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**TITLE 6.7. INFRASTRUCTURE FINANCE [63000 - 64132]** ( Title 6.7 added by Stats. 1994, Ch. 94, Sec. 1. )

**DIVISION 1. THE BERGESON-PEACE INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK ACT [63000 - 63089.99]** ( Heading of Division 1 amended (as added by Stats. 1994, Ch. 94) by Stats. 1994, Ch. 749, Sec. 1. )

**CHAPTER 2. California Infrastructure and Economic Development Bank [63021 - 63049.70]** ( Heading of Chapter 2 amended (as added by Stats. 1994, Ch. 94) by Stats. 1994, Ch. 749, Sec. 5. )

**ARTICLE 1. Creation of the Bank [63021 - 63028]** ( Article 1 added by Stats. 1994, Ch. 94, Sec. 1. )

[63021.](#) (a) There is within the Governor's Office of Business and Economic Development the Infrastructure and Economic Development Bank which shall be responsible for administering this division.

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

(Amended by Stats. 2013, Ch. 352, Sec. 308. (AB 1317) Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

[63021.5.](#) (a) The bank shall be governed and its corporate power exercised by a board of directors that shall consist of the following persons:

(1) The Director of Finance or his or her designee.

(2) The Treasurer or his or her designee.

(3) The Director of the Governor's Office of Business and Economic Development or his or her designee, who shall serve as chair of the board.

(4) An appointee of the Governor.

(5) The Secretary of Transportation or his or her designee.

(b) Any designated director shall serve at the pleasure of the designating power.

(c) Three of the members shall constitute a quorum and the affirmative vote of three board members shall be necessary for any action to be taken by the board.

(d) A member of the board shall not participate in any bank action or attempt to influence any decision or recommendation by any employee of, or consultant to, the bank that involves a sponsor of which he or she is a representative or in which the member or a member of his or her immediate family has a personal financial interest within the meaning of Section 87100. For purposes of this section, "immediate family" means the spouse, children, and parents of the member.

(e) Except as provided in this subdivision, the members of the board shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties to the extent that reimbursement for these expenses is not otherwise provided or payable by another public agency, and shall receive one hundred dollars (\$100) for each full day of attending meetings of the authority.

(Amended by Stats. 2013, Ch. 353, Sec. 107. (SB 820) Effective September 26, 2013. Operative July 1, 2013, by Sec. 129 of Ch. 353.)

[63022.](#) The executive director shall manage and conduct the business and affairs of the bank, the infrastructure bank fund, and guarantee trust fund, subject to the direction of the board. Except as otherwise provided in this section, the board may assign to the executive director, by resolution, those duties generally necessary or convenient to carry out its powers and purposes under this chapter. Any action involving final approval of any bonds, notes, or loans shall require the approval of a majority of the members of

the board. Subject to any conditions that the board may from time to time prescribe, the executive director may exercise any power, function, or duty conferred by law on the bank in connection with the administration, management, and conduct of the business and affairs of the bank, the infrastructure bank fund, and the guarantee trust fund.

*(Amended (as added by Stats. 1994, Ch. 94) by Stats. 1994, Ch. 749, Sec. 8. Effective January 1, 1995.)*

**63022.5.** (a) The officers of the bank shall be subject to the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)), the applicable rules and standards of the Municipal Securities Rulemaking Board, and all other applicable provisions of law.

(b) The bank may purchase insurance for its fiduciaries or for itself to cover liability or losses occurring by reason of the act or omission of a fiduciary, if the insurance permits recourse by the insurer against the fiduciary in the case of a breach fiduciary obligation by the fiduciary.

*(Amended by Stats. 1995, Ch. 863, Sec. 11. Effective January 1, 1996.)*

**63023.** In administering and directing the day-to-day operations of the bank in regard to this division, the executive director, or whoever he or she shall assign, may do any of the following if authorized by resolution of the board:

(a) Enter into contracts for investment, guarantee, or enhancement.

(b) Establish procedures, guidelines, criteria, terms, conditions, or other requirements of any contract, bond, grant, or program, as the case may be, in order to carry out the intents and purposes of the board in authorizing any bond, loan, or grant program pursuant to this division.

(c) Decline to guarantee any risk, or to enter into any contract, in which the minimum requirements of the guarantee trust fund or the infrastructure bank fund are not complied with.

(d) Reinsure any risk or any part of any risk.

(e) Make rules for payments through the infrastructure bank fund and the settlement of claims against the guarantee trust fund and determine to whom and through whom the payments are to be made.

(f) Enter into any contracts or obligations relating to the infrastructure bank fund and the guarantee trust fund.

(g) Invest and reinvest the moneys belonging to the infrastructure bank fund and the guarantee trust fund as provided by this division.

(h) Enter into any contract or agreement, execute any instrument, conduct all business and affairs, and perform all acts relating to the infrastructure bank fund and the guarantee trust fund whether or not specifically designated in this division.

*(Amended by Stats. 1995, Ch. 863, Sec. 12. Effective January 1, 1996.)*

**63023.1.** The board may delegate to the executive director, or whomever he or she shall assign, the authority to execute a contract or agreement, execute an instrument, conduct all business and affairs, and perform all acts relating to the infrastructure bank fund and the guarantee trust fund.

*(Added by Stats. 1994, Ch. 749, Sec. 9.5. Effective January 1, 1995.)*

**63024.** The executive director may contract for technical services with the Department of Finance, the State Department of Health Care Services, the State Department of Public Health, the Department of Transportation, the Department of Water Resources, the Department of Resources Recycling and Recovery, the State Water Resources Control Board, the Governor's Office of Planning and Research, and any other necessary agencies, persons, or firms to enable the bank to properly perform the duties imposed by this division.

*(Amended by Stats. 2011, Ch. 518, Sec. 1. (AB 1292) Effective January 1, 2012.)*

**63024.5.** Where a state agency is authorized under state law to request that the bank issue bonds on its behalf, the agency may request, and the bank may issue, the bonds for the purpose authorized by state law and to fund any necessary reserves, capitalized interest, and costs of issuance associated with the bonds.

*(Added by Stats. 2011, Ch. 518, Sec. 2. (AB 1292) Effective January 1, 2012.)*

**63025.** The bank board shall do the following:

(a) Adopt bylaws for the regulation of its affairs and the conduct of its business.

(b) Adopt an official seal.

*(Amended (as added by Stats. 1994, Ch. 94) by Stats. 1994, Ch. 749, Sec. 10. Effective January 1, 1995.)*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*(Amended by Stats. 1998, Ch. 4, Sec. 6. Effective January 1, 1999.)*

**63025.2.** Nothing in Section 63025.1 shall be construed to extend or limit the authority of the bank that is otherwise provided in Section 19130.

*(Added by Stats. 1999, Ch. 84, Sec. 2. Effective July 12, 1999.)*

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

*(Amended by Stats. 1998, Ch. 4, Sec. 7. Effective January 1, 1999.)*

**63027.** (a) The bank may provide insurance or reinsurance of loans or portions thereof, or their debt service, including amounts payable as premiums or penalties in the event of mandatory or optional prepayment, made to finance a project, and to provide insurance or reinsurance or reserves, or portions thereof, or the yield therefrom, established to secure bonds issued to fund those loans or reserves.

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

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

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

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

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

*(Added by Stats. 1998, Ch. 4, Sec. 8. Effective January 1, 1999.)*

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

*(Added by Stats. 1998, Ch. 4, Sec. 9. Effective January 1, 1999.)*