to attack, review, set aside, void, or annul an ordinance, resolution, or motion fixing or changing a rate or charge for an electric commodity or an electric service furnished by the district shall be commenced within 120 days of the effective date of that ordinance, resolution, or motion.

(2) The statute of limitations specified in paragraph (1) does not apply to any judicial action or proceeding filed pursuant to Chapter 13.7 (commencing with Section 54999) of Part 1 of Division 2 of Title 5 of the Government Code to protest or challenge a rate or charge or to seek the refund of a capital facilities fee if the notice and disclosure requirements of Section 54999.35 of the Government Code have not been followed.

(d) The district may exercise the right of eminent domain to take any property necessary or convenient to the exercise of the powers granted in this division.

Article 2. Contracts

3332. (a) The district may make contracts and enter into stipulations of any nature whatsoever, either in connection with eminent domain proceedings or otherwise, including, without limiting the generality of the foregoing, contracts and stipulations

to indemnify and save harmless, to employ labor, and to do all acts necessary and convenient for the full exercise of the powers granted in this division.

(b) Neither the general manager nor any director of the district shall in any manner be interested, directly or indirectly, in any contract awarded or to be awarded by the board, or in the profits to be derived therefrom. Any violation of this provision is a misdemeanor, and conviction shall work a forfeiture of office. This section has no application to contracts awarded to corporations in which the officer owns less than 1 percent of the entire capital stock.

(c) Whenever the board, by resolution passed by a majority of its members, determines that the public interest will be served, the district, when constructing, acquiring, or operating plants and appurtenant facilities for the generation of electricity by nuclear energy may purchase or acquire insurance for those properties against physical loss or damage and the resultant loss of capacity for the generation of electricity from insurance companies organized in the United States or foreign countries as either stock companies or assessment or nonassessment mutual companies. In the event insurance is acquired for these purposes from an assessment mutual company, the district shall have authority to share in the initial organization expenses of the company, to become a member of the company, and to assume liability for retrospective premium adjustments in accordance with the terms and conditions of the policy or contract of insurance issued by such company.

Article 3. Purchases

3334. (a) Except as provided in Section 3335, the purchase of all supplies and materials, if the expenditure required exceeds fifty thousand dollars ($50,000), shall be by contract let to the lowest responsible bidder. Notice requesting bids shall be published pursuant to Section 6061 of the Government Code at least 10 days before bids are received. Notice shall also be posted on an Internet Web site maintained by the district. The district may reject any and all bids and readvertise in its discretion. The board may authorize the general manager to determine, in the discretion of the general manager, whether to reject all bids and whether, after the bids have been rejected, to readvertise.

(b) The dollar limit identified in subdivision (a) shall annually be adjusted upward or downward to reflect the percentage change in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States, as published by the United States Department of Commerce. The annual adjustments shall be rounded to the nearest one thousand dollars ($1,000).

(c) The board may authorize the general manager to determine the lowest responsible bidder and to award a contract to that bidder.

(d) If after the bids have been rejected, the board determines and declares by a eight-elevenths vote of all the members, that in its opinion the materials and supplies may be purchased at a lower price in the open market, the board may proceed, or may authorize the general manager to proceed, to purchase the supplies and materials in the open market without further observance of the provisions requiring contracts, bids, or notice.

(e) In case of any great emergency, the board may, by resolution passed by an eight-eleventhes vote of all the members, declare and determine that an emergency exists, and thereupon proceed to expend sums or enter into contracts involving the expenditure of any sums needed in that emergency without observance of the provisions requiring contracts, bids, or notice.

3335. (a) The purpose of this section is to provide the district with an alternative acquisition process that will result in reduced costs to ratepayers. Notwithstanding Section 3334, if the expenditure for the purchase of supplies and materials exceeds fifty thousand dollars ($50,000) and the district determines that ratepayers reasonably can expect a net benefit in the cost of district services, the district may provide for the purchase of the supplies and materials by contract let in accordance with best value at the lowest cost acquisition policies adopted by the board pursuant to this section.

(b) The best value at the lowest cost acquisition policies adopted pursuant to subdivision (a) shall include the following:

(1) Price and service level proposals that reduce the district's overall operating costs.

(2) Supplies and materials standards that support the district's strategic supplies and materials acquisition and management program direction.

(3) A procedure for protest and resolution.

(c) For purposes of this section, "best value at the lowest cost acquisition" means a competitive procurement process whereby the award of a contract for supplies and materials may take into consideration any of the following factors:

(1) The total cost to the district of its use or consumption of supplies and materials.

(2) The operational cost or benefit incurred by the district as a result of the contract award.

(3) The value to the district of vendor-added services.

(4) The quality, effectiveness, and innovation of supplies, materials, and services.

(5) The reliability of delivery or installation schedules.

(6) The terms and conditions of product warranties and vendor guarantees.

(7) The financial stability of the vendor.

(8) The vendor's quality assurance program.

(9) The vendor's experience with the provision of supplies, materials, and services.

(10) The consistency of the vendor's proposed supplies, materials, and services with the district's overall supplies and materials procurement program.

(11) The economic benefits to the general community related to job creation or retention.

(d) The district shall ensure that all businesses have a fair and equitable opportunity to compete for, and participate in, district contracts and shall also ensure that discrimination in the award and performance of contracts does not occur on the basis of marital status, ancestry, medical condition, any characteristic listed or defined

in Section 11135 of the Government Code, or retaliation for having filed a discrimination complaint in the performance of district contractual obligations.

Article 4. Property

3337. (a) The district may take by grant, purchase, gift, devise, or lease, or condemn in proceedings under eminent domain, or otherwise acquire, and hold and enjoy, real and personal property of every kind within or without the district necessary to the full or convenient exercise of its powers. The board may lease, mortgage, sell, or otherwise dispose of any real or personal property within or without the district when in its judgment it is for the best interests of the district to so do. The provisions of this section apply to all sales or mortgages heretofore or hereafter made.

(b) The district may destroy a record pursuant to Chapter 7 (commencing with Section 60200) of Division 1 of Title 6 of the Government Code.

Article 5. Utility Works and Services

3340. (a) The district may acquire, construct, own, operate, control, or use, within or outside, or partly within or partly outside, the district, works or parts of works for supplying the inhabitants of the district and public agencies therein, or some of them, with electricity and services associated therewith, and may do all things necessary or convenient to the full exercise of the powers herein granted. The district may also

purchase any of those commodities or services from any other utility district, public agency, person, or private company, and distribute them.

(b) The district may accept, without limitation by any other provisions of this division requiring approval of indebtedness, contributions of money, rights of way, labor, materials, and any other property for the construction, maintenance, and operation of any enterprise in which the district is authorized to engage, and may enter into any contracts and cooperate with and accept cooperation from the State, or any department, instrumentality, or agency thereof, or any public agency of the State in the construction, maintenance, and operation of, and in financing the construction, maintenance, and operation of, any such enterprise.

(c) Whenever there is a surplus of electricity above that which is required by inhabitants or public agencies within the district, the district may sell or otherwise dispose of the surplus outside of the district to persons, firms, and public or private corporations, or public agencies outside the district.

(d) Whenever any of the facilities, works, or utilities of the district, or part thereof, is not used or employed to its fullest capacity for the benefit or requirements of the district or its inhabitants, the district may enter into an agreement with public agencies or any person, firm, or corporation, upon such terms and conditions as are satisfactory to the board, for renting, leasing, or otherwise using the available portion or parts of the facilities, works, or utilities, and in connection with any such agreement, renting, or leasing the district may undertake or perform any services incidental thereto.

(e) The district and any public agencies included therein may at any time enter into appropriate contracts for the use by any public agencies of commodities or services

furnished by any of the works acquired, owned, or operated, or authorized to be acquired, constructed, or completed by the district, or of any of the facilities of the district.

(f) The district may construct works across or along any street or public highway, or over any of the lands that are the property of the State, and it shall have the same rights and privileges appertaining thereto as are granted to municipalities within the State. The district shall restore any street or highway to its former state as near as may be, and in compliance with local ordinances, and shall not use it in a manner to unnecessarily impair its usefulness. The district may also construct its works across any stream or watercourse.

(g) The district may, through contract or otherwise, construct, maintain, improve, and operate public recreational facilities appurtenant to any water reservoir owned or operated by the district, and the district may expend funds on such public recreational facilities.

(h) Whenever a business transaction of the district is such that a personal appearance by a person is required by the district and the person is unable to appear at the district's place of business during the district's usual business hours, then the district shall provide a reasonable and convenient alternative to the person such as an appointment outside the district's usual business hours or allowing the person to conduct the transaction over the Internet, by telephone, by mail, or by all of these methods.

3341. (a) Notwithstanding subdivision (f) of Section 3310, Sections 53091 and 65402 of the Government Code, and Section 1469 of the Streets and Highways Code, or any other provision of law, the district shall not locate or construct, any lines, for

the transmission or distribution of electricity, including poles and other accessory structures, unless those facilities are approved pursuant to this section.

(b) (1) The district shall hold a public hearing on proposed facilities which are subject to this section.

(2) Mailed notice of the public hearing shall be provided at least 10 days prior to the hearing, to the owners of all property within 300 feet of the route along which the facilities are proposed to be located.

(3) If mailed notice as required in paragraph (2) would result in notice to more than 250 persons, as an alternative to mailed notice, notice may be given by placing a display advertisement of at least one-fourth page in a newspaper of general circulation within the area affected by the proposed facility and placing notice on the district's Internet Web site.

(c) After holding a hearing as provided in paragraph (1) of subdivision (b), the district shall submit any proposed facilities to the legislative body of each local agency in which the facilities are to be located. The legislative bodies shall conduct a public hearing, receive evidence, and, within 60 days, adopt a resolution approving, approving an alternative, or disapproving, the proposed facilities. Any resolution adopted pursuant to this subdivision shall contain findings concerning:

(1) The consistency of the proposed facilities with the local agency's general plan and applicable redevelopment and specific plans.

(2) Whether there are feasible alternatives to the proposal.

(3) Such other factors related to the public health, safety, and welfare as are included within the ordinance adopted by the local agency pursuant to subdivision (e) of this section.

(d) Failure of a legislative body to render a decision within 60 days pursuant to subdivision (c) shall constitute an approval of the proposed facilities.

(e) Notwithstanding subdivision (c), the governing board of the district by vote of eight-elevenths of its members may render a local agency's decision inapplicable to proposed facilities if the district, at a publicly noticed hearing, determines by resolution that there is no feasible alternative to the district's proposal. Prior to adopting the resolution, the district shall read into the record the local agency's resolution. The board shall, within 10 days, notify the city or county concerned of the action. If the governing board adopts a resolution rendering the local agency's decision inapplicable to proposed facilities, the local agency may commence an action in the superior court of the county whose action is involved or in which is situated the city whose action is involved, seeking a review of the action of the governing board of the district to determine whether it was supported by substantial evidence. The evidence before the court shall include, but not be limited to, the record of the proceedings before the city, county, and local agency. The city or county shall cause a copy of the complaint to be served on the board. If the court determines that such action was not supported by substantial evidence, it shall declare it to be of no force and effect, and the local agency's decision shall be applicable to the proposed facilities.

(f) This section shall not apply to:

(1) Any facilities proposed to be located within any local agency that has not adopted an ordinance setting forth criteria to govern its decision pursuant to subdivision (c).

(2) Any electrical distribution lines of less than 100,000 volts.

(g) As used in this section, the following terms have the following meanings:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Local agency" means a city, a county, or a city and county. Within cities this section shall not apply to counties.

3342. The district shall comply with Section 8029.5.

3343. (a) The district shall not expend funds for advertising if the advertising encourages increased consumption of electricity.

(b) (1) This section does not prohibit the district from expending funds for advertising that encourages the more efficient operation of the facilities, works, or utilities of the district, or for advertising that encourages the more efficient use of electricity, the conservation of energy or natural resources, or presents accurate information on the economical purchase, maintenance, or use of any appliance or device using electricity.

(2) The district may engage in activities to reduce wasteful, uneconomical, or unnecessary uses of energy, including, but not limited to, public information programs, the sale of insulation, the sale, rental, and lease of materials or equipment for the purpose of conserving energy or reducing the need for the installation of electric

generating facilities, and the adoption of voluntary and mandatory load management programs, and may also engage in activities to accelerate and participate in the development of alternative sources of energy including, but not limited to, the supply of equipment for use in connection therewith, and may do all things necessary or convenient to the full exercise of the powers herein granted. The interest rates charged on extended payment contracts for materials or equipment for these purposes shall not exceed that necessary to cover the district's full cost of money plus its administrative costs and anticipated losses due to nonpayment on those contracts.

(c) (1) This section does not prohibit the district from expending funds for advertising for the purposes of economic development that benefits ratepayers, retaining customers, marketing competitive services and commodities, or promoting electrotechnologies that enhance productivity or provide environmental benefits, within or without the district.

(2) The district may engage in programs to encourage economic development that benefit its ratepayers.

3344. (a) The district may employ a suitable security force. The employees of the district that are designated by the general manager as security officers shall have the authority and powers conferred by subdivision (a) of Section 830.34 of the Penal Code upon peace officers. The district shall adhere to the standards for recruitment and training of peace officers established by the Commission on Peace Officer Standards and Training pursuant to Title 4 (commencing with Section 13500) of Part 4 of the Penal Code.

(b) Every security officer employed by the district shall conform to the standards for peace officers of the Commission on Peace Officer Standards and Training. Any officer who fails to conform to these standards shall not continue to have the powers of a security officer.

3345. (a) The rates and charges for electricity or electric service furnished by the district shall be fixed by the board. As far as possible, the district shall be self-supporting but the board is not required to fix a rate which in its opinion is unreasonably high, nor to cover by rates large expenditures and the interest thereon required for future needs and developments.

(b) The board may provide for the collection of rates or other charges in any lawful manner and may provide for collection by action at law, and all remedies for the collection and enforcement thereof are cumulative and may be pursued alternatively or consecutively as the board determines. In addition to the amount of the rates or other charges, the board may provide for a penalty of not more than 10 percent or interest at the prevailing prime interest rate, but not to exceed 1 $\frac{1}{2}$ percent per month, or both, in the event of nonpayment within the time and in the manner prescribed by the board, and may provide for collection of the penalty and interest.

(c) Except when prohibited by Section 3348, the district may, by resolution or ordinance, require the owner of record of real property within the district to pay the rates or other charges for services rendered to a lessee, tenant, or subtenant, and those rates and other charges that have become delinquent, together with interest and penalties thereon, are a lien on the property when a certificate is filed in the office of the county recorder pursuant to subdivision (d) and the lien has the force, effect, and priority of

a judgment lien. No lien may be created under this section on any publicly owned property.

(d) A lien under this section attaches when the district files for recordation in the office of the county recorder a certificate specifying the amount of the delinquent rates or other charges together with interest and penalties thereon; the name of the owner of record of the property to which services were rendered by the district; and the legal description of the property. Within 30 days of receipt of payment of all amounts due, including recordation fees paid by the district, the district shall file for recordation a release of the lien.

(e) (1) Notwithstanding any other law, the district may establish a temporary relief program for assistance to needy customers of the district who are financially unable to pay in full bills for services furnished by the district within the normal period for payment thereof, and may expend funds, enter into contracts, and cooperate with and accept cooperation from any state or local public agency or private nonprofit organization in the implementation of such a program.

(2) As used in this subdivision, "needy" means either of the following:

(A) A household with an income which does not exceed the greater of either (I) an amount equal to 150 percent of the poverty level of this state, as determined pursuant to paragraph (2) of subdivision (e) of Section 16367.5 of the Government Code, or (ii) an amount equal to 60 percent of the state median income.

(B) A household with an income which meets guidelines for existing public assistance programs funded by the federal government.

3346. (a) Whenever electricity is furnished to a residence through a submeter system by a master-meter customer for sale to users who are tenants of a mobilehome park, apartment building, or similar residential complex within the service territory of the district, the master-meter customer is responsible for maintenance and repair of its submeter facilities beyond the master meter, and nothing in this section requires the district to make repairs to or perform maintenance on the submeter system.

(b) Every master-meter customer within the service territory of the district shall provide an itemized billing of charges for electricity to each individual user generally in accordance with the form and content of bills of the district to its residential customers, including, the opening and closing readings for the meter, and the identification of all rates and quantities under the applicable rate structure. The master-meter customer shall charge each user at a rate that does not exceed the rate which would be applicable if the user were receiving electric service directly from the district. The master-meter customer shall also post, in a conspicuous place, the applicable prevailing residential rate schedule, as published by the district.

(c) The district shall notify each master-meter customer of its responsibilities to its users under this section.

3346.5. (a) If the district furnishes electricity to residential occupants through a master meter in a multiunit residential structure, mobilehome park, or permanent residential structures in a labor camp, as defined in Section 17008 of the Health and Safety Code, and the owner, manager, or operator of the structure or park is listed by the district as the customer of record for electric service, the district shall make every good faith effort to inform the residential occupants, by means of a written notice

posted on the door of each residential unit at least 15 days prior to termination, when the account is in arrears, that service will be terminated on a date specified in the notice. If it is not reasonable or practicable to post the notice on the door of each residential unit, the district shall post two copies of the notice in each accessible common area and at each point of access to the structure or structures. The notice shall further inform the residential occupants that they have the right to become customers, to whom the electric service will then be billed, of the district without being required to pay the amount due on the delinquent account. The notice also shall specify, in plain language, what the residential occupants are required to do in order to prevent the termination or reestablish electric service; the estimated monthly cost of electric service; the title, address, and telephone number of a representative of the district who can assist the residential occupants in continuing electric service; and the address and telephone number of a legal services project, as defined in Section 6213 of the Business and Professions Code, which has been recommended by the local county bar association. The notice shall be in English and in the languages listed in Section 1632 of the Civil Code.

(b) The district is not required to make electric service available to the residential occupants unless each residential occupant or a representative of the residential occupants agrees to the terms and conditions of service, and meets the requirement of law and the district's rules. However, if one or more of the residential occupants or the representative of the residential occupants are willing and able to assume responsibility for subsequent charges to the account to the satisfaction of the district, or if there is a physical means, legally available to the district, of selectively terminating

service to those residential occupants who have not met the requirements of the district's rules or for whom the representative of the residential occupants is not responsible, the district shall make electric service available to the residential occupants who have met those requirements or on whose behalf those requirements have been met.

(c) If prior service for a period of time, or other demonstration of creditworthiness is a condition for establishing credit with the district, residence and proof of prompt payment of rent or other credit obligation during that period of time acceptable to the district is a satisfactory equivalent.

(d) Any residential occupant who becomes a customer of the district pursuant to this section whose periodic payments, such as rental payments, include charges for electricity, where these charges are not separately stated, may deduct from the periodic payment each payment period all reasonable charges paid to the district for electric service during the preceding payment period.

(e) If a district furnishes electric service subject to subdivision (a), the district may not terminate that service in any of the following situations:

(1) During the pendency of an investigation by the district of a customer dispute or complaint.

(2) If the customer has been granted an extension of the period for payment of a bill.

(3) For an indebtedness owed by the customer to any other public agency or when the obligation represented by the delinquent account or other indebtedness was incurred with any public agency other than the district.

(4) If a delinquent account relates to another property owned, managed, or operated by the customer.

(5) If a public health or building officer certifies that termination would result in a significant threat to the health or safety of the residential occupants or the public.

(f) In addition to any other remedy provided by law, if the owner, operator, or manager, by any act or omission, directs, permits, or fails to prevent a termination of service while any residential unit is occupied, the residential occupants or the representative of the residential occupants may commence an action for the recovery of all of the following:

(1) Reasonable costs and expenses incurred by the residential occupants or the representative of the residential occupants related to restoration of electric service.

(2) Actual damages related to the termination of electric service.

(3) Reasonable attorney's fees of the residential occupants, the representative of the residential occupants, or each of them, incurred in the enforcement of this section, including, but not limited to, enforcement of a lien.

(g) (1) In addition to any other remedy provided by law, if the owner, manager, or operator, by any act or omission, directs, permits, or fails to prevent a termination of service while any residential unit receiving that service is occupied, the corporation may commence an action for the recovery of all of the following:

(A) Delinquent charges accruing prior to the expiration of the notice prescribed by subdivision (a).

(B) Reasonable costs incurred by the corporation related to the restoration of service.

(C) Reasonable attorney's fees of the corporation incurred in the enforcement of this section or in the collection of delinquent charges, including, but not limited to, enforcement of a lien.

(2) If the court finds that the owner, manager, or operator has paid the amount in arrears prior to termination, the court shall allow no recovery of any charges, costs, damages, expenses, or fees under this subdivision from the owner, manager, or operator.

(3) An abstract of any money judgment entered pursuant to subdivision (f) or (g) shall be recorded pursuant to Section 697.310 of the Code of Civil Procedure.

(h) No termination of service subject to this section may be effected without compliance with this section, and any service wrongfully terminated shall be restored without charge to the residential occupants or customer for the restoration of the service. In the event of a wrongful termination by the district, the district shall, in addition, be liable to the residential occupants or customer for actual damages resulting from the termination and for the costs of enforcement of this section, including, but not limited to, reasonable attorney's fees, if the residential occupants or the representative of the residential occupants make a good faith effort to have the service continued without interruption.

(i) The district shall adopt rules and regulations necessary to implement this section and shall liberally construe this section to accomplish its purpose of ensuring that service to the residential occupants is not terminated due to nonpayment by the customer unless the district has made every reasonable effort to continue service to the residential occupants. The rules and regulations shall include, but are not limited to, guidelines for assistance to actual users in the enforcement of this section and

requirements for the notice prescribed by subdivision (a), including, but not limited to, clear wording, large and boldface type, and comprehensive instructions to ensure full notice to the actual user.

(j) This section preempts any statute or ordinance permitting punitive damages against any owner, manager, or operator on account of an involuntary termination of residential electric service or permitting the recovery of costs associated with the formation, maintenance, and termination of a tenant's association.

(k) For purposes of this section, "representative of the residential occupants" does not include a tenants' association.

3347. (a) This section applies if there is a landlord-tenant relationship between the residential occupants and the owner, manager, or operator of the dwelling.

(b) If the district furnishes individually metered electric service to residential occupants in a detached single-family dwelling, multiunit residential structure, mobilehome park, or permanent residential structure in a labor camp, as defined in Section 17008 of the Health and Safety Code, and the owner, manager, or operator of the dwelling, structure, or park is the customer of record of the service, the district shall make every good faith effort to inform the residential occupants, by means of written notice, when the account is in arrears, that service will be terminated in 10 days. The written notice shall further inform the residential occupants that they have the right to become customers of the district without being required to pay the amount due on the delinquent account. The notice shall be in English and in the languages listed in Section 1632 of the Civil Code.

(c) The district is not required to make service available to the residential occupants pursuant to subdivision (b) unless each residential occupant agrees to the terms and conditions of service, and meets the requirements of the district's rules. However, if one or more of the residential occupants are willing and able to assume responsibility for the subsequent charges to the account to the satisfaction of the district, or if there is a physical means, legally available to the district, of selectively terminating service to those residential occupants who have not met the requirements of the district's rules, the district shall make service available to the residential occupants who have met those requirements.

(d) If prior service for a period of time is a condition for establishing credit with the district, residence and proof of prompt payment of rent or other credit obligation acceptable to the district for that period of time is a satisfactory equivalent.

(e) Any residential occupant who becomes a customer of the district pursuant to this section whose periodic payments, such as rental payments, include charges for residential electric service, where these charges are not separately stated, may deduct from the periodic payment each payment period all reasonable charges paid to the district for those services during the preceding payment period.

3348. (a) The decision of the district to require a new residential applicant to deposit a sum of money with the district prior to establishing an account and furnishing electric service shall be based solely upon the creditworthiness of the applicant as determined by the district.

(b) The district in providing electric service for residential use to a tenant under an account established by the tenant shall not seek to recover any charges or penalties

for the furnishing of electricity to, or for the tenant's residential use from, any subsequent tenant or the property owner due to nonpayment of charges by a previous tenant. For this purpose, the term "subsequent tenant" shall not include any adult person who lived at the residence during the period that the charges or penalties accrued. The district may collect a deposit from the tenant service applicant prior to establishing an account for the tenant. The district may not require that service to subsequent tenants be furnished on the account of the landlord or property owner unless the property owner voluntarily agrees to that requirement, nor may the district refuse to furnish electric services to a tenant in the tenant's name based on the nonpayment of charges by a previous tenant.

(c) The district shall not demand or receive security in an amount that exceeds twice the estimated average periodic bill or three times the estimated average monthly bill.

(d) In the event of tenant nonpayment of all or a portion of the bill, the deposit shall be applied to the final bill issued when service is terminated.

(e) This section does not apply to master-metered apartment buildings.

3349. (a) The district shall not terminate residential service for nonpayment of a delinquent account unless the district first gives notice of the delinquency and impending termination pursuant to Section 3349.2.

(b) The district shall not terminate residential service for nonpayment in any of the following situations:

(1) During the pendency of an investigation by the district of a customer dispute or complaint.

(2) When a customer has been granted an extension of the period for payment of a bill.

(3) On the certification of a licensed physician and surgeon that to do so will be life threatening to the customer and the customer is financially unable to pay for service within the normal payment period and is willing to enter into an amortization agreement with the district pursuant to subdivision (e) with respect to all charges that the customer is unable to pay prior to delinquency.

(c) Any residential customer who has initiated a complaint or requested an investigation within five days of receiving the disputed bill, or who has, within 13 days of mailing of the notice required by subdivision (a), made a request for extension of the payment period of a bill asserted to be beyond the means of the customer to pay in full during the normal period for payment, shall be given an opportunity for review of the complaint, investigation, or request by a review manager of the district. The review shall include consideration of whether the customer shall be permitted to amortize the unpaid balance of the account over a reasonable period of time, not to exceed 12 months. No termination of service shall be effected for any customer complying with an amortization agreement, if the customer also keeps the account current as charges accrue in each subsequent billing period.

(d) Any customer whose complaint or request for an investigation pursuant to subdivision (c) has resulted in an adverse determination by the district may appeal the determination to the board. Any subsequent appeal of the dispute or complaint to the board is not subject to this section.

(e) Any customer meeting the requirements of paragraph (3) of subdivision (b) shall, upon request, be permitted to amortize, over a period not to exceed 12 months, the unpaid balance of any bill asserted to be beyond the means of the customer to pay within the normal period for payment.

3349.2. (a) The district shall not terminate residential electric service for nonpayment of a delinquent account unless the district first gives notice of the delinquency and impending termination at least 10 days prior to the proposed termination, by means of a notice mailed, postage prepaid, to the customer to whom the service is billed not earlier than 19 days from the date of mailing the district's bill for services, and the 10-day period shall not commence until five days after the mailing of the notice.

(b) The district shall make a reasonable attempt to contact an adult person residing at the premises of the customer by telephone or personal contact, at least 24 hours prior to any termination of electric service, except that, whenever telephone or personal contact cannot be accomplished, the district shall give, by mail, in person, or by posting in a conspicuous location at the premises, a notice of termination of service, at least 48 hours prior to termination.

(c) The district shall make available to its residential customers who are 65 years of age or older, or who are dependent adults as defined in paragraph (1) of subdivision (b) of Section 15610 of the Welfare and Institutions Code, a third-party notification service, whereby the district will attempt to notify a person designated by the customer to receive notification when the customer's account is past due and subject to termination. The notification shall include information on what is required to prevent

termination of electric service. The residential customer shall make a request for third-party notification on a form provided by the district, and shall include the written consent of the designated third party. The third-party notification does not obligate the third party to pay the overdue charges, nor shall it prevent or delay termination of service.

(d) Every notice of termination of electric service pursuant to subdivision (a) shall include all of the following information:

(1) The name and address of the customer whose account is delinquent.

(2) The amount of the delinquency.

(3) The date by which payment or arrangements for payment is required in order to avoid termination.

(4) The procedure by which the customer may initiate a complaint or request an investigation concerning electric service or charges, except that, if the bill for service contains a description of that procedure, the notice pursuant to subdivision (a) is not required to contain that information.

(5) The procedure by which the customer may request amortization of the unpaid charges.

(6) The procedure for the customer to obtain information on the availability of financial assistance, including private, local, state, or federal sources, if applicable.

(7) The telephone number of a representative of the district who can provide additional information or institute arrangements for payment.

(e) Every notice of termination of service pursuant to subdivision (b) shall include the items of information in paragraphs (1), (2), (3), (6), and (7) of subdivision (d).

(f) All written notices shall be in a clear and legible format.

(g) If a residential customer fails to comply with an amortization agreement, the district shall not terminate service without giving notice to the customer at least 48 hours prior to termination of the conditions the customer is required to meet to avoid termination, but the notice does not entitle the customer to further investigation by the district.

(h) No termination of service may be effected without compliance with this section. Any service wrongfully terminated shall be restored without charge for the restoration of service, and a notation thereof shall be mailed to the customer at his or her billing address.

3349.4. The district shall not, by reason of delinquency in payment for electric service, cause cessation of electric services on any Saturday, Sunday, legal holiday, or at any time during which the business offices of the district are not open to the public.

Article 6. Claims

3350. All claims for money or damages against the district are governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code except as provided therein, or by other statutes or regulations expressly applicable thereto.

Article 7. Indebtedness

3355. (a) The district may borrow money and incur indebtedness, and may issue bonds or other evidences of indebtedness. No indebtedness shall be incurred exceeding the ordinary annual income and revenue of the district without the approval of a majority of the voters voting on the proposition to incur such indebtedness except as follows:

(1) A further vote of the voters is not required for any indebtedness heretofore or hereafter incurred within the purposes and not exceeding the available amount of any previously authorized bond issue, and as to that indebtedness the proceeds of any of the bonds unexpended in the treasury of the district, or the par value of any of the bonds that are unsold shall be deemed a part of the ordinary annual income and revenue of the district.

(2) If the district adopts rules requiring applicants for extensions to advance the expenses of the extensions and facilities for serving additional territory, the district may enter into agreements to refund to the applicants in a subsequent year the whole or any part of the expenses so advanced, and the refunds may be paid out of the revenues of subsequent years.

(b) The district shall not incur an indebtedness for public works that in the aggregate exceeds 20 percent of the assessed value of all the real and personal property within the district.

3355.5. Bonds issued by the district pursuant to Article 8 (commencing with Section 53540) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code, may bear interest at the rate or rates as may be fixed by the board of directors without

regard to the limitations set forth in Section 53541 of the Government Code, and may be sold at a discount, as determined by the board of directors.

3356. (a) Notwithstanding Section 3355, the district may, from time to time, issue bonds in accordance with the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code), for the purpose of financing the construction, reconstruction, replacement, acquisition, or improvement of any facility or facilities necessary or convenient for the generation, transmission, or distribution of electricity or incidental to, or in connection with, the operation of the electric system or facilities of the district, or for purposes of financing programs for the conservation of electricity, which shall constitute an "enterprise" within the meaning of Section 54309 of the Government Code. The authority hereby granted to the district is in addition to all powers granted local agencies under the Revenue Bond Law of 1941, and Section 54310 of the Government Code, insofar as it is inconsistent with that authority, shall not apply.

(b) Article 3 (commencing with Section 54380) of Chapter 6 of Part 1 of Division 2 of Title 5 of the Government Code, the limitations on the rate of interest set forth in subdivision (b) of Section 54402 of the Government Code and on the discount set forth in Section 54418 of the Government Code, and the requirements for refunding revenue bonds set forth in Sections 53573, 53583, 54388, and 54661 of the Government Code do not apply to the issuance and sale of bonds pursuant to this section. Whenever the district proposes to exercise the power to issue bonds pursuant to this section, the board shall adopt a preliminary resolution declaring its intention to authorize the issuance of bonds, which resolution shall specify all of the following:

(1) The purpose for which the proposed bonds are to be issued.

(2) The maximum principal amount of the bonds then proposed to be issued.

(3) The maximum term for which any of the bonds are to run.

(4) The maximum rate of interest to be payable upon the bonds which rate shall be determined by the board.

(5) The maximum discount, which shall be determined by the board.

(c) When bonds are issued pursuant to this section, the preliminary resolution of the board adopted pursuant to this section shall take effect upon its adoption by the board subject to the right of referendum provided for in this section. Successive issues of bonds may be authorized under this section from time to time and the authority herein contained shall not be limited to any particular issue.

(d) Upon any resolution taking effect that is subject to the right of referendum pursuant to this section, the board shall cause the resolution to be published in the manner provided for the publication of notices. At any time within 60 days after the date of the second publication of a referendum petition, signed by voters in number equal to at least 3 percent of the total vote cast, demanding the submission of the resolution to a vote of the voters of the district for their assent to the issuance of the proposed bonds, may be filed with the secretary. Upon presentation to the secretary of a referendary petition, the resolution that is the subject thereof shall be of no effect unless and until it has been assented to by the voters.

(e) If no referendary petition is presented within the period of 60 days, then upon the expiration of the 60-day period, or if the proposition of issuing the bonds specified in the resolution of the board adopted pursuant to this section has been assented to by

a majority of the voters voting on the proposition, whether upon referendum or pursuant to subdivision (f), then upon the proposition having been so assented to, the resolution shall take full and final effect, and the board may proceed in accordance with the provisions of this section and issue bonds within the terms of the resolution and in accordance with the applicable provisions of the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code).

(f) The board at any time may, and upon the filing of a referendum petition as provided in subdivision (e) shall, adopt a resolution calling a special election for the purpose of submitting to the voters of the district the proposition of issuing revenue bonds in conformity with the preliminary resolution adopted pursuant to subdivision (b). The resolution calling the election shall fix the date on which the election is to be held, the proposition to be submitted thereat, the manner of holding the election and of voting for or against the proposition, and shall state that in all other particulars the election shall be held and the votes canvassed as provided by law for the holding of elections within the district. The election may be held separately or may be consolidated with any other election authorized by law at which the voters of the district may vote. The resolution calling the election shall be published and no other notice of the election need be given. The votes of a majority of all the voters voting on the proposition at the election are required to authorize the issuance of revenue bonds.

(g) The authority granted the district by the section shall be in addition to the authority conferred by Article 8 and indebtedness incurred in accordance with the

authority herein contained shall not be included in ascertaining the aggregate indebtedness specified in subdivision (b) of Section 3355.

3357. The district may accept, without limitation by any other provisions of this division requiring approval of indebtedness, contributions or loans from the United States, or any department, instrumentality, or agency thereof, for the purpose of financing the construction, maintenance, and operation of any enterprise in which the district is authorized to engage, and may enter into contracts and cooperate with, and accept cooperation from, the United States, or any department, instrumentality, or agency thereof, in the construction, maintenance, and operation, and in financing the construction, maintenance, and operation, of any such enterprise in accordance with any legislation that Congress may have heretofore adopted or may hereafter adopt, under which aid, assistance, and cooperation may be furnished by the United States in the construction, maintenance, and operation or in financing the construction, maintenance, and operation of any such enterprise. The district may do any and all things necessary in order to avail itself of the aid, assistance, and cooperation under any federal legislation now or hereafter enacted. Any evidence of indebtedness issued under this section shall constitute a negotiable instrument.

Article 8. Investments

3360. The district may invest any surplus money in its treasury, including money in any sinking fund, in any of the following:

(a) Its own bonds, whether issued on behalf of the entire district or any special district.

(b) Treasury notes, certificates of indebtedness, bills, bonds of the United States, or any other evidence of indebtedness secured by the full faith and credit of the United States.

(c) Obligations issued pursuant to the Federal Home Loan Bank Act or the National Housing Act.

(d) Treasury notes or bonds of this state, or of any public corporation, municipal corporation, public district, or political subdivision within this state which are legal as security for the deposit of public funds.

(e) Obligations issued by federal intermediate credit banks, federal land banks, and banks for cooperatives.

(f) Obligations issued or assumed by the International Bank for Reconstruction and Development, the Tennessee Valley Authority, the Inter-American Development Bank, or Export-Import Bank of Washington participation certificates.

(g) Banker's acceptances of banks having total deposits exceeding limits established by the board of directors.

(h) Any securities in which savings banks in this state may legally invest their funds pursuant to Sections 1350 to 1366, inclusive, of the Financial Code; provided, that the provisions of those sections limiting the amount that a savings bank may invest in securities to a specified percent of its paid-up capital and surplus, or savings deposits, shall not apply to investments authorized by the terms of this section.

3361. (a) Investment may be made by direct purchase of any issue of bonds, treasury notes, or obligations, or part thereof, at the original sale or by the subsequent purchase of the bonds, treasury notes, or obligations.

(b) Any bonds, treasury notes, or obligations purchased and held as investments by the district may from time to time be sold and the proceeds reinvested in bonds, treasury notes, or obligations as provided in this article.

(c) Sales of any bonds, treasury notes, or obligations purchased and held by the district shall from time to time be made in season so that the proceeds may be applied to the purposes for which the money with which the bonds, treasury notes, or obligations were originally purchased was placed in the treasury of the district.

Article 9. Taxation

3365. (a) The district may, for lawful purposes, impose a special tax in accordance with Article 3.5 (commencing with Section 50075) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code and the California Constitution. A special tax shall be a utility user tax or a parcel tax and be applied uniformly to all taxpayers or all real property within the district, except that unimproved property may be taxed at a lower rate than improved property.

(b) All parcel taxes levied pursuant to this section are a lien on the property on which they are levied. Unless the board has by ordinance otherwise provided, the enforcement of the collection of taxes shall be in the same manner and by the same means provided by law for the enforcement of liens for county taxes, all the provisions

of law relating to the enforcement of the latter being made a part of this section, so far as applicable.

CHAPTER 7. ELECTRICAL SYSTEM IMPROVEMENTS

Article 1. Application

3370. (a) This chapter is complete authority for the issuance of bonds hereunder, and no action or proceeding not required by this chapter shall be necessary for the valid authorization and issuance of such bonds.

(b) Unless otherwise clearly indicated by the context, all of the provisions of this chapter shall be understood as relating only to bonds issued under this chapter.

Article 2. Definitions

3371. (a) Unless the context otherwise requires, the provisions of this article govern the construction of this chapter.

(b) For purposes of this chapter, the following terms have the following meanings:

(1) "Assented to by the voters" means that the proposition indicated by the context has been submitted to the voters of the district, and has been assented to by a majority of those voters who voted upon that proposition at the election.

(2) "Bonds" includes the meaning of "notes, certificates and other evidences of indebtedness" and in every case refers only to bonds issued under this chapter, whether so specified or not.

(3) "Payments on principal" means payments on account of the principal of bonds, whether upon maturity or by payments into a sinking fund on account of principal, and includes premiums required to be paid on the mandatory redemption of sinking fund bonds.

(4) "Refund" includes the meaning of "extend" and "renew."

Article 3. General Authorization

3372. (a) (1) The district may borrow money from time to time for the purpose of constructing, reconstructing, replacing, extending, or improving its system for supplying the district and its inhabitants with electricity, and may issue and sell bonds to evidence the indebtedness created by that borrowing. The money shall not be used for any of the following:

(A) For constructing or improving works located outside the district boundaries which exist on the date this chapter is enacted.

(B) For acquiring any property owned by a public utility.

(C) For constructing or improving works for generating electricity.

(D) For constructing or improving works used, or to be used, in whole or in part either for the receipt, transmission and delivery of electricity for any supplier of electricity or for the exchange of electricity with any person or entity. This provision

shall not prevent the district from using the money for the purposes set forth in the initial sentence of this subdivision.

(2) Bonds shall not be issued for a term in excess of 20 years after the date of such bonds; provided, that this sentence shall not limit the power of a district to refund such bonds.

(b) The district may also refund from time to time, whether at or prior to maturity, any outstanding indebtedness evidenced by its bonds, and may issue, and sell or exchange, bonds so to refund that indebtedness. Refunding bonds which are to be sold may be issued and sold at such time in advance of the time at which the bonds to be redeemed or paid out of the proceeds of the refunding bonds are to be so redeemed or paid as the board may determine.

(c) Whenever the district exercises the power to borrow money pursuant to this chapter the board may authorize the issuance of bonds in any amount which, when added to the aggregate amount of bonds of the district issued under this chapter and outstanding at the time of the acceptance of a proposal for the purchase of the bonds so authorized and payable out of the revenues out of which the bonds so authorized are to be payable shall not exceed the amount of the earned surplus derived from the operation of the electrical system to which those revenues pertain, as of the end of the last fiscal year which ended not less than four months prior to the making of the finding and determination provided for in subdivision (a) of Section 3379. The term "earned surplus" whenever used in this chapter means the excess of revenues from the inception of operation of the electrical system over related expenses thereof, plus accumulated price-level depreciation, plus or minus any additional amounts credited to or charged

against customers' equity employed in the business of the electrical system, as determined in accordance with the then current accounting practice of the district. The term "accumulated price-level depreciation" as used in this section means the accumulated additional amounts by which depreciation based on the cost of depreciable property adjusted to reflect current price levels exceeds depreciation computed on cost.

(d) The limitations prescribed in subdivision (c) shall not be applicable to the issuance of any refunding bonds pursuant to this chapter, and the amount of any issue of such refunding bonds may equal, but shall not exceed, the amount required for the payment or redemption of the bonds to be refunded thereby, including the premiums, if any, due upon such redemption, but excluding any interest due upon such redemption.

(e) Any bond for the payment and discharge of which, upon maturity or upon redemption prior to maturity, provision has been made through the setting apart in a reserve fund or special trust account created pursuant to this chapter to insure the payment thereof, of moneys sufficient for that purpose, or through the irrevocable segregation for that purpose, in some sinking fund or other fund or trust account, of moneys sufficient therefor, shall be deemed to be no longer outstanding within the meaning of any provision of this chapter.

(f) The board shall have power to determine all the terms and conditions of the issuance and sale of bonds pursuant to this chapter, excepting only as that power is limited by express provisions of this chapter.

Article 4. Proceedings for Issuance

3373. (a) Whenever the district proposes to exercise the power to borrow money, or to refund indebtedness, pursuant to this chapter, the board shall adopt a preliminary resolution declaring its intention to authorize the issuance of bonds for that purpose, which resolution shall specify all of the following:

(1) The purpose for which the proposed bonds are to be issued.

(2) The maximum principal amount of the bonds proposed to be issued in the then current calendar year.

(3) The maximum term for which any of the bonds are to run.

(4) The maximum rate of interest to be payable upon the bonds.

(5) The maximum premium, if any, to be payable on the redemption of any bonds.

(b) When bonds are issued under this chapter, the preliminary resolution of the board adopted pursuant to this article shall take effect upon its adoption by the board subject to the right of referendum herein provided for.

(c) Upon any preliminary resolution taking effect subject to the right of referendum, pursuant to this article, the board shall cause the same to be published in the manner provided for the publication of notices. At any time within 60 days after the date of the second publication a referendary petition, signed by voters in number equal to at least 3 percent of the total vote cast, demanding the submission of the resolution to a vote of the voters of the district for their assent to the issuance of the proposed bonds, may be filed with the secretary. Upon presentation to the secretary of a referendary petition, the resolution which is the subject thereof shall be of no effect unless and until it has been assented to by the voters.

(d) If no referendary petition is represented within the period of 60 days, then upon the expiration of the 60-day period, or if the proposition of issuing the bonds specified in the resolution of the board adopted pursuant to this article has been assented to by the voters, whether upon referendum or pursuant to any other provisions of this chapter, then upon the proposition having been so assented to, the resolution shall take full and final effect, and the board may proceed in accordance with the provisions of this chapter and issue bonds within the terms of the resolution.

(e) The provisions of any resolution constituting a part of the proceedings for the issuance of any bonds under this chapter, when so declared by its terms, or by the terms of any other resolution, shall constitute a contract between the district and the holders of the bonds, and the provisions thereof shall be enforceable by mandamus or any other appropriate suit, action or proceeding at law or in equity in any court of competent jurisdiction.

(f) The board, at any time, may adopt a resolution providing for submission to the voters of the district of the proposition of assenting to any proposed action of the board in any case where assent is required or permitted by the terms of this chapter, or in any case where the board may deem submission to the voters to be desirable. The resolution may provide for submission to the voters at any specified regular district election, or at any special election. The resolution and the election shall, except to the extent otherwise provided in this chapter, conform to the requirements of Article 1 (commencing with Section 3390) of Chapter 8 of this division. The board shall do, or

cause to be done, any and all things necessary to make the submission at the election indicated by its resolution and to determine and certify the result thereof.

Article 5. Sources of Payment

3374. All bonds issued by the district pursuant to this chapter shall be, and shall recite upon their face that they are, payable both as to principal and interest, and as to any premiums upon the redemption thereof, out of the revenues pertaining to the electric system on account of which the indebtedness evidenced by such bonds was created, and not out of any other fund or moneys of the district.

3374.5. The provisions of this article shall not preclude any of the following:

(a) The payment of any principal, interest, or premiums through appropriate reserve funds or special trust accounts, established as provided in this article.

(b) The payment of interest on, or principal of, bonds of any issue out of sums received as premiums or accrued interest on the sale of that issue.

(c) The payment of any principal or premiums out of the proceed of the sale of refunding bonds issued for that purpose.

(d) The payment out of the proceeds of any bonds of the whole or a part of the interest accruing on the bonds during the period of the performance of work to be paid for out of the proceeds.

(e) The payment of any principal, interest, or premiums by the purchasers of any bonds, or by any entity, public or private, other than the district, in any case where any purchaser or entity may have guaranteed that payment.

Article 6. Reserve Funds

3375. (a) In connection with the exercise of the power to borrow money, to issue bonds, and to refund indebtedness, pursuant to this chapter, the board may, from time to time, establish and maintain a reserve fund or funds in the district treasury, or a special trust account or accounts with an agent or agents designated by the board as a sinking fund or otherwise, to insure the payment, when due or payable, whether at maturity or upon redemption, of the principal of, and interest on, bonds, including premiums, if any, due upon the redemption of any bonds, or for any purposes. Money in any a reserve fund may be used for the purchase of bonds of the issue in connection with which it was established, for cancellation and retirement pursuant to any mandatory requirement of the redemption of sinking fund bonds. Each fund or account shall be established and maintained out of the revenues pertaining to the electrical system on account of which the power is exercised or out of any moneys which under the terms of this article are applicable to the purpose, through transfers or payments made at the times and in those amounts as the board may direct.

(b) Money set aside and placed in any a reserve fund or special trust account shall remain therein until from time to time expended for the purposes of the reserve fund or special trust, and shall not be used for any other purpose whatsoever, except

for temporary investment thereof as provided in this chapter, except for either of the following:

(1) Money may be paid or transferred from a reserve fund or special trust account in furtherance of the purpose of its establishment, to any other reserve fund or special trust account established for a like purpose in connection with the same issue of bonds, to the extent as may be required or permitted under the terms of the resolution authorizing that issue.

(2) All money remaining in any reserve fund or special trust account in excess of the amount required to make provision for the payment in full of the principal of, and interest on, the bonds with respect to which it was established, including premiums, if any, due upon the redemption of any thereof, may be returned and transferred to the revenue fund out of which the reserve fund was established.

(c) (1) Except as provided in paragraph (2), money in any reserve fund shall be drawn therefrom only upon demands authenticated by the signature of the accountant of the district.

(2) The board may, in its discretion, direct and authorize the payment from a reserve fund, by the treasurer, without an authenticated demand of the accountant of the district, of any of the following:

(A) Bonds of the issue in connection with which the reserve fund is so established when due upon maturity or call, or of coupons pertaining to bonds of the issue when due, but only upon presentation and surrender of the bonds or coupons.

(B) Interest upon registered bonds of the issue when due.

(C) Premiums, if any, due upon the redemption of any bonds.

(d) Money in any special trust account shall be drawn therefrom only in accordance with directions given or authorized by the board.

Article 7. Obligation to Bondholders

3376. (a) So long as any bonds of the district are outstanding and unpaid, or so long as provision has not been made for the full payment and discharge of all outstanding bonds, upon maturity, or upon redemption prior to maturity, through the setting apart in a reserve fund or special trust account created pursuant to this article to insure the payment thereof, of money sufficient for that purpose, or through other irrevocable allocation to that purpose of money sufficient therefor, all provisions of this section shall be complied with.

(b) The board shall fix rates for service from the electrical system to which the indebtedness pertains, and collect charges for electric service, such as to provide revenues at least sufficient in the aggregate to pay, as the same shall become due, the principal and interest on all bonds so outstanding payable out of those revenues, including premiums, if any, due upon the redemption of any thereof, in addition to paying, as the same shall become due, the necessary expenses of operating and maintaining the electrical system, and all other obligations and indebtedness payable out of those revenues.

(c) Bonds issued under this chapter shall be issued without any priority with respect to payment of principal or interest.

(d) The electrical system of the district to which the indebtedness pertains shall not be sold or otherwise disposed of, as a whole or substantially as a whole, unless the sale or other disposition be so arranged as to provide for a continuance of payments into a fund sufficient in amount to permit payment therefrom of principal of, and interest on, and premiums, if any, due upon the redemption of, all bonds issued under this chapter.

(e) No indebtedness payable out of revenues shall be created in contravention of the provision of any resolutions adopted by the board in connection with the authorization of any bonds payable out of revenues.

(f) The board, in any resolution constituting a part of the proceedings for the issuance of any issue of bonds under this chapter, may determine that the holders of the bonds of that issue are not to be entitled to the benefits of or to enforce any or all of the provisions of this section, and to that end the board, in a resolution, shall specify the provisions of this section to the benefits of which the holders of the bonds of that issue shall be entitled; and the holders of the bonds of that issue shall not be entitled to the benefits of or to enforce any of the provisions of this article not so specified.

Article 8. Consent of Bondholders

3377. (a) The board may provide in the resolution authorizing the issue of any bonds under this chapter that any act consented to by the holders of 60 percent in aggregate principal amount of the outstanding bonds of any issue of bonds issued under this chapter, pursuant to provisions for such consents contained in any resolution of

the board constituting a part of the proceedings for the issuance of the bonds, shall not, as to the bonds of that issue, be deemed an infringement of any of the provisions of Article 7 (commencing with Section 3376), or of any covenant made pursuant thereto, whatever the character of the act may be.

(b) The board may provide in the resolution authorizing the issue of any bonds under this chapter the terms and conditions upon which any provision of any resolution of the board constituting a part of the proceedings for the issuance of the bonds, or any provision of the bonds or coupons appurtenant thereto, may be modified if consented to by the holders of any percentage, specified in the resolution authorizing the issue of the bonds, of the aggregate principal amount of the outstanding bonds of the issue.

Article 9. Form and Content

3378. (a) The board may provide for bonds being in the amounts, the denominations, payable at the times, and in the form as the board may determine.

(b) The board may provide for bonds being negotiable or nonnegotiable.

(c) The board may provide for bonds and the interest thereon, and premiums, if any, due upon the redemption of any thereof, being payable or collectible at any place or places, within or without the State of California, and without presentation and approval of demands.

(d) The board may provide for bonds being payable to bearer or only to the registered holder, either as to principal alone, or as to both principal and interest; for bonds being with or without coupons; for bonds being nonregisterable, or registerable,

either as to principal alone, or as to both principal and interest; for bonds being exchangeable or nonexchangeable, convertible or nonconvertible; and for the reissuance of bonds or coupons which have been surrendered and preserved, or for the issuance of new bonds or coupons in the place of bonds or coupons which have been surrendered and canceled, wherever appropriate as incident to the discharge of any bond from registration, or to any exchange or conversion of any bond; all on such terms and conditions, and at such place or places, within or without the State of California, as the board may determine.

(e) The board may provide for bonds being redeemable, either at the option of the district, or in the operation of any sinking fund provided for the issue, at that price or prices and in that manner as the board may determine, whether or not involving the payment of a premium upon redemption; provided, that no bond shall be subject to redemption unless the bond at the time of its issue states on its face that it is redeemable at the option of the district or by the operation of a sinking fund for bonds of that issue, as the case may be.

(f) The board may provide for the issuance by the district of a duplicate, in the manner and on those terms and conditions as the board may determine, in the event any bond, temporary bond, coupon or interim receipt of any issue is lost, destroyed or mutilated.

(g) The board may provide for the appointment and payment of fiscal, paying, sinking fund or other agents, or of trustees or registrars.

(h) The board may provide for the appointment of the treasurer of the district to act as the fiscal, paying, sinking fund or other agent.

(i) The board may provide for the custody by the district of bonds and coupons, whether pending delivery or after purchase or surrender; for the delivery of bonds and coupons by the district to the purchaser thereof; for the receipt by the district of the proceeds of the sale and for the depositing of the proceeds in the proper fund or funds.

(j) The board may provide for the sale of any bonds upon those terms and conditions as the board in its discretion may determine at public sale. Bonds may be sold by the board below the par or face value thereof, at a discount not to exceed 6 percent of par value; provided further, that in the case of refunding bonds the board may provide for the refunding being made, in whole or in part, by the exchange of the refunding bonds for the bonds to be refunded. Before selling the bonds, or any part thereof, the board shall give notice not less than 10 days prior to the date of sale by publication in a newspaper of general circulation circulating in the district inviting sealed bids in that manner as the board shall prescribe. If satisfactory bids are received, the bonds offered for sale shall be awarded to the highest responsible bidder. If no bids are received, or if the board determines that the bids received are not satisfactory as to price or responsibility of the bidders, the board may reject all bids received, if any, and either readvertise or sell the bonds at private sale.

(k) The board may provide for the issuance of interim receipts or of temporary bonds, in a form that the board may prescribe, pending the issuance of definitive bonds.

(*l*) The board may provide for any signatures to the bonds and to any coupons thereto attached, and to any interim receipts and temporary bonds, being by facsimile.

(m) The board may provide for restrictions on the incurring of additional indebtedness of the district payable out of the revenues out of which the bonds then authorized are to be payable.

(n) The board may provide for restrictions on future transfers out of the revenues out of which the bonds then authorized are to be payable.

(o) The board may provide for covenants with the holders of bonds to the same effect as set forth in Article 7 (commencing with Section 3376), which covenants shall not be subject to alteration or repeal, except as provided in Article 8 (commencing with Section 3377).

(p) The board may provide for the issuance and distribution in a form that the board may determine of official statements respecting proposed issues of bonds and the properties, operations and finances of the works on account of which the bonds are to be issued, for the information of prospective purchasers of the bonds; and, in any case where any proposition is to be submitted to the voters for their assent, whether by referendum or pursuant to any provision of this chapter, for the issuance, distribution, dissemination and publication of factual statements respecting the proposed issues of bonds, and the properties, operations and finances, for the information of the voters.

(q) The board may provide for the making of contracts, or the placing of orders, for the engraving or printing of any bonds, whether definitive or temporary, or of interim receipts, authorized by this chapter, or for any printing incident to the offering or issuance of any bonds, without advertising for bids, in any case where, because of limitations of time, or requirements as to quality of work, or as to security in the control or custody of plates, or any similar cause, the board may deem it to be in the public

interest so to do, anything in this division to the contrary notwithstanding, but in so doing the board shall, if practicable, obtain or cause to be obtained competitive bids, formal or informal, from bidders who can perform work of the required quality within the required time, and, in the case of engraving, who are of proper responsibility and who have adequate facilities for the control and safekeeping of the engraved plates.

(r) Each issue of bonds pursuant to this chapter shall conform to both of the following requirements:

(1) The bonds shall be serial bonds or sinking fund bonds, or a combination of serial and sinking fund bonds.

(2) Provision shall be made for the retirement of the bonds through annual payments on principal, and the payments shall begin not more than 10 years, and end not more than 20 years, after the date of the bonds.

Article 10. Validity

3379. (a) Prior to the issue of any bonds pursuant to this chapter, the board, after satisfying itself respecting the relevant facts, shall, by resolution, find and determine each of the following:

(1) The amount of earned surplus derived from the operation of the electrical system of the district to which the revenues out of which the bonds are to be payable pertain, as of the end of the last fiscal year which ended not less than four months prior to the making of the finding and determination, and that the ascertainment of the earned surplus has been in accordance with the then current accounting practice of the district;

provided, however, that the finding and determination need not be made in the case of the authorization of refunding bonds, or in any case where the voters have assented to the issuance of bonds in excess of the limitation specified in this chapter.

(2) The amount of bonds issued under this chapter which are outstanding at the time of the adoption of the resolution.

(3) That the resolution or resolutions authorizing the issue of bonds in all respects conforms or conform with the provisions of this chapter.

(4) That the indebtedness to be evidenced by the issue of bonds, together with all other indebtedness of the district, pertaining to the electric system for or on account of which the bonds are to be issued, is within every debt or other limit prescribed by the Constitution and statutes of the State of California.

(5) That upon the issuance of the bonds any and all acts, conditions and things required to exist, to happen and to be performed, precedent to and in the issuance thereof, will exist, will have happened and will have been performed, in due time, form and manner, as required by the Constitution and statutes of the State of California.

(b) The board may also, by resolution, find and determine any other facts relevant to the legality of the issue.

(c) The board, by resolution adopted in connection with any issue of bonds pursuant to this chapter, may direct that there shall be included in each of the bonds of that issue a certification and recital that any and all acts, conditions and things required to exist, to happen and to be performed, precedent to and in the incurring of the indebtedness evidenced by that bond, and in the issuing of the bond, exist, have happened and have been performed in due time, form and manner, as required by the

Constitution and statutes of the State of California, and that the bond, together with all other indebtedness of the district pertaining to the electrical system for or on account of which the indebtedness evidenced by the bond was incurred, is within every debt and other limit prescribed by the Constitution and statutes of the State of California.

(d) From and after the issuance of any issue of bonds the findings and determinations of the board respecting that issue made pursuant to this article shall be conclusive evidence of the existence of the facts so found and determined in any action or proceeding in any court in which the validity of the bonds is at issue, and no bona fide purchaser of any such bond containing the certification and recital permitted by this article shall be required to see to the existence of any fact, or to the performance of any condition, or the taking of any proceeding, required prior to that issue, or to the application of the purchase price paid for those bonds.

(e) Bonds shall be deemed to be issued, within the meaning of this article whenever the definitive bonds, or any temporary bonds or interim receipts exchangeable therefor, have been delivered to the purchasers thereof, and the purchase price received, or in the case of bonds to be refunded through exchange, whenever the exchange has been made.

(f) The validity of bonds reciting that they have been issued pursuant to this chapter shall not be affected by any provision or limitation contained in any other section or sections of this division. All bonds issued under this chapter shall be incontestable from and after the time of payment of the purchase price to the district.

Article 11. Proceeds

3380. (a) All sums received as accrued interest on the sale of any issue of bonds pursuant to this chapter shall be applied to the payment of interest on, or principal of, bonds of that issue.

(b) All sums received as principal and premiums on the sale of any issue of bonds shall be applied to the purposes for which the bonds were issued. The board may provide in the resolution authorizing the issue of any bonds under this chapter that any portion of the proceeds of sale of the bonds may be applied to payment of interest during construction for a period of not to exceed three years from and after the date of the bonds.

(c) The board may from time to time establish and maintain a separate fund or funds in the district treasury for the purpose of insuring the application of the proceeds received as principal on the sale of any issue of bonds to the purposes for which the bonds were issued.

(d) Money set aside and placed in a separate fund shall remain therein until from time to time expended for the purposes for which the bonds were issued, including the reimbursement of other funds of the district for expenditures therefrom for purposes for which the bonds were issued, made after the adoption by the board of the preliminary resolution of intention provided for in subdivision (a) of Section 3373, and shall not be used for any other purpose whatsoever, except for temporary investment thereof as provided in this division; provided, however, that money may be paid or transferred from any such separate fund, in furtherance of the purpose of its establishment, to any other such separate fund established for a like purpose in connection with the same issue of bonds.

(e) Money in a separate fund shall be drawn therefrom only upon demands authenticated by the signature of the accountant of the district.

(f) If the board by resolution determines that the expenditure of the whole or any portion of the principal sum of any issue of bonds for the purpose for which those bonds were issued is impracticable or unwise, the board may do either of the following:

(1) Apply the money or any part thereof to the purchase of bonds of that issue, or to the payment of those bonds, at maturity or on redemption, or to the payment of interest thereon or of premiums due on the redemption thereof.

(2) Apply the money or any part thereof to any new purpose that is within the purposes for which bonds might be issued under the terms of this chapter; provided, however, that before applying any of the money to a new purpose the board shall adopt a resolution specifying the new purpose, the amount of money to be applied thereto, and authorizing the application, which resolution shall be subject to the same procedures, and take final effect only in the same manner, as if it were a resolution adopted pursuant to subdivision (a) of Section 3372, authorizing the issuance of bonds for the new purpose, and the resolution authorizing the application to the new purpose, when it shall have taken final effect under these procedures, shall be sufficient authority for the application of the money to the new purpose.

(g) If any excess of the principal sum of the proceeds of any issue of bonds shall remain unexpended after the full accomplishment of the purpose for which the bonds were issued the board, by resolution, may direct that the excess shall be applied to the purchase of bonds of that issue, or to the payment of those bonds, at maturity or on redemption, or to the payment of interest of those bonds or of premiums due on the

redemption thereof, or that it shall be transferred to the revenues pertaining to the electrical system in connection with which the bonds were issued.

Article 12. Short-Term Borrowing

3381. (a) The district may borrow money from time to time for any or all of the purposes specified in this chapter, and issue and sell notes, or other evidences, to evidence the indebtedness created by that borrowing, by resolution subject to referendum, whenever they shall find and determine that the public interest and necessity require the exercise of that power.

(b) All notes or other evidences of indebtedness issued under the authority of this section shall contain upon their face a recital that they are so issued and shall be payable in not to exceed three years from their date.

(c) No amount shall be borrowed under the authority of this section which, when added to the amount of all other notes or other evidences of indebtedness issued under this section and then outstanding, shall exceed 50 percent of the gross operating revenues from the works on account of which it is borrowed during the preceding fiscal year.

(d) All of the provisions of this chapter not inconsistent with the terms of this section, and not by their terms made inapplicable thereto, shall apply to all notes, or other evidences, issued under the authority of this section.

Article 13. Investments

3382. (a) Pending use for the purposes for which any reserve fund or special trust account or any other separate fund established pursuant to this chapter was so established, money set aside and placed therein may, when and to such extent and in such manner as may be directed by the board and as may be consistent with the provisions of any resolutions of the board constituting a part of the proceedings for the issuance of bonds in connection with which the fund or account was created, be invested in the same manner as are other moneys of the district. Any bonds or other evidences of indebtedness acquired through investment may be resold at any time.

(b) Any bonds or other securities so purchased shall constitute a part of the reserve fund, separate fund, or special trust account, and any interest or any increment received by reason of the investment and the proceeds of any resale shall be placed in, and constitute a part of, the fund or account.

CHAPTER 8. BONDS

Article 1. Issuance

3390. The district may from time to time incur a bonded indebtedness as provided in this chapter to pay the cost of acquiring, constructing, or completing the whole or any portion of any utility or works referred to in this division, or for acquiring any works, lands, structures, rights, or other property necessary or convenient to carry out the objects, purposes, or powers of the district.

3391. Whenever the board by resolution passed by vote of seven members determines that the public interest or necessity demands the acquisition, construction, or completion by the district of any public utility or utilities referred to in this division or any works, lands, structures, rights, or other property necessary or convenient to carry out the objects, purposes, or powers of the district, the cost of which will be too great to be paid out of the ordinary annual income and revenue of the district, it may at any subsequent meeting of the board provide for the submission of the proposition of incurring a bonded indebtedness for the purpose set forth in the resolution to the voters of the district at a special bond election held for that purpose.

3392. (a) In lieu of a resolution passed by the board, proceedings for the issuance of bonds for the purposes provided in this chapter may be initiated by petition of the voters of the district.

(b) Whenever any petition signed by voters within the district equal in number to at least 3 percent of the total vote cast is presented to the board asking for the acquisition, construction, or completion of the whole or any portion of any utility or works referred to in this division or for acquiring any works, lands, structures, rights, or other property necessary or convenient to carry out the objects, purposes, or powers of the district, and also asking that a bonded indebtedness be incurred to pay for the cost thereof, the secretary of the district shall immediately examine and verify the signatures of the petition and certify the result of the examination to the board.

(c) If the required number of signatures is found to be genuine, the secretary shall transmit to the board an authentic copy of the petition without the signatures.

(d) Upon receiving a petition with the certificate of the secretary stating that it contains the required number of signatures, the board shall formulate for submission to the voters of the district at a special bond election called for that purpose the proposition of incurring a bonded indebtedness for the purposes set forth in the petition. In its discretion the board may defer the calling of the election until the next general election to be held in the district in order to consolidate them.

3393. (a) The ordinance calling a special bond election shall fix the date on which the election will be held, and the manner of holding the election and of voting for or against incurring the indebtedness. It shall also recite the objects and purposes for which the indebtedness is proposed to be incurred, the estimated cost of the utility, works, lands, structures, rights, or other property proposed to be acquired, constructed, or completed, the amount of the principal of the indebtedness to be incurred, and the maximum rate of interest to be paid on the indebtedness, which shall not exceed 8 percent per annum, payable semiannually. If, however, the rate of interest to be paid on the indebtedness does not exceed 4 $\frac{1}{2}$ percent per annum, payable semiannually, the rate of interest need not be recited in the ordinance.

(b) Propositions for incurring indebtedness for more than one object or purpose may be submitted at the same election.

(c) All special bond elections held in even-numbered years shall be consolidated with the direct primary or general election. All special bond elections held in odd-numbered years shall be held on the first Tuesday after the first Monday in November and may be held separately, or may be consolidated with any other election authorized by law at which the voters of the district may vote. When a special bond

election is consolidated with a statewide primary or a general election, the board shall in the ordinance calling the special bond election consolidate it with the statewide primary or the general election to be held at the same time in the respective counties in which the district is located and authorize the respective boards of supervisors to canvass the returns and certify the result of the canvass to the board; it shall be the duty of the board or boards of supervisors to so consolidate the election, canvass the returns, and cause the result thereof to be properly certified to the board. If a special bond election is consolidated with any other election, the provisions of this chapter setting forth the procedure for the calling and holding of the special bond election shall be complied with, except that the ordinance calling the election need not set forth the election precincts, polling places, and officers of election, but may provide that the precincts, polling places, and officers of election shall be the same as those set forth in the ordinance, notice, or other proceedings calling the election with which the special bond election is consolidated, and shall refer to the ordinance, notice, or other proceedings by number and title, or by other definite description.

(d) The ordinance shall be published, and no other notice of election need be given.

3394. (a) The votes of a majority of the voters voting on the proposition at the election are required to authorize the issuance of bonds under this chapter.

(b) If the proposition submitted at a special bond election fails to receive the requisite number of votes, the board shall not within six months after the election hold another special election for the submission of a proposition of incurring a bonded indebtedness substantially the same as the proposition voted upon at the prior election

unless a petition signed by voters within the district equal in number to at least 3 percent of the total vote cast is filed with the board, requesting that the proposition, or a proposition substantially the same, be submitted at an election to be called for that purpose.

Article 2. Form and Content

3395. Bonds authorized pursuant to this chapter shall mature serially in amounts to be fixed by the board; provided, that payment shall begin not more than 10 years from the date of issuance thereof and be completed in not more than 50 years from that date; provided, further, that the board may divide any issue of bonds authorized pursuant to this chapter into two or more series, and may fix different dates of issuance and different maturity dates for the bonds of each series. The bonds of each series shall mature serially in amounts to be fixed by the board, and the board shall fix a date not more than 10 years from the date of issuance of each series for the earliest maturity of the series, and shall fix a date not more than 50 years from the date of issuance of each series for the final maturity of the series.

3396. The bonds shall be issued in the denomination or denominations that the board determines, and shall be payable on the day and at the place or places fixed in the bonds, and with interest at the rate specified therein, payable semiannually.

3397. The board may at any time prior to the issuance and sale of any bonds provide for the call and redemption of any or all of the bonds on any interest payment date prior to their fixed maturity at not exceeding the par value and accrued interest

plus a premium of not exceeding 5 percent upon the principal amount of the bonds, in which event the call price fixed by the board shall be set forth on the face of the bond. Notice of the redemption shall be published once a week for three successive weeks in a newspaper of general circulation printed and published within the district, the first publication of which shall be at least 30 days prior to the date fixed for the redemption, and notice shall be posted on the Internet Web site maintained by the district. After the date fixed for the redemption interest on the bonds thereafter shall cease.

3398. The bonds shall be signed by the president of the board or by an officer of the district as the board shall by resolution authorize and designate for that purpose. They shall also be signed by the treasurer, and be countersigned by the secretary. The coupons of the bonds shall be numbered consecutively and be signed by the treasurer. All signatures and countersignatures, except that of the treasurer on the bonds, may be printed, lithographed, or engraved. If any officer whose signature or countersignature appears on the bonds or coupons ceases to be an officer before the delivery of the bonds to the purchaser, the signature or countersignature is nevertheless valid and sufficient for all purposes as if he or she had remained in office until the delivery of the bonds.

Article 3. Issue and Sale

3400. The bonds may be issued and sold for not less than their par value, but otherwise as the board determines.

3401. The proceeds of the bonds shall be placed in the district treasury to the credit of the proper fund, and shall be used exclusively for the objects or purposes for which the bonds were voted.

3402. In lieu of the immediate levy of a tax to pay the interest or any part thereof on any bonded indebtedness incurred in accordance with this division, the board may in the estimate of the amount of money necessary to be raised by the bonds include a sum sufficient to pay interest on all of the bonds or part thereof during the period of acquisition, construction, or completion, but for no period in excess of five years.

Article 4. Refunding

3405. (a) Whenever the board by resolution passed by a vote of two-thirds of all its members determines that the refunding of the whole or any portion of the bonded indebtedness will be of advantage to the district the board may refund the bonded indebtedness or any portion thereof and issue refunding bonds of the district therefor.

(b) The issuance of refunding bonds shall not be construed as the incurring or increase of an indebtedness within the meaning of this division, and the approval of the voters is not required for the issuance of refunding bonds. The board may provide for the call and redemption of any or all of the bonds on any interest payment date prior to their fixed maturity in the ordinance authorizing the issuance of the refunding bonds.

(c) Except as provided in this article, matters pertaining to the issuance of refunding bonds under this chapter shall be governed by Article 9 (commencing with

Section 53550) and Article 10 (commencing with Section 53570) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code.

3406. The proceeds of the sale of refunding bonds shall be applied only to the purchase, or retirement at not more than par and accrued interest, or the call price, of the bonded indebtedness for which the refunding bonds were issued.

3407. In lieu of selling refunding bonds and using the proceeds to purchase or retire the bonds to be refunded, the board may exchange refunding bonds at not less than par and accrued interest for the bonds so refunded.

3408. Whenever outstanding bonds are refunded they shall be surrendered to the treasurer of the district, who shall cancel them by endorsing on their face the manner in which the refunding was effected (whether by exchange or purchase, and the amount for which so purchased, if any) and by perforating through each bond and each coupon attached thereto the word "canceled" together with the date of cancellation.

Article 5. Status as Investments

3410. (a) All bonds including refunding bonds issued by the district are legal investments for all trust funds and for the funds of all insurance companies, banks, both commercial and savings, and trust companies, and for the State School Fund, and for all sinking funds under the control of the State Treasurer. Whenever any money or funds may by law be invested in or loaned upon the security of bonds of cities, cities and counties, counties, or school districts, in the State, the money or funds may be invested in or loaned upon the security of the bonds of a district; and whenever bonds

of cities, cities and counties, counties, or school districts by law may be used as security for the faithful performance or execution of any court or private trust or of any other act, bonds of the district may be so used.

(b) All bonds of the district, to the same extent as bonds of any other municipality, are legal for use by any state or national bank or banks in the State as security for the deposit of funds of the State or of any county, city and county, city, municipality, or other public or municipal corporation within the State.

Article 6. Validating Proceedings

3412. An action to determine the validity of bonds may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

CHAPTER 9. EMERGENCY FINANCING

Article 1. Incurring Indebtedness for Repair or Replacement of Damaged or Demolished Works

3415. Whenever the board, by resolution adopted by seven members of the board, finds and determines that any part of the works of the district has been damaged or demolished by reason of fire, flood, earthquake, sabotage, or act of God or the public enemy, and that the cost of repairing or replacing the works so damaged or demolished

is too great to be paid out of the ordinary annual income and revenue of the district, and that the public interest requires the incurring of indebtedness for the purposes set forth in the resolution, the board may authorize the incurring of indebtedness for this purpose pursuant to this chapter.

3416. (a) Whenever the board makes the finding and determination as described in Section 3415, the district may borrow money and incur indebtedness by the issuance of bonds, notes, or other securities as provided in this chapter by action of the board and without the necessity of calling and holding an election in the district. These evidences of indebtedness shall constitute general obligations of the district or shall be payable solely from revenues of the district as the board may determine in the resolution authorizing their issuance. The indebtedness may be incurred for any purpose for which the district is authorized to expend funds.

(b) The indebtedness incurred under this chapter shall be evidenced by bonds, notes, or other evidences of indebtedness maturing in not to exceed five years from their date, shall bear interest at the rate or rates fixed by the board, and may be issued and sold at a public or private sale as the board may direct. All other terms and conditions of these evidences of indebtedness shall be fixed by the board. The maximum principal amount of all general obligation indebtedness outstanding under this chapter shall not, at any one time, exceed 1 percent of the assessed valuation of the property within the district taxable for district purposes.

(c) The board may authorize and issue refunding notes for the purpose of paying and redeeming at or before maturity any notes previously issued and then outstanding. However, these refunding notes shall not be in excess of the limitation of indebtedness

provided in this section and shall mature in not to exceed five years from the dates of the original indebtedness. Refunding notes may in turn be refunded under similar terms and conditions, except that no refunding note shall mature in excess of five years from the date of the original indebtedness.

3417. Indebtedness incurred pursuant to this chapter shall be payable from any sources of available funds, including revenues, taxes, or state or federal grants. The board may levy and collect taxes upon all property in the district subject to taxation by the district without limitation of rate or amount for the payment of any evidences of general obligation indebtedness incurred pursuant to this chapter and the interest thereon. These taxes shall be in addition to all other taxes levied for district purposes and shall be levied at the same time and in the same manner as other district taxes are levied and, when collected, shall be deposited in a special fund and shall be used only for the payment of the principal of and interest on this indebtedness. The board shall apply for any federal or state funds available for purposes of repairing or replacing works damaged or demolished by reason of fire, flood, earthquake, sabotage, or act of God or the public enemy.

CHAPTER 10. SHORT-TERM BORROWING

Article 1. Proceedings For Incurring Short-Term Indebtedness

3420. (a) As used in this chapter, the term "revenues" of the district shall have the same meaning as is provided in Section 54315 of the Government Code.

(b) The district may borrow money and incur indebtedness for the purposes of this chapter by the issuance of bonds, notes, or other evidences of indebtedness by a majority vote of its board of directors and without the necessity of calling and holding an election in the district. Any evidences of indebtedness shall constitute general obligations of the district or shall be payable solely from the revenues of the district as the board may determine in the resolution authorizing their issuance; provided, that if the board determines that the evidences of indebtedness shall constitute general obligations of the district, their issuance shall be approved by a vote of nine members of the board. Such indebtedness may be incurred for any of the following purposes:

(1) The purchase, processing, storage, and disposal of fuel to be used for the generation and transmission of electricity, of materials to be used in the manufacture of that fuel, and of the products of that fuel, the purchase of real property and manufacturing and processing facilities from which that fuel or materials may be obtained, or interests therein.

(2) The planning, design, engineering, and licensing of facilities for the generation or transmission of electricity, and the preparation of sites and the purchase of equipment for those facilities.

(3) The replacement of works of the district that have been damaged or demolished by reason of fire, flood, earthquake, sabotage, or acts of God or the public enemy.

(4) Any expenses or charges incurred in connection with the foregoing purposes, and to reimburse the district for expenditures incurred for any of those purposes.

(c) The indebtedness incurred under this chapter shall be evidenced by bonds, notes or other evidences of indebtedness maturing in not to exceed seven years from their date, shall not result in interest costs exceeding such limits as may be fixed by the board, and may be sold either by public or by private sale. All other terms and conditions of any evidences of indebtedness shall be fixed by the board. The district may arrange for bank credit for the purposes of this section or to provide an additional source of repayment for indebtedness incurred under this chapter. The maximum principal amount of all indebtedness outstanding under this article, including the amounts drawn on available bank lines of credit, shall not at any one time exceed the lesser of either (1) the annual average of the total revenue for the three preceding years or (2) 25 percent of the district's total outstanding bonds issued pursuant to Chapter 6 (commencing with Section 3330), Chapter 7 (commencing with Section 3370), and Chapter 8 (commencing with Section 3390).

(d) The authority contained in this chapter shall be in addition to the authority contained in Chapter 6 (commencing with Section 3330), Chapter 7 (commencing with Section 3370), and Chapter 8 (commencing with Section 3390), and any indebtedness incurred pursuant to this chapter shall not be included in ascertaining the aggregate indebtedness permitted by Section 3355.

3421. The district may issue refunding bonds, notes, or other evidences of indebtedness for the purpose of paying and redeeming at or before maturity any bonds, notes, or other evidences of indebtedness issued under this chapter, provided that any refunding bonds, notes, or other evidences of indebtedness shall not be in excess of the limitation of indebtedness authorized under this chapter and shall mature in not to

exceed seven years from the date of the original indebtedness. Any refunding bonds, notes, or other evidences of indebtedness may in turn be refunded under like terms and conditions, provided that in no event shall the refunding notes mature in excess of seven years from the date of the original indebtedness.

3422. General obligation indebtedness issued pursuant to this chapter shall be payable from any sources of available funds, including revenues or taxes. The board is hereby authorized to levy and collect taxes upon all property in the district subject to taxation by the district without limitation of rate or amount for the payment of the evidences of general obligation indebtedness and the interest thereon. Taxes levied and collected for these purposes shall be in addition to all other taxes levied for district purposes and shall be levied at the same time and in the same manner as other district taxes are levied and when collected shall be deposited in a special fund and shall be used for no purpose other than the payment of the principal of, and interest on, such general obligation indebtedness.

3423. When bonds are issued under this article, the preliminary resolution of the board adopted pursuant to this article shall take effect upon its adoption by the board subject to the right of referendum provided for in this article. Successive issues of bonds may be authorized under this article from time to time and the authority herein contained shall not be limited to any particular issue.

3424. (a) Whenever a resolution authorizes the issuance of bonds pursuant to Section 3420, the board shall cause the resolution to be published in the manner provided for the publication of notices. At any time within 60 days after the date of the second publication, a referendum petition, signed by voters in number equal to at least 3 percent

of the total vote cast, demanding the submission of the resolution to a vote of the voters of the district for their assent to the issuance of the proposed bonds, may be filed with the secretary. Upon presentation to the secretary of a petition meeting the requirements of this section, the resolution shall be of no effect unless and until it has been approved by the voters.

(b) If no referendum petition is presented within the period of 60 days, then upon the expiration of that period, or if the proposition of issuing the bonds specified in the resolution of the board adopted pursuant to this article has been assented to by a majority of the voters voting on the proposition, whether upon referendum or pursuant to subdivision (c), then upon the proposition having been so assented to, the resolution shall take full and final effect, and the board may proceed in accordance with the provisions of this article and issue bonds within the terms of the resolution.

(c) The board at any time may, and upon the filing of a referendum petition as provided in subdivision (a) shall, adopt a resolution calling a special election for the purpose of submitting to the voters of the district the proposition of issuing revenue bonds in conformity with the preliminary resolution adopted pursuant to this article. The resolution calling the election shall fix the date on which the election is to be held, the proposition to be submitted thereat, the manner of holding the election and of voting for or against the proposition, and shall state that in all other particulars the election shall be held and the votes canvassed as provided by law for the holding of elections within the district. The election may be held separately or may be consolidated with any other election authorized by law at which the voters of the district may vote. The resolution calling the election shall be published and no other notice of the election

need be given. The votes of a majority of all the voters voting on the proposition at the election are required to authorize the issuance of bonds pursuant to Section 3420.

Article 2. Borrowing to Purchase Electricity

3425. The district may borrow money and incur indebtedness for the purchasing of electricity; provided, that the maximum principal amount of indebtedness outstanding under this article shall not at any one time exceed a maximum amount established by the board of directors.

3426. All provisions of this chapter not inconsistent with this article and not by their terms made inapplicable thereto shall apply to all evidences of indebtedness issued under this article.

CHAPTER 11. ANNEXATION

Article 1. Annexation Agreement

3430. Any local publicly owned electric utility not included within the boundaries of the district may be annexed to the district in the manner provided in this chapter or in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000) of the Government Code). When proceedings for an annexation are taken pursuant to this chapter, only the provisions of this chapter shall apply to that annexation.

3431. The legislative body of the local publicly owned electric utility proposed to be annexed shall agree in writing with the board upon the terms and conditions of annexation, which agreement (among other things) may provide for any of the terms and conditions authorized by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000) of the Government Code). The corporate boundaries of the local publicly owned electric utility to be annexed need not be coterminous with any election precincts.

3432. The terms and conditions of annexation may provide, among other things, for the levy and payment of taxes within the territory to be annexed in addition to the taxes authorized elsewhere in this division, for the fixing of rates, rentals, and charges differing from those fixed or existing elsewhere within the district, or for the making of one or more payments, or the transfer of real or personal property or other assets to the district by the local publicly owned electric utility. Payment of taxes may be either for the acquisition, transfer, use or right to use all or any part of the existing property of the district or for installation and construction of facilities and equipment required to serve the annexed territory.

3433. After the legislative body of the local publicly owned electric utility and the board have concurred upon the proposed terms and conditions, the secretary or clerk of the local publicly owned electric utility to be annexed shall file a certified copy of the proposed agreement with the executive officer of the local agency formation commission.

3434. After the filing of the proposed agreement with the executive officer of the local agency formation commission, proceedings thereon shall be taken by the local

agency formation commission in the manner and subject to the provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000) of the Government Code). If the proposed annexation and agreement are approved by the local agency formation commission, with or without amendment, wholly, partially or conditionally, it shall be mandatory for the board and the legislative body of the local publicly owned electric utility to complete the proceedings for the annexation, subject to compliance with the local agency formation commission's resolution making determinations.

Article 2. Approval By District

3435. (a) The agreement described in Article 1 (commencing with Section 3430) shall become effective and be binding upon the district and the local publicly owned electric utility when approved in the manner set forth in this chapter.

(b) After receipt of the resolution of the local agency formation commission making determinations, the board shall by ordinance setting forth the agreement at length declare its intention of causing it to be executed by the district.

3436. The ordinance, together with a notice fixing the time and place for hearing thereon, shall be published once in a newspaper of general circulation published in the district and shall be published on the districts Internet Web site. The time fixed for the hearing shall be not less than 30 nor more than 60 days from the date of the first publication of the ordinance.

3436.5. At the hearing any person interested may file with the board written objections to the execution of the agreement.

3437. Upon the hearing the board shall determine whether or not the agreement will be carried into execution and shall hear and determine all objections to the agreement. Failure of any person interested in the district or in the matter of the proposed execution of the agreement to show cause in writing pursuant to Section 3436.5 constitutes an assent on his part to a change in the boundaries of the district and to the execution of the agreement.

3437.5. Any hearing on the agreement may be adjourned from time to time by the board without further notice other than an order to be entered upon the minutes of the meeting fixing the time and place of adjournment, which notice shall be posted on the district's Internet Web site.

3438. If no protests are filed or if the protests filed are overruled and denied the board shall thereupon by resolution finally approve the agreement and authorize its execution, which shall become effective when executed by the local publicly owned electric utility, duly authorized in the manner provided in this chapter.

3439. When executed by the district the agreement shall be dated and an executed copy filed with the secretary of the district. An executed copy shall also be filed with the secretary or clerk of the local publicly owned electric utility to be annexed.

Article 3. Approval By Local Publicly Owned Electric Utility

3440. At any time after the board has finally approved the agreement of annexation, the legislative body of the local publicly owned electric utility to be annexed shall cause an election to be held in the service territory of the utility to determine whether the utility will be annexed to the district upon the terms and conditions stated in the agreement.

3441. Notice of election shall be published as provided in subdivision (b) of Section 3302 and shall either state that a copy of the annexation agreement is on file in the office of the secretary or clerk of the local publicly owned electric utility proposed to be annexed, and open to the inspection of all persons interested, or set forth the terms and conditions of the agreement of annexation at length, in the discretion of the legislative body calling the election. If the notice states that a copy of the annexation agreement is on file in the office of the secretary or clerk of the local publicly owned electric utility, a copy shall additionally be posted on an Internet Web site maintained by the local publicly owned electric utility or the district and the notice shall indicate the manner by which persons may access the agreement.

3442. The ballots for the election shall contain substantially the instructions required to be printed on ballots for use at general state and county elections and in addition shall set forth the proposition of annexation substantially as follows:

Shall the _____ (local publicly owned electric utility) be annexed to the California Electrical Utility District in accordance with and subject to all of the terms and conditions of an agreement of annexation dated _____ now on file in the office of the clerk (or secretary) of _____ (local publicly owned electric utility)?

3443. (a) If upon a canvass of the election it is found that a majority of all votes cast on the proposition at the election were cast in favor of the annexation, the proposition and all of the terms and conditions of the agreement of annexation shall be deemed carried and approved by the voters; except that if the terms and conditions of the agreement of annexation provide for the assumption of any indebtedness of the district by any local publicly owned electric utility proposed to be annexed, the proposition of annexation shall not be deemed carried unless approved by the vote of two-thirds of all the voters voting on the proposition at the election.

(b) If the proposition fails to carry, the result shall be entered upon the minutes of the governing body of the local publicly owned electric utility.

(c) If the proposition receives the vote of the requisite majority of voters the governing body of the local publicly owned electric utility shall enter in its minutes an order declaring the result of the election and shall thereupon cause the agreement of annexation to be executed by its duly authorized officers.

Article 4. Establishment of Annexation

3445. Upon receipt by the district of a copy of the agreement of annexation properly executed by the district and the local publicly owned electric utility proposed to be annexed, the board shall pass a resolution declaring the local publicly owned electric utility annexed to the district. Thereupon the secretary of the district shall make the filings provided for in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000) of the

Government Code). The annexation shall be complete and effective on the dates specified in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000) of the Government Code).

Article 5. Effect of Annexation

3447. From and after the date of annexation, the board shall levy upon all of the property in the local publicly owned electric utility annexed any taxes, tolls, or charges as are necessary to provide funds for the payment of the indebtedness assumed by the local publicly owned electric utility or otherwise necessary to comply with the terms and conditions of the annexation agreement, all in addition to the general district taxes authorized elsewhere in this division to be levied and collected.

3448. An annexation of a local publicly owned electric utility to the district pursuant to this chapter does not operate to dissolve or terminate the legal existence of the local publicly owned electric utility annexed.

CHAPTER 12. HEARINGS

3450. Before any rates and charges for electric service furnished by the district are fixed or changed the general manager shall file with the board a report and recommendation thereon in writing. Within 40 days thereafter the board shall hold a public hearing on the report and recommendation. Prior to the hearing, notice of the time and place of hearing shall be published within the district pursuant to Section

6066 of the Government Code. Notice shall additionally be posted on the district's Internet Web site.

3451. (a) The district or any interested person may bring an action pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the validity of district rates or charges.

(b) Notwithstanding any other law, any judicial action or proceeding to attack, review, set aside, void, or annul an ordinance, resolution, or motion fixing or changing rates or charges for electric service furnished by a district shall be commenced within 120 days of the effective date of the ordinance, resolution, or motion.

3452. (a) Before the board adopts any change in rates and charges for electric service that are intended to increase or decrease revenues, the general manager shall file with the board a report and recommendation on the proposed changes in writing. Within 90 days, but not less than 30 days after the report is filed, except when unanticipated events cause a sudden and significant change in the district's financial condition requiring an immediate response, the board shall hold a hearing on the report and recommendation. Notice of the time and place of the hearing shall be published within the district pursuant to Section 6063 of the Government Code, except that, in the case of an unanticipated event requiring an immediate response, notice may be given pursuant to Section 6063a of the Government Code. Notice shall additionally be posted on the district's Internet Web site.

(b) The report and recommendation of the general manager filed pursuant to this section shall include all of the following:

(1) The most recent annual report submitted pursuant to subdivision (f) of Section 3317.

(2) A statement of sales volumes by customer types for the preceding two years and estimates of sales volumes for the two years following.

(3) A statement of sources and disposition of funds for the preceding two years and estimates of sources and dispositions of funds for the two years following, whether or not the rate change does occur.

(4) A statement of capital expenditures anticipated during the next two years following.

(5) In sufficient detail to permit an assessment of the need for any proposed changes, a statement of each category of expense for the preceding two years, and estimates of each category of expense for the two years following.

(6) Other information as the general manager believes will explain or justify the proposed rate change.

(7) The basis for the allocation of the overall revenues among the various types of customers of the district.

(c) At the hearing held pursuant to this section, the board shall do both of the following:

(1) Permit any member of the public who has given 10 days advance written notice to present nonduplicative testimony on the proposed rate change or on any alternatives.

(2) Consider any report and recommendations submitted in writing by any member of the public on alternatives to the rate changes proposed by the general manager.

SEC. 4. The Legislature may amend this act to further the purposes of the act and to ensure that rates charged for bundled electrical service by the district are just and reasonable.