

Extra Ordinary Part - V / 1994

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PART V

Bill introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:—

**THE GUJARAT MOTOR TRANSPORT VEHICLES TOLL (AMENDMENT)
 BILL, 1994.**

GUJARAT BILL NO. 1 OF 1994.

A BILL

to amend the Gujarat Motor Transport Vehicles Toll Act, 1992.

It is hereby enacted in the Forty-fifth Year of the Republic of India as follows :—

1. (1) This Act may be called the Gujarat Motor Transport Vehicles Toll (Amendment) Act, 1994.

(2) It shall be deemed to have come into force on the 1st September, 1993.

2. In the Gujarat Motor Transport Vehicles Toll Act, 1992 (hereinafter referred to as "the principal Act"), in section 3, for sub-section (1), the following shall be substituted, namely :—

"(1) Notwithstanding anything contained in any law for the time being in force, there shall be levied and collected a toll on every entry in the State of Gujarat, of a motor transport vehicle plying under a permit granted or deemed to have been granted under the Motor Vehicles Act, 1988 by an authority having jurisdiction outside the State of Gujarat, at such rate not exceeding one hundred rupees per vehicle, as the State Government may, by notification in the *Official Gazette*, specify."

Short
title and
commen-
cement.

Amend-
ment of
section 3
of Guj. 7
of 1992.

Guj. 7 of
1992.

59 of
1988.

Repeal
and
savings.

3. (1) The Gujarat Motor Transport Vehicles Toll (Amendment) Ordinance, 1993 is hereby repealed.

Guj.
Ord.
3 of
1993.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

The All India Motor Transport Congress which is a premier union of truck operators had demanded abolition of **Pathkar** (Toll) imposed by various States on such transport vehicles as are registered outside such States, at the time of their entry in those States. The Central Government was of the view that this impost is not conducive to the promotion of inter-State trade and commerce. It is feared that if this impost is not abolished wherever it is in force, then every State will impose it leading to further barriers to inter-State trade and commerce which is not in the national interest. A general policy decision had been taken unanimously in a meeting called by the Transport Development Council wherein the State Government was also a party to abolish **Pathkar** with effect from 1st September, 1993. To compensate the States for loss of revenue on this account, it had been decided to revise upward the rate of composite fees for National permit. It was therefore, considered necessary to amend section 3 of the Gujarat Motor Transport Vehicles Toll Act, 1992 with a view to authorise the State Government to levy a toll on motor vehicles at such rate not exceeding rupees one hundred as may be specified by notification in the *Official Gazette*. Thus, the Act will as such remain on the statute book, but no toll can be levied until a notification to that effect is issued by the State Government.

As the Gujarat Legislative Assembly was not in session, the Gujarat Motor Transport Vehicles Toll (Amendment) Ordinance, 1993 was promulgated to amend the Gujarat Motor Transport Vehicles Toll Act, 1992 for the aforesaid purpose. This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

RAMSINH PARMAR,

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves delegation of legislative power in the following respect, namely :—

Clause 2.—Sub-section (1) of section 3 proposed to be substituted by this clause empowers the State Government to specify, by notification in the *Official Gazette*, the rate at which the toll, not exceeding one hundred rupees, per vehicle shall be levied.

The delegation of legislative power as aforesaid is necessary and is of a normal-character.

Dated the 18th January, 1994.

RAMSINH PARMAR,

By order and in the name of the Governor of Gujarat,

Smt. K. R. TRIVEDI,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs
Department.

Gandhinagar, dated the 19th January, 1994.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



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PART V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette* on the date of publication to be reported).

The following Bill published with the consent of the Speaker given under the proviso to rule 127 of the Gujarat Legislative Assembly Rules:—

THE BOMBAY ANIMAL PRESERVATION (GUJARAT AMENDMENT) BILL, 1994.

GUJARAT BILL NO. 2 OF 1994.

A BILL

further to the *Bombay Animal Preservation Act, 1954.*

WHEREAS it is a national duty to protect the cow and her progeny sustain the health of the nation by giving them a nutritionally balanced diet; giving milk which is so essential an item in a scientific diet;

AND WHEREAS bullocks are indispensable for our agriculture for they supply power in any other animal;

AND WHEREAS bullocks are often useful in ploughing the fields, draught of water from the wells, and also very useful for drawing carts for transporting grains and fodders from the fields to the residences of farmers as well as to the Agricultural Market Yards;

AND WHEREAS the animal is cheaper than the artificial manures and extremely useful for the production of bio-gas;

AND WHEREAS it is a matter of national importance that the back-bone of Indian agriculture is, in a manner of speaking, the cow and her progeny and have, on their back, the whole structure of the Indian agricultural system;

AND WHEREAS it is expedient to give effect to the policy of the state towards securing the principles laid down in articles 47, 48 and in clauses (b) and (c) of articles 39 of the Constitution of India and to protect, preserve and sustain cow and its progeny ;

It is hereby enacted in the Forty-fifth Years of the Republic of India as follows :—

Short
title
and
commen-
cement.

1. (1) This Act may be called the Bombay Animal Preservation (Gujarat Amendment) Act, 1994.

(2) It shall be deemed to have come into force on the 23rd September, 1993.

Amend-
ment of
section
5 of Bom.
LXXII
of 1954.

2. In the Bombay Animal Preservation Act, 1954 (hereinafter referred to as "the principal Act"), in section 5,—

Bom.
LXXII
of 1954.

(1) in sub-section (1A), for clauses (c) and (d), the following clauses shall be substituted, namely :—

"(c) a bull;

(d) a bullock." ;

(2) in sub-section (3),—

(i) in clause (a), sub-clauses (ii) and (iii) shall be deleted ;

(ii) in clause (b), after the words "calf of a cow", the words "bull or bullock" shall be inserted.

Repeal
and
savings.

3. (1) The Bombay Animal Preservation (Gujarat Amendment) Ordinance, 1993 is hereby repealed.

Guj. Ord.
4 of 1993.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

The existing provisions of the Bombay Animal Preservation Act, 1954 provides for prohibition against the slaughter of cow, calf of a cow and the bulls and bullocks below the age of sixteen years. It is an established fact that the cow and her progeny sustain the health of the nation by giving them the life giving milk which is so essential an item in a scientifically balanced diet.

The economy of the State of Gujarat is still predominantly agricultural. In the agricultural sector, use of animals for milch, draught, reeding or agricultural purposes has great importance. It has, therefore, become necessary to emphasise preservation and protection of agricultural animals like bulls and bullocks. With the growing adoption of non-conventional energy sources like gas plants, even waste material have come to assume considerable value. After cattle cease to breed or are too old to do work, they still continue to give dung or fuel, manure and bio-gas and, therefore, they cannot be said to be useless. It is well established that the backbone

of Indian agriculture is, in a manner of speaking, the cow and her progeny and have, on their back, the whole structure of the Indian agriculture and its economic system.

In order to give effect to the policy of the State towards securing the principles laid down in articles 47, 48 and clauses (b) and (c) of article 39 of the Constitution of India, it was considered necessary also to impose total prohibition against slaughter of progeny of cow.

As the Gujarat Legislative Assembly was not in session, the Bombay Animal Preservation (Gujarat Amendment) Ordinance, 1993 to amend the said Act was promulgated to achieve the aforesaid object in the interest of general public. This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

Dated the 19th January, 1994.

SHANKARJI THAKOR.

By order and in the name of the Governor of Gujarat,

Smt. K. R. TRIVEDI,
Secretary to the Government of Gujarat.
Legislative And Parliamentary Affairs
Department.

Gandhinagar, dated the 21st January, 1994.

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PART V

Bill introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 10th February, 1994 by Shri Jaynarayan Vyas, M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

"GUJARAT BILL NO. 3 OF 1994.

THE GUJARAT FAMILY WELFARE BILL, 1993

A BILL

to control the population growth and provide measures to restrict the size of the family so as to provide opportunities for individual development and to attain family welfare in the State of Gujarat and for matters connected therewith.

It is hereby enacted in the Forty-fourth year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Family Welfare Act, 1993.
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall come into force on such date as the State Government may, by notification, in the *Official Gazette*, appoint.
2. In this Act, unless the context otherwise requires,—
 - (a) "Public Servant" means,—
 - (i) any person in the service or pay of the State Government or remunerated by fees or commission for the performance of any duty by the State Government.

Short
title,
extent
and
commen-
cement.

Defini-
tions.

(ii) any person in the service or pay of a local authority or a Corporation established under the State or Central Act or a body owned or controlled or aided by the State Government or a Government Company established by the State Government under Sec. 617 of the Companies Act, 1956.

(b) "Local Body" means a body constituted under the Bombay Provincial Municipal Corporations Act, 1949 or the Gujarat Municipalities Act, 1963 or the Gujarat Panchayats Act, 1993 or any other Act under which a body is created or constituted in the State of Gujarat;

Bom. 59
of 1949.
Guj. 34
of 1964.

Guj. 18
of 1955.

(c) "University" means any University established by law in the State of Gujarat and includes any other institution recognised by the University Grants Commission;

(d) "Public Distribution System" means a system under which essential commodities such as, food grain, sugar, kerosin, cooking oil, etc. are provided through fair price shop on family card or regulated under the Essential Commodities Act, 1955 or any other Act or rules framed by the State Government;

10 of
1955.

(e) "Educational Institution" means an institution imparting primary or Secondary or higher education, recognised or registered under the Bombay Primary Education Act, 1947 or the Gujarat Secondary Education Act, 1973 or under any University established by law in the State of Gujarat or other Authority constituted under the State or Central Act;

Bom. 61
of 1947.
Guj. 18
of 1973.

(f) "Specified Date" means a date specified for bringing into effect the provisions of this Act which shall be the date one year later than the date fixed under sub-section (3) of Section 1.

**Disquali-
fication on
Violation
of small
family
norm.**

3. A person shall be disqualified for the purposes enumerated in section 4 of this Act if he has more than two children:

Provided that nothing contained in this Section shall apply to any person—

(a) having more than two children on the date of commencement of the Act or as the case may be, within a period of one year of such commencement, unless he begets an additional child after the said period of one year;

(b) having one child on the date of commencement of the Act or as the case may be, within a period of one year of such commencement, if a subsequent child birth results in the birth of more than one child.

Explanation.—For the purposes of this Section, a person shall not cease to incur disqualification merely by reason of his giving his child in adoption.

**Disquali-
fied
persons not
entitled to
certain
benefits/
facilities.**

4. A person disqualified under section 3 of this Act shall—

(1) not be entitled to a membership of a local body;

(2) if he is a public servant, not be entitled to get—

(a) yearly increment or due promotion;

(b) facilities such as advances for purchase of residential accommodation, vehicles and food-grains;

(3) if he is a person working in the University or any other educational institution as clerical or teaching staff, not be entitled to get yearly increment or due promotion.

(4) not be entitled to avail medical facility in any hospital run by the State Government or by a local body or by any other authority receiving grant of the State Government.

(5) not be entitled to get any essential commodity from the fair price shop or avail any facility under the Public Distribution System.

(6) not be entitled to a new gas connection.

5. (1) The Director of Health and Medical Services shall take all necessary measures to create awareness of the provisions of this Act.

Functions
of Direc-
tor of
Health &
Medical
Services.

(2) The Director of Health and Medical Services of the State of Gujarat shall supervise the implementation of this Act and shall prepare a statement of breach of the provisions of this Act and shall cause it to be laid on the table of the Gujarat Legislative Assembly.

6. (1) The State Government may, by notification in the *Official Gazette* and subject to the condition of previous publication, make rules for carrying out the purpose of this Act.

Power to
make
rules.

(2) Rules made under this section shall be laid before the State Legislature as soon as possible after they are made and shall be subject to such modifications or rescission as the State Legislature may make in the session in which they are so laid.

(3) Any modification or rescission so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

STATEMENT OF OBJECTS AND REASONS

After independence, large scale socio-economic development activities have been undertaken by the State. Simultaneously, unchecked birth rate has adverse implications on our socio-economic development, which has resulted in a very poor share of development to the individual. According to 1991 census, the population of India is 844.3 million and it is increasing by more than 17 million annually. Stabilization of the population at the replacement level is the over-riding national priority.

In the world, countries like China, have taken drastic steps to control the birth rate. In India the Central Family Welfare Minister has also introduced a Bill in the Rajya Sabha so as to control the birth rate. In the scheme of Bill, it is suggested that, provisions of the Act shall come into force after a long time of one year, so that everybody can know the impact of the provisions of this Act and restrict the size of their family. The main purpose of the Bill is to create awareness in the minds of the people to restrict the size of their family. If this is not done, the scope for the new development is very meagre. For family welfare and individual development this Bill is proposed.

GANDHINAGAR,
Dated the 22nd June, 1993.

JAYNARAYAN VYAS,
M.L.A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (3) of clause (1) empowers the State Government to specify the date on which the Act shall come into force.

Sub-clause (1) of the clause (6) empowers the State Government to make rules for carrying out the purposes of this Act.

The delegation of Legislative power as aforesaid is essential and of normal character.

Dated the 22nd June, 1993.

JAYNARAYAN VYAS,

M. L. A."

Gandhinagar,
Dated the 10th February, 1994.

N. K. KATHIRIA,
Secretary,
Gujarat Legislative Assembly.

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PART V

Bill Introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 10th February, 1994 by Shri Motilal Vasava, M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information :—

“Gujarat Bill No. 4 of 1994.

THE GUJARAT TRIBAL AND FOREST WORKERS BILL, 1994

A BILL

to provide for the welfare of the Tribal and Forest Workers in the State of Gujarat, to regulate their employment and conditions of service and for matters connected therewith.

It is hereby enacted in the Forty-fourth year of the Republic of India as follows:—

CHAPTER—I

PRELIMINARY

1. (1) This Act may be called the Gujarat Tribal and Forest Workers Act, 1994.
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Short
title,
extent
and
commen-
cement.

Definitions.

2. In this Act, unless the context otherwise requires—

(i) "Board" means an employment Guarantee Board constituted by the State Government under Section 14 of this Act.

(ii) "Conciliation Officer", "Registering Officer" and "Inspector" mean the Officers appointed under Section 7 of this Act.

(iii) The words "employment", "dispute", "worker", "employer" shall have the same meaning as are assigned to them in the labour laws.

(iv) "Forest Workers Tribunal" means a Tribunal constituted under section 3 of this Act.

(v) "Fund" means the Tribal and Forest Workers, Welfare fund established under section 13 of this Act.

(vi) "prescribed" means prescribed by the State Government by rules made under this Act.

CHAPTER—II**TRIBAL AND FOREST WORKERS' TRIBUNAL AND OFFICERS****Constitution of Tribal and Forest Workers' Tribunal.**

3. For the purpose of securing the Welfare of Tribal and Forest Workers the State Government shall, by notification in the *Official Gazette*, constitute a Tribal and Forest Workers' Tribunal consisting of a sole member, who shall be a tribal representing the tribal and forest workers.

Term of office and conditions of service of member of Tribunal.

4. The term for which the member of the Tribunal shall hold office and other conditions of service shall be such as may be prescribed.

Power of State Government to terminate appointment before expiry of term.

5. The State Government may terminate the service of a member of the Tribunal before the expiry of the term of his office if such member :—

(i) is adjudged an insolvent, or

(ii) engages himself during his term of office, in any paid employment.

(iii) is, in the opinion of the State Government, unfit to continue in office by reason of infirmity of mind or body, or

(iv) is convicted of an offence involving moral turpitude;

Filling of vacancy

6. The vacancy in the membership of the Tribunal shall be filled by the State Government as soon as practicable and in the manner as may be prescribed.

7. The State Government shall, by notification in the *Official Gazette*, appoint Registering Officers, Conciliation Officers and Inspectors whose powers, functions and conditions of service shall be such as may be prescribed.

Appointment
Registering
Officers,
Conciliation
Officers
and
Inspectors.

8. The headquarter of the Tribunal shall be at such place as the State Government may, by notification in the *Official Gazette*, determine.

Head
Quarter
of
Tribunal

CHAPTER—III

SECURITY OF EMPLOYMENT AND WELFARE

9. The employer shall engage the Tribal and Forest Workers from the following categories.

Preference
for
employ-
ment as
Tribal
and
Forest
Workers.

(1) Tribal and Forest Workers who have worked as such for any time during seven previous years or part thereof but not less than 240 days either continuously or with a break.

(2) Other workers of the same village;

(3) Workers of outside areas :

Provided that the workers of the succeeding category shall not be employed so long as workers of prior categories are available and specific approval of the State Government for the same is obtained.

10. The payment of minimum wages to an illiterate worker shall be made in the presence of a literate Tribal or a Forest Worker of the same village as nominated by the Tribal and Forest Worker concerned. The employer shall obtain signature of the witness certifying such payment.

Payment
of
minimum
wages.

11. The rates of wages for Tribal and Forest Workers shall be revised at least once in every two years in such manner as may be prescribed.

Revision
of rates of
minimum
wages.

12. No employer shall reduce, directly or indirectly the wages of Tribal and Forest Workers for whatsoever reason;

Employers
not to
reduce
wages.

13. (1) The State Government shall establish fund to be called "The Tribal and Forest Worker's Welfare Fund" for the Welfare of Tribal and Forest Workers. This fund shall consist of an employee's provident Fund to be deposited by an employer and any default in depositing the contribution less than 10% of the salary paid shall be a cognisable offence.

Establish-
ment of
Tribal
and
Forest
Workers
Welfare
fund.

(2) The fund shall, vest in, and be administered by a committee constituted by the State Government consisting of a Chairman who shall be a representative of the Tribal and Forest Workers belonging to Scheduled Tribes and one member each of the Government and the employers.

(3) The rates of the contribution to the Fund to be made by the State Government and the employers to this Fund shall be such as may be prescribed but shall not be less than ten percent of the wages paid.

Constitu-
tion of
Employ-
ment
Guarantee
Board.

14. (1) The State Government shall constitute a Board to be called "The Employment Guarantee Board" which shall consist of a Chairman who shall be a representative of the Tribal and Forest Workers belonging to Scheduled Tribes and one member each of the Government and the employers.

(2) The term of office, conditions of service, powers and functions of the Board shall be such as may be prescribed.

Guarantee
of
Employ-
ment.

15. The Board shall endeavour to give employment atleast to one member of a family of the Tribal and Forest workers. If such employment is not provided within 15 days from the date of registration of the names of the tribal or forest worker with the Registering Officer, he shall be given an unemployment allowance at the rate of minimum wages per day for the period he remains unemployed.

CHAPTER IV

DISPUTES

Settle-
ment
of
employ-
ment
disputes.

16. (1) When an Employment dispute between an employer and Tribal and Forest workers exists or is apprehended, the Conciliation Officer may hold conciliation proceedings.

(2) If a settlement of the dispute is arrived at in the course of conciliation proceedings, the Conciliation Officer shall send a report thereof to the Labour Commissioner and the Secretary, Tribal Development Department of the State Government.

(3) If no such settlement is arrived at, the Conciliation Officer shall refer the dispute to the Tribal and Forest Workers' Tribunal which shall conclude its proceedings within thirty days from the date of the receipt of the reference and issue its award.

(4) The award of the Tribal and Forest Workers' Tribunal shall be final.

CHAPTER V

PENALTIES AND PROCEDURE

Cognis-
able
Offences.

17. (1) Any offence committed under this Act shall be cognisable offence.

(2) Any aggrieved employee or anybody on his behalf may file a criminal prosecution against the employer and the expenditure involved in such litigation shall be borne by the State Government.

cogniz-

18. No court inferior or subordinate to that of a Judicial Magistrate of the First Class, shall be competent to take cognizance of offence under this Act.

Whoever commits an offence of non-payment or less payment or late payment of wages shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years or with fine of one thousand rupees or with both.

CHAPTER VI

MISCELLANEOUS

20. (1) The State Government may, by notification in the *Official Gazette*, make rules to carry out the purposes of this Act.

Power
to
make
rules.

(2) The power to make rules conferred by this section shall be subject to the condition of the rules being made after previous publication.

(3) All rules made under this section shall be laid before the State Legislature for not less than thirty days as soon as possible after they are made and shall be subject to such rescission or modification by the State Legislature as the State Legislature may make, during the session in which they are so laid or the session immediately following

STATEMENT OF OBJECTS AND REASONS

In Gujarat, the population of tribals goes to millions and it is mostly concentrated in the Tribal areas and also spread almost all over the State. The condition of the workers is horrible. In most of the cases, they are not paid the minimum wages. Unemployment is the order of the day. Some times workers from out side areas are engaged at cheaper rates at the cost of the local labour and thus the local Tribal and Forest economy and economic conditions of the Tribal and Forest labourers are dislocated. So as to give protection safety and social security, and to confer rights and privileges to millions of Tribal Forest workers of the State of Gujarat, a comprehensive legislation for them is an over-delayed necessity. By this piece of legislation an attempt is made in this direction.

MOTILAL VASAVA,
M.L.A.

FINANCIAL MEMORANDUM

As a comprehensive Bill for Tribal and Forest workers is to be introduced and it is going to cover the entire State, it will incur some financial liability to the State but looking to the complexities and intricacies it is very difficult to estimate the exact amount of anticipated expenditure or liability. However, it seems that at initial stage an amount of Rs. 50 lakhs would be sufficient to meet the purposes of implementing the provision of this Bill.

MOTILAL VASAVA,
M.L.A.

V-Extra-4-2

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 1:-Sub-clause (3) of Clause 1 empowers the State Government to appoint the date on which this Act shall come into force.

Clause 3:-This clause empowers the State Government to constitute by a notification in the *Official Gazette* The Tribal and Forest Workers' Tribunal.

Clause 4:-This clause empowers the State Government to prescribe the powers and functions of the Registering Officers, Conciliation Officers and Inspectors.

Clause 6 :-This clause empowers the State Government to prescribe the manner to fill the vacancy in the membership of the Tribunal.

Clause 7 :-This clause empowers the State Government to appoint the Registering Officers, Conciliation Officers and Inspectors and prescribe their powers, functions and condition of services.

Clause 8 :-This clause empowers the State Government to determine the place for the Head Quarter of the Tribunal.

Clause 10 :-This clause empowers the State Government to prescribe the manner for revision of rates of minimum wages.

Clause 13:-This clause empowers the State Government to establish a Tribal and Forest workers' welfare Fund and the rates of contribution of Government and the employer to the fund.

Clause 14 :-This clause empowers the State Government to constitute the employment Guarantee Board and to prescribe the term of office, conditions of service, the powers and functions of the Board.

Clause 20 :-This clause empowers the State Government to make rules to carry out the purposes of the Act.

The above are matters of an administrative or routine nature and therefore the delegation of Legislative power is of a normal character.

MOTILAL VASAVA,
M.L.A."

Gandhinagar,
Date: the 10th February 1994.,

N. K. KATHIRIA,
Secretary,
Gujarat Legislative Assembly.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



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Separate paging is given to this Part in order that it
 may be filed as a separate compilation.

PART V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill, which was introduced on 11th February, 1994 by Shri Narhari Amin, Minister for Education, is published under Rule 127 A of the Gujarat Legislative Assembly Rules, for general information:—

“THE DR. BABASAHEB AMBEDKAR OPEN UNIVERSITY BILL, 1994.

GUJARAT BILL NO. 5 OF 1994.

A BILL

to establish and incorporate an Open University - in the State of Gujarat for the introduction and promotion of the Open University and distance education system in the educational pattern of the State.

It is hereby enacted in the Forty-fifth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Dr. Babasaheb Ambedkar Open University Act, 1994.

Short
title and
commen-
cement.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(1) “Authorities” means the authorities of the University specified in section 15;

(2) “Academic Planning Board” means the Academic Planning Board of the University constituted under section 17 ;

(3) “Board of Management” means the Board of Management of the University constituted under section 16 ;

(4) “Chancellor” means the Chancellor of the University ;

(5) “distance education system” means the system of imparting education through any means of communication such as broadcasting, telecasting, correspondence courses, seminars, contact programmes or the combination of any two or more of such means ;

(6) "employee" means any person appointed by the University, and includes teachers and other academic staff of the University ;

(7) "Finance Committee" means the Finance Committee of the University constituted under section 18 ;

(8) "prescribed" means prescribed by the Statutes, Ordinances, Regulations or Rules made under this Act ;

(9) "recognised institution" means an institution established for research or specialised studies and recognised as such by the University ;

(10) "regional centre" means a centre established or maintained by the University for the purpose of co-ordinating and supervising the work of study centres in any region and for performing such other functions as may be conferred on such centre by the Board of Management ;

(11) "school" means a school of studies of the University ;

(12) "Statutes", "Ordinances" and "Regulations" means respectively, the Statutes, Ordinances and Regulations of the University made under this Act and for the time being in force ;

(13) "student" means a student of the University, and includes any person who has enrolled himself for pursuing any course of study of the University ;

(14) "study centre" means a centre established, maintained or recognised by the University for the purpose of advising, counselling, evaluating or for rendering any other assistance required by the students ;

(15) "teachers" means professors, readers, lecturers and such other persons as may be designated by the Ordinances for imparting instruction in the University or for giving guidance or rendering assistance to students for pursuing any course of study of the University ;

(16) "University" means the Dr. Babasaheb Ambedkar Open University established under section 3 ;

(17) "Vice-Chancellor" means the Vice-Chancellor of the University.

CHAPTER II

THE UNIVERSITY

Establishment
and
incorporation
of University.

3. (1) There shall be established a University by the name of 'the Dr. Babasaheb Ambedkar Open University'.

(2) The headquarters of the University shall be at Ahmedabad, and the University may establish, maintain or recognise institutes, schools, regional centres and study centres at such other places in the State as it may deem fit.

(3) The first Vice-Chancellor, the first members of the Board of Management, the Academic Planning Board and Finance Committee and all persons who may hereafter become such officers or members, so long as they continue to hold such office or membership, are hereby constituted and declared to be a body corporate by the name of 'the Dr. Babasaheb Ambedkar Open University'; and the University shall have perpetual succession and a common seal and shall sue and be sued by the said name.

Objects
of University.

4. The objects of the University shall be to advance and disseminate learning and knowledge by a diversity of means, including the use of any communication technology, to provide opportunities for higher education to a larger segment of the population and to promote the educational well being of the community generally, to encourage the Open University and distance education system in the education pattern of the State.

5. The University shall have the following powers, namely :—

- (i) to provide for instruction in such branches of knowledge, technology, vocations and professions as the University may determine from time to time and to make provision for research, advancement and extension ;
- (ii) to plan and prescribe courses of study of degree, diplomas, certificates or for any other purpose ;
- (iii) to hold examination or test and confer degrees, and diplomas on, and grant certificates or other academic distinctions or recognitions to persons who have pursued approved course of study in the University or conducted research in the manner laid down by the Statutes and Ordinances ;
- (iv) to confer honorary degrees or other academic distinctions in the manner laid down by the Statutes ;
- (v) to withdraw or cancel any degree, diploma or certificate conferred or granted by the University in the manner prescribed by Statutes ;
- (vi) to determine the manner in which distance education system in relation to the academic programmes of the University may be organised ;
- (vii) to institute professorships, readerships, lecturerships, and other academic posts necessary for imparting instruction or for preparing educational material or for conducting other academic activities, including guidance, designing and delivery of course and evaluation of the work done by the students and to prescribe their qualifications ;
- (viii) to appoint, engage or recognise persons as teachers ;
- (ix) to lay down the courses of instruction for the various examinations ;
- (x) to co-operate with, and seek the co-operation of, other Universities and institutions of higher learning, professional bodies and organisations for such purpose as the University, may determine ;
- (xi) to hold and manage trusts and endowments and institute and award fellowships, scholarships, medals, prizes and such other awards for recognition of merit ;
- (xii) to establish, maintain or recognise such regional centres as may be determined by the University from time to time ;
- (xiii) to establish, maintain or recognise study centres in the manner laid down by the Statutes ;
- (xiv) to inspect regional centres, study centres and recognised institutions and to take measures to ensure that proper standards of instruction, teaching and training are maintained in them and that adequate library and laboratory provisions are made therein ;
- (xv) to provide for the preparation of instructional materials including films, cassettes, tapes, video cassettes and other software ;
- (xvi) to organise and conduct refresher courses, workshops, seminars and other programmes for teacher, lesson writers, evaluators and other academic staff ;
- (xvii) to organise common laboratories, libraries, museums and other equipment for teaching and research ;
- (xviii) to recognise examinations of, or periods of study (whether in full or part) at, other Universities, institutions or other places of higher learning as equivalent to examinations or periods of study in the University, and to withdraw such recognition at any time ;

((xix) to make provision for research and development in educational technology and matters related thereto ;

(xx) to create administrative, ministerial and other posts as the University may deem necessary from time to time and to make appointments thereto;

(xxi) to receive benefactions, donations and gifts for educational and other social or national causes and maintain proper accounts thereof;

(xxii) to acquire, hold and manage property both movable and immovable, to lease, sell or otherwise transfer or dispose of any property moveable or immovable, which may vest in, or be acquired by it, for the purposes of the University, and to contract and do all other acts and things necessary for the purposes of this Act :

Provided that no such lease, sale or transfer of immoveable property shall be made without the prior consent of the State Government :

Provided further that where the State Government is satisfied that any such property may, in the interest of the University, be given on lease, sold or otherwise transferred or disposed of, the State Government shall issue necessary directions to the University and the University shall comply with such directions forthwith ;

(xxiii) to borrow, with the approval of the State Government, whether on the security of the property of the University or otherwise, money for the purposes of the University ;

(xxiv) to enter into, carry out, vary or cancel contracts ;

(xxv) to fix, to demand and receive such fees and other charges, as may be prescribed by the Ordinances ;

(xxvi) to provide, control and maintain discipline among the students of the University ;

(xxvii) to lay down and regulate the salary scales, allowances and other conditions of service of the employees and the members of the teaching, other academic and non-teaching staff of the University and their code of conduct ;

(xxviii) to recognise any institution of higher learning or studies for such purposes as the University may determine and to withdraw such recognition ;

(xxix) to engage, either on contract or otherwise, visiting professors, emeritus professors, consultants, fellows, scholars, artists, course writers, and such other persons who may contribute to the advancement of the objects of the University ;

((xxx) to conduct, co-ordinate, supervise, regulate and control post-graduate teaching and research work in the University;

(xxxi) to recognise persons working in other Universities, institutions or organisations as teachers of the University on such terms and conditions as may be laid down by the Ordinances ;

(xxxii) to determine standards and to specify conditions for the admission of students to course of study of the University which may include examination, evaluation and any other method of testing ;

(xxxiii) to take disciplinary action against the students of the University and to impose such punishments upon them as may be deemed fit for breach of discipline or misconduct, within or outside the University including the use of unfair means at an examination or in relation thereto by themselves or by any other persons or abetment thereof ;

(xxxiv) to make arrangements for the promotion of the general health and welfare of the students and the employees;

(xxv) to do all such other acts as may be necessary or incidental to the exercise of all or any of the powers of the University and conducive to the promotion of the subject of the University.

6. The University shall, in exercise of its powers, have jurisdiction over the whole of the State of Gujarat.

Jurisdiction.

7. (1) The University shall be open to persons of either sex and of whatever race, creed, caste or class and it shall not be lawful for the University to adopt or impose on any person any test whatsoever relating to sex, race, creed, caste, class or religious belief or profession or political or other opinion in order to entitle him to be appointed as a teacher of the University or to hold any other office or post therein or admitted as a student in the University or to graduate thereat, or to qualify for any degree, diploma or other academic distinction or to enjoy or exercise any privilege of the University or any benefication thereof.

University open to, all classes, castes and creeds.

(2) Nothing in sub-section (1) shall be deemed to prevent the University from making any special provision for the appointment or admission of women or of persons belonging to the weaker sections of the society, and in particular, of person belonging to the Scheduled Castes or Scheduled Tribes, in accordance with the directives, if any, given from time to time by the State Government.

CHAPTER III

OFFICERS OF THE UNIVERSITY

8. The following shall be the officers of the University, namely:—

Officers of University.

- (i) the Chancellor;
- (ii) the Vice-Chancellor;
- (iii) the Directors;
- (iv) the Registrars; and
- (v) such other officers in service of the University as may be declared by the Statutes to be officers of the University.

9. (1) The Governor of Gujarat shall be the Chancellor of the University.

Chancellor and his powers.

(2) The Chancellor shall be competent to call from time to time such information or records relating to any affairs of the University, and the Vice-Chancellor shall furnish the same. It shall also be lawful for the Chancellor, after perusal of such information or records, to give in the interest of the University, directives to the Vice-Chancellor as he deems fit, and the Vice-Chancellor shall comply with such directives.

(3) Subject to the provisions of sub-sections (4) and (5), the Chancellor shall have the right to cause an inspection to be made, by such person or persons as he may direct, of the University, its buildings, libraries, laboratories and equipments and of any regional centre or a study centre and so also of the examination, instruction and other work conducted or done by the University, and to cause an inquiry to be made in like manner in respect of any matter connected with the administration and finances of the University.

(4) The Chancellor shall, in every case, give notice to the University of his intention to cause an inspection or inquiry to be made and the University shall, on receipt of such notice, have the right to make, within thirty days from the date of receipt of the notice or such other period as the Chancellor determine, such representation to him as it may consider necessary.

(5) After considering the representation, if any, made by the University, the Chancellor may cause to be made such inspection or inquiry as is referred to in sub-section (3).

(6) Where an inspection or inquiry has been caused to be made by the Chancellor, the University shall be entitled to appoint a representative who shall have the right to appear in person and to be heard at such inspection or inquiry.

V-Extra-5-2

(7) The Chancellor may address the Vice-Chancellor with reference to the result of such inspection or inquiry together with such views and advice with regard to the action to be taken thereon as the Chancellor may be pleased to offer and on receipt of the address made by the Chancellor, the Vice-Chancellor shall communicate forthwith to the Board of Management the result of the inspection or inquiry and the views of the Chancellor and the advice tendered by him with regard to the action to be taken thereon.

(8) The Board of Management shall communicate through the Vice-Chancellor to the Chancellor such action, if any, as it proposes to take or has been taken by it on the result of such inspection or inquiry.

(9) Where the Board of Management does not take action to the satisfaction of the Chancellor within a time limit fixed by the Chancellor, the Chancellor may, after considering any explanation furnished or representation made by the Board of Management, issue such direction as he may think fit and the Board of Management shall be bound to comply with such direction.

(10) The State Government may, whenever it deems fit, cause a like inspection or inquiry to be made in the manner described in sub-sections (2) to (9) and shall have, for the purposes of such inspection or inquiry, all the powers of the Chancellor under the said sub-sections.

**Vice-
Chancellor.**

10. (1) The Vice-Chancellor shall be appointed by the State Government from amongst three persons recommended under sub-section (3) by a Committee appointed for the purpose under sub-section (2).

(2) (a) For the purposes of sub-section (1), the Chancellor shall appoint a committee which shall consist of the following members, namely :—

(i) one member not connected with the University to be nominated in the manner prescribed by the Statutes by the Board of Management.

(ii) one member to be nominated in the manner prescribed by the Statutes by the Vice-Chancellors of all the Universities established by law in the State of Gujarat;

(iii) one member to be nominated by the Chancellor.

(b) The Chancellor shall appoint one of the three members of the committee as its Chairperson.

(3) The Committee so appointed shall within a reasonable time select three persons whom it consider fit for being appointed as Vice-Chancellor and shall recommend to the State Government the names of the persons so selected together with such other particulars as may be relevant :

Provided that, as far as possible, the Committee shall not select any such person who has already attained the age of 65 years.

(4) The Vice-Chancellor shall hold office for a term of three years and he shall be eligible for re-appointment to that office for a further term of three years :

Provided that the State Government may require any Vice-Chancellor after his term has expired, to continue in office for such period not exceeding a total period of one year as may be specified by the State Government.

(5) The emoluments to be paid to the Vice-Chancellor, and the terms and conditions subject to which he shall hold office, shall be such as may be prescribed by the Statutes.

**Powers of
Vice-
Chancellor.**

11. The Vice-Chancellor shall be the principal academic and executive officer of the University, and shall exercise the power of supervision and control over the affairs of the University and give effect to the decisions of all the authorities of the University.

(2) Notwithstanding anything contained in this Act, if the Vice-Chancellor is of the opinion that immediate action is necessary on any matter, he may exercise any power conferred on any authority of the University by or under this Act and shall inform to such authority, about the action taken by him on such matter:

Provided that if the authority concerned is of the opinion that such action ought not to have been taken, it may refer the matter to the Chancellor whose decision thereon shall be final:

Provided further that any person in the service of the University who is aggrieved by the action taken by the Vice-Chancellor under this sub-section shall have the right to appeal against such action to the Board of Management within ninety days from the date on which such action is communicated to him and thereupon the Board of Management may confirm, modify or reverse the action taken by the Vice-Chancellor.

(3) Notwithstanding anything contained in this Act, the Vice-Chancellor, if he is of the opinion that any decision or order of any authority is beyond the powers of the authority conferred on it or is inconsistent with the provisions of this Act, Statutes, Ordinances, Rules or Regulations or that any decision taken is not in the interest of the University or is likely to lead to breach of peace, he may ask the authority concerned to review its decision within sixty days of such decision and if the concerned authority refuses to review its decision either in whole or in part as directed by the Vice-Chancellor or no decision is taken by it within the said period of sixty days, the matter shall be referred to the State Government whose decision thereon shall be final:

Provided that the decision of the authority concerned shall remain in abeyance during the period of review of such decision by the authority or the State Government, as the case may be, under this sub-section.

(4) Where the authority after reconsideration, revises or modifies the decision or order in the manner stated by the Vice-Chancellor, such revised or modified decision or order shall revive from the date of such revision or modification.

(5) It shall be the duty of the Vice-Chancellor to ensure that this Act, the Statutes, Ordinances, Regulations and Rules are faithfully observed and he shall have all powers necessary for this purpose.

(6) The Vice-Chancellor shall exercise such other powers and perform such other functions as may be prescribed by the Statutes and Ordinances.

12. The Directors shall be appointed in such manner, on such emoluments and other conditions of service as may be prescribed by rules made by the State Government and shall exercise such powers and perform such duties and functions, as may be prescribed by the Statutes.

Directors.

13. (1) The Registrar shall be appointed in such manner, on such emoluments and other conditions of service as may be prescribed by rules made by the State Government.

Registrar.

(2) A Registrar empowered by the Board of Management shall have the power to enter into and sign agreements and contracts and authenticate records on behalf of the University.

(3) The Registrar shall exercise such powers and perform such duties and functions as may be prescribed by the Statutes.

14. The manner of appointment, emoluments, powers and duties of the other officers of the University shall be such as may be prescribed by the Statutes.

Other officers.

CHAPTER IV

AUTHORITIES OF THE UNIVERSITY

15. The following shall be the authorities of the University, namely :—

- (i) the Board of Management;

Authorities of University.

- (ii) the Academic Planning Board;
- (iii) the Finance Committee;
- (iv) such other authorities as may be declared by the Statutes to be the authorities of the University.

Board of
Manage-
ment.

16. (1) The Board of Management shall be the principal executive body of the University.

(2) The constitution of the Board of Management, the term of office of its members and its powers and functions shall be such as may be prescribed by the Statutes.

Acade-
mic
Planning
Board.

17. (1) There shall be constituted an Academic Planning Board of the University which shall be the principal academic and planning body of the University. The Board shall be responsible for the maintenance of standards of learning, education, instruction evaluation and examination within the University and shall also be responsible for the monitoring of the developments of the University and shall exercise such powers and perform such other duties and functions as may be conferred or imposed upon it by the Statutes.

(2) The constitution of the Academic Planning Board, the term of office of its members and its powers and functions shall be such as may be prescribed by the Statutes.

Finance
Commis-
sion.

18. The constitution, power, duties and functions of the Finance Committee shall be such as may be prescribed by the Statutes.

Other
authori-
ties.

19. The constitution, powers, duties and functions of the other authorities which may be declared by the Statutes to be the authorities of the University shall be such as may be prescribed by the Statutes.

CHAPTER V

STATUTES, ORDINANCES, REGULATIONS AND RULES

Statutes.

20. Subject to such conditions as may be prescribed by or under the provisions of this Act, the Statutes may provide for all or any of the following matters, namely :—

- (a) the powers, duties and functions that may be exercised and performed by the Vice-Chancellor;
- (b) the emoluments and other conditions of service of the Vice-Chancellor;
- (c) the manner of appointment and emoluments of the officers, and the powers, duties and functions that may be exercised and performed by the Directors, Registrar and other officers;
- (d) the constitution of the Board of Management and other authorities of the University, the term of office of the members of such authorities and the powers and functions that may be exercised and performed by such authorities;
- (e) the manner of appointment of teachers and other employees of the University, qualifications, code of the conduct and other conditions of service including the manner of termination of service and other disciplinary action;
- (f) the acceptance and management of trusts, bequests, donations and endowments;
- (g) conferment of honorary degrees;
- (h) holding of convocations to confer degrees;
- (i) institution and maintenance by the University of departments, centres of research or specialised studies and post-graduate centres;
- (j) registration of graduates and maintenance of register of registered graduates;
- (k) procedure at meetings of the authorities of the University and for the transaction of their business;

(l) the maximum number of students to be admitted in the study centres;

(m) all other matters which, by or under this Act, are to be, or may be prescribed by the Statutes.

21. (1) The first Statutes shall be framed by the State Government.

Statutes
how made.

(2) The Board of Management may, from time to time, make new or additional Statutes or may amend or repeal the Statutes referred to in sub-section (1):

Provided that the Board of Management shall not make, amend or repeal any Statute affecting the status, powers or constitution of any authority of the University until such authority has been given a reasonable opportunity to express, within time fixed by the Board of Management, its opinion in writing on the proposed changes and any opinion so expressed has been considered by the Board of Management.

(3) Every new Statute or addition to the Statutes or any amendment or repeal thereof shall be presented to the Chancellor, who may assent thereto or withhold assent or remit to the Board of Management, for reconsideration in the light of the observations, if any, made by him.

(4) A new Statute or a Statute amending or repealing the existing Statute shall not be valid unless it has been assented to by the Chancellor.

22. (1) Subject to the provisions of this Act and the Statutes, the Ordinances may provide for all or any of the following matters, namely:—

Ordina-
nces.

(a) the admission of students, the courses of study and the fees thereof, the qualifications pertaining to degrees, diplomas, certificates and other courses, the conditions for the grant of fellowships, awards and like;

(b) the conduct of examinations, including the terms and conditions for the appointment of examiners, moderators and such other staff and their duties;

(c) laying down the policy and norms regarding,—

(i) fixation of examination fees and emoluments, travelling and other allowances to be paid to the examiners, moderators and such other staff appointed for the examination work.

(ii) payment for teachers, lesson writers, evaluators and other academic staff appointed for organisation and conducting refresher courses, workshop, seminars and other programmes;

(iii) rates of tuition fees and other charges receivable from the students;

(iv) rates of remuneration to visiting professors, emeritus professors, consultants, fellows, scholars, artists, course writers;

(d) the conduct and discipline of the students and the action to be taken against them for breach of discipline or misconduct, including the following, namely:—

(i) use of unfair means at an examination or in relation thereto, by himself or by any other student, or abetment thereof;

(ii) refusal to appear or give evidence in any authorised inquiry by an officer in charge of an examination, or by any officer or authority of the University; or

(iii) disorderly or otherwise objectionable conduct whether within or outside the University;

(e) the conduct of examinations and other tests, and the manner in which the candidates may be assessed or examined by the examiners;

(f) the inspection of regional centres, study centres and recognised institution;

(g) the mode of execution of contracts or agreements for, or on behalf of, the University;

(h) the rules to be observed and enforced by study centres and recognised institutions regarding transfer of students;

(i) the holding of convocations, to confer degrees, diplomas, to grant certificates and other academic distinctions;

(j) collaboration with other Universities in the State, other statutory authorities and with departments of the State Government;

(k) the appointments, for a specified period or periods of teachers and other academic staff working in any other University or organisation for undertaking joint projects;

(l) the principles governing the seniority of service of the employees of the University;

(m) the procedure for the settlement of dispute between the University and the students;

(n) provision for reservation of adequate number of posts of teachers, officers and other employees of the University for the members of the Schedule Castes and Scheduled Tribes;

(o) manner of withdrawal of recognition;

(p) generally all matters for which provision is in the opinion of the Board of Management necessary for exercise of the powers conferred or the performance of the duties;

(q) any other matter which by this Act or the Statutes is to be, or may be, provided for by the Ordinances.

(2) The first Ordinances shall be made by the Vice-Chancellor or in his absence by the Board of Management with the previous approval of the State Government and the Ordinances may be amended, repealed or added to at any time by the Board of Management in such manner as may be prescribed by the Statutes.

Regulations.

23. The authorities of the University may, subject to the approval of the Board of Management, make regulations consistent with this Act, the Statutes and the Ordinance for the conduct of their own business and that of the committees, if any, appointed by them and not provided for by this Act, the Statutes or the Ordinances, in such manner as may be prescribed by the Statutes.

Power to make rules.

24. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may be made for all or any of the following matters, namely :—

(a) manner of appointment, emoluments and other conditions of service of the Directors under section 12;

(b) manner of appointment, emolument and other conditions of service of the Registrar under section 13; and

(c) any other matter which is to be or may be prescribed by rules.

(3) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as may be after they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette* and shall, thereupon, take effect.

CHAPTER VI

FINANCE

25. (1) The University shall establish a fund to be called the University Fund.

University fund.

(2) The following shall form part of, or be paid into, the University fund, namely :-

(a) all contributions or grants made by the State Government, the Central Government, the Indira Gandhi National Open University and the University Grants Commission;

(b) the income of the University from all sources whatsoever including income from fees and charges;

(c) all income or moneys from trust, bequests, donations, endowments, subventions and other grants;

(d) any sums borrowed from the Banks, with the previous permission of the State Government.

(3) The University shall have, and maintain, a Contingency Fund under a separate head in the University accounts, to which shall be credited such sums as may, from time to time, be granted as contributions or grant by the State Government specially for this purpose. Such Fund shall be used only for making advances for the purpose of meeting unforeseen expenditure.

(4) With the previous sanction of the State Government, any portion of the University Fund may from time to time, be credited by the University to a separate head in the University accounts:

Provided that there shall be credited and debited to such special head only such sums as shall expressly relate to the objects for which such separate fund is created:

Provided further that the Board of Management may, by passing a special resolution, authorise transfer of any amount temporarily from one head to another in the University accounts.

(5) The University Fund shall, at the discretion of the Board of Management, be kept in the State Bank of India, or in any Scheduled Bank as defined in the Reserve Bank of India Act, 1934, which holds a licence issued by the Reserve Bank of India under section 22 of the Banking Regulation Act, 1949.

26. (1) The annual financial estimates of the University for the ensuing financial year shall be prepared under the direction of the Board of Management, at least five months before the commencement of the financial year.

Annual financial estimate.

(2) The financial year of the University shall be the same as that of the State Government.

(3) The financial estimates shall be submitted to the Board of Management for its approval.

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1934.

10 of 1949.

(4) The Board of Management shall thereafter forward the copies of the financial estimates to the State Government.

Annual
accounts
and audit.

27. (1) The annual statement of accounts of the University for a financial year shall be prepared under the direction of the Board of Management within a period of three months, after the close of the financial year.

(2) The annual accounts as approved by the Board of Management shall be audited by the Auditor appointed by the State Government.

(3) The annual accounts, as approved by the Board of Management together with the copy of the audit report and a copy of the statement showing the action taken by the University on the objections and points raised by the Auditor in his previous reports, shall be forwarded by the Board of Management as soon as possible and in any case, within the period of nine months from the end of financial year to the State Government and to the Auditor appointed by the State Government.

(4) It shall be competent for the State Government to give directions to the University regarding the manner in which the accounts relating to certain specific activities or schemes shall be maintained or to take necessary action against the authority, the officer or any employee of the University found guilty in the audit report for committing irregularities and the University shall act according to the direction of the State Government.

Annual
Report.

28. (1) The annual report of the University shall be prepared under the directions of the Board of Management which shall include, among other matters, the steps taken by the University towards the fulfilment of its objectives.

Finan-
cial con-
trol of
State
Govern-
ment.

29. (1) Without obtaining the prior approval of the State Government or any officer authorised by it in this behalf, the University shall not—

- (i) create any new post of officers, teachers or other employees;
- (ii) revise the pay, allowances, post-retirement benefits and other benefits having financial implications offered to its officers, teachers and other employees;
- (iii) incur any expenditure on any development work.

(2) Any post created, any financial benefits offered to its officers, teachers and other employees or any expenditure incurred on any development work, without the prior approval of the State Government or such authorised officer, may be treated as unapproved expenditure for the purposes of payment of grant-in-aid.

CHAPTER VII

SUPPLEMENTARY PROVISIONS

Condi-
tions of
service
of emp-
loyees.

30. (1) Every employee of the University shall be appointed under written contract and such contract shall not be inconsistent with the provisions of this Act, the Statutes and the Ordinances.

(2) The contract referred to in sub-section(1) shall be lodged with the University and a copy of which shall be furnished to the employee concerned.

X of
1940.

31. Any dispute arising out of a contract between the University and any officer or teacher of the University shall, on the request of the officer or teacher concerned, be referred to a Tribunal of Arbitration consisting of one member nominated by the Board of Management, one member nominated by the officer or teacher concerned and an umpire to be nominated by the Chancellor. The decision of the Tribunal shall be final and no suit shall lie in any civil court in respect of the matter decided by the Tribunal. Every such request shall be deemed to be submission to arbitration upon the terms of this section within the meaning of the Indian Arbitration Act, 1940, and the provisions of that Act shall apply accordingly.

Tribunal
of Arbitra-
tion.

32. Subject to the provisions of this Act and the Statutes, any officer or authority of the University may, by order, delegate his or its powers, except the power to make Statutes, Ordinance, and Regulations to any other officer or authority under his or its control, and subject to the condition that the ultimate responsibility for the exercise of the powers so delegated shall continue to vest in the officer or authority delegating them.

Delega-
tion of
powers.

33. (1) Where any question arises as to—

(a) the interpretation of any provision of this Act or any Statutes, Ordinances Regulations or Rules, or

(b) whether any person has been duly appointed as, or is entitled to be, a member of any authority or other body of the University,

the matter shall be referred to the State Government whose decision thereon shall be final.

Disputes
as to :
constitu-
tion of
University
Authori-
ties and
bodies.

(2) Any nominee or *ex-officio* member appointed on any authority or body of the University shall be deemed to have vacated his office, whenever his nomination or appointment is cancelled by the authority concerned or he ceases to hold office by virtue of which he has been a member of the authority or body of the University.

34. When any vacancy occurs in the office of a member (other than an *ex-officio* member) of any authority or other body of the University before the expiry of the term of office of such member, the vacancy shall be filled up, as soon as conveniently may be, by appointment or co-option, as the case may be, of a member who shall hold office so long only as the member in whose place he has been appointed or co-opted would have held it, if the vacancy had not occurred.

Filling of
casual
vacancy.

35. No act or proceedings of any authority or any other body of the University shall be invalidated merely by reason of any vacancy in its membership.

Procee-
dings
not inva-
lidated
by vacan-
cies.

36. It shall be the duty of every authority and officer of the University to ensure that the interest of the University is duly safe-guarded.

Autho-
rities and
officers
to be
respon-
sible.

37. No suit or other legal proceedings shall lie against any officer, employee or authority of the University for anything which is in good faith done or intended to be done in pursuance of any of the provisions of this Act, the Statutes, the Ordinances, the Regulations or the Rules.

Protec-
tion of
action
taken in
good
faith.

V-Extra-5-4

Mode of
proof of
Univer-
sity
record.

38. A copy of any receipt, application, notice, order, proceedings, resolution of any authority or committee of the University, or other documents in the possession of the University, or any entry in any register duly maintained by the University, if certified by the Registrar, shall be admitted as evidence of the matters and transactions specified therein, where the original thereof would, if produced, have been admissible in evidence.

Power to
remove
difficu-
lties.

39. If any difficulty arises in giving effect to the provision of this Act, the State Government may by order, published in the *Official Gazette*, make such provisions, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty.

Transi-
tional
provi-
sions.

40. Notwithstanding anything contained in this Act and the Statutes-

(a) the first Vice-Chancellor and the first Registrar shall be appointed by the State Government as soon as practicable after passing of this Act, for a period not exceeding three years on such terms and conditions as the State Government thinks fit.

(b) the first Board of Management shall consist of not more than fifteen members who shall be nominated by the State Government and they shall hold office for a term of three years.

(c) the first Academic Planning Board shall consist of not more than eleven members who shall be nominated by the State Government and they shall hold office for a term of three years.

(d) the first Finance Committee shall consist of not more than seven members who shall be nominated by the State Government and they shall hold office for a term of three years.

STATEMENT OF OBJECTS AND REASONS

The Open University shall endeavour through education training and extension to play positive role in the development of the State, and based on rich heritage of the State to promote and advance the culture of the people of the State, the State Government has decided to start an Open University to impart higher education in the regional language. The following notes on clauses explain some of the important provisions of the Bill :-

Clause 1.—This clause provides for short title and commencement.

Clause 2.—This clause provides for definitions.

Clauses 3 to 7.—These clauses provide for the establishment and incorporation, objects, powers and the jurisdiction of the University.

Clauses 8 to 14.—These clauses relate to officers of the University and their powers, duties and functions.

Clauses 15 to 19.—These clauses relate to the constitution of different authorities of the University and their powers, duties and functions.

Clauses 20 to 24.—These clauses relate to the making of Statutes, Ordinances, Regulations and Rules by certain Authorities.

Clause 25.—This clause provides for University fund.

Clauses 26 to 29.—These clauses provide for the preparation of the annual financial estimates, annual account, audit, annual report and the financial control of the State Government.

Clause 30.—This clause provides for the conditions of service of employees of the University.

Clause 31.—This clause provides for the Tribunal of Arbitration in case of dispute arising out of a contract between the University and any officer or teacher of the University.

Clause 32.—This clause provides for delegation of powers to any officer or authority of the University.

Clause 33.—This clause provides for reference of disputes as to the interpretation of Act or constitution of University authorities or bodies to the State Government and finality of the decision of the State Government.

Clauses 34 to 37.—These clauses provide for filling up of casual vacancies, proceedings of any authority of University are not invalidated by vacancies, interest of University is to be safeguarded by the officers and authority and indemnify any officer or employees of the University for his action done or intended to be done in good faith.

Clause 39.—This clause provides for the powers of the State Government to remove difficulty.

Clause 40.—This clause makes provision for appointment of the first Vice-Chancellor and the Registrar for a period not exceeding three years after passing of the Act. It also provides for the constitution of the first Board of Management, Academic Planning Board and Finance Committee for a term of three years.

NARHARI AMIN,

FINANCIAL MEMORANDUM

Sub-clause (2) (a) of clause 25 of the Bill contemplates payment of contribution or the grant to the University among others by the State Government. This provision, if enacted, and brought into operation would involve an estimated annual recurring expenditure of rupees two crores and forty-one lakhs from the Consolidated Fund of the States towards the grants to be made to the University.

NARHARI AMIN,

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill provides for delegation of legislative powers in the following respects:—

Clause 1.—Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the Act shall come into force.

Clause 5.—(i) This clause empowers the concerned authority of the University to prescribe the powers specified in that clause.

(ii) Sub-clause (iii) of this clause empowers the concerned authority of the University to prescribe the manner in which approved course of study are to be pursued, the examination and tests to be passed and conditions under which research is to be carried on by persons on whom the University may confer degree and diplomas and to whom it may grant certificate.

(iii) Sub-clause (iv) empowers the Board of Management to prescribe by Statutes the manner in which honorary degrees or other academic distinction are to be conferred by the University.

(iv) Sub-clause (v) empowers the Board of Management to prescribe by Statutes the manner in which the University may withdraw or cancel any degree, diploma or certificate conferred or granted by the University.

(v) Sub-clause (vi) empowers the University to determine manner in which distance education in relation to academic programme of University may be organised.

(vi) Sub-clause (vii) empowers the University to prescribe the qualification for the posts of Professor, Reader, Lecturer and other academic posts.

(vii) Sub-clause (ix) empowers the University to lay down the courses of instruction for various examinations.

(ix) Sub-clause (xiii) empowers the Board of Management to establish, maintain or recognise study centres in the manner laid down in Statute.

(x) Sub-clause (xxv) empowers the Board of Management to prescribe by Ordinances, the fees and other charges to be fixed, demanded or received by the University.

(xi) Sub-clause (xxxi) empowers the Board of Management to recognise person working in other Universities, institutions or organisations on such terms and conditions as laid down in the Ordinance.

(xii) Sub-clause (xxxii) empowers the University to determine the standard and specify the conditions for admission of students to the courses of study.

Clause 8.—This clause empowers the Board of Management to declare by Statutes other officers in the service of University to be officers of the University.

Clause 10.—(i) Sub-clause (2)(a)(i) of this clause empowers the Board of Management to nominate one Member not connected with the University, on the Committee in the manner prescribed by Statutes and sub-item (ii) empowers the Vice-Chancellors of all University to nominate one Member on the Committee in the manner prescribed by Statutes.

(ii) Sub-clause (5) of this clause empowers the Board of Management to determine by the Statute the emoluments to be paid to the Vice-Chancellor and the terms and conditions subject to which he shall hold office.

Clause 11.—Sub-clause (6) of this clause empowers the Vice-Chancellor to exercise such other powers and perform such function as may be prescribed by Statutes and Ordinances.

Clause 12.—This clause empowers the State Government to prescribe by rules the manner, the emoluments and conditions of service on which the Directors shall be appointed.

Clause 13.—(i) Sub-clause (1) of this clause empowers the State Government to prescribe the manner, the emoluments and conditions of service on which Registrar shall be appointed.

(ii) Sub-clause (3) of this clause empowers the Registrar to exercise such powers and perform such duties and functions as may be prescribed by the Board of Management by the Statutes.

Clause 14.—This clause empowers the Board of Management to prescribe by Statutes the manner of appointment, emoluments and the powers and duties of the other officers of the University.

Clause 15.—Item (iv) of this clause empowers the Board of Management to declare by Statute, such authorities to be the authorities of the University.

Clause 16.—Sub-clause (2) of this clause empowers the Board of Management to prescribe by Statute its constitution, the term of office of its members and its powers and functions.

Clause 17.—Sub-clause (2) of this clause empowers the Board of Management to prescribe by Statute the constitution of Academic Planning Board, the term of its members and the powers and functions to be performed by it.

Clause 18.—This clause empowers the Board of Management to prescribe by Statutes the constitution of Finance Committee and the powers, duties and functions to be performed by the Committee.

Clause 19.—This clause empowers the Board of Management to prescribe by Statute the constitution, powers, duties and functions of other authorities of the University.

Clause 20.—This clause empowers the Board of Management to prescribe by Statute all or any of the matters enumerated in sub-clauses (a) to (m).

Clause 21.—This clause empowers the State Government to frame the first Statute and also empowers the Board of Management to make, amend, repeal or add to those Statutes.

Clause 22.—Sub--clause (2) of this clause empowers the Vice-Chancellor and in his absence the Board of Management to make first Ordinance for the matters specified in sub-clause (1) with the previous approval of the State Government and also empowers the Board of Management to amend, repeal or add to those Ordinances.

Clause 23.—This clause empowers the authorities of the University to make regulation with the approval of the Board of Management in the prescribed manner.

Clause 24.—This clause empowers the State Government to make rules generally for carrying out the purposes of the Act and particularly for all or any of the matters specified in sub-clause (2).

Clause 32.—This clause empowers the officer or authority, to delegate his or its powers to any other officer or authority.

The delegation of the aforesaid legislative powers is necessary and is of a normal character.

Dated the 5th February, 1994.

NARHARI AMIN."

Gandhinagar,
Dated the 11th February, 1994.

M. K. KATHIRIA,
Secretary,
Gujarat Legislative Assembly.

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Separate paging is given to this Part in order that it
 may be filed as a separate compilation.

PART V

Bill Introduced in the Gujarat Legislative Assembly.

The following Bill, which was introduced on 15th February, 1994 by Shri Thakorbbhai Naik, Minister for Co-operation, is published under Rule 127-A of the Gujarat Legislative Assembly Rules, for general information:—

“GUJARAT BILL NO. 6 OF 1994.

THE GUJARAT CO-OPERATIVE SOCIETIES (AMENDMENT) BILL, 1994.

A BILL

further to amend the Gujarat Co-operative Societies Act, 1961.

It is hereby enacted in the Forty-fifth Year of the Republic of India as follows:—

1. This Act may be called the Gujarat Co-operative Societies (Amendment) Act, 1994.

Short title.

2. In the Gujarat Co-operative Societies Act, 1961 (hereinafter referred to as ‘the principal Act’), in section 68, for the figures and words “12 per cent.”, the figures and words “15 per cent.” shall be substituted.

Amend-
ment of
section 68
of Guj. X
of 1962.

3. In the principal Act, for section 69, the following shall be substituted, namely:—

Substi-
tution of
section 69
of Guj. X
of 1962.

Guj.
X of
1962.

Contri-
bution to
educa-
tion
fund of
the
Gujarat
State
Co-
operative
Union.

"69. (1) Every society which declares, out of the current year's profit, a dividend to its members at a rate of 3 per cent. or more, shall contribute towards the education fund of the Gujarat State Co-operative Union at such rate as may be prescribed.

(2) No society, liable to contribute towards the education fund, shall pay a dividend to its members, unless the said contribution is made to the Gujarat State Co-operative Union within two months from the date on which its accounts are adopted by the general body of members at its annual general meeting.

(3) An officer wilfully failing to comply with the requirements of this section, shall be personally liable for making good the amount to the Gujarat State Co-operative Union.

*Explanation :—*In this section the expression 'Gujarat State Co-operative Union' means federal society established for the State of Gujarat with the object of giving training facilities for familiarising, promoting or encouraging in co-operative movement.

STATEMENT OF OBJECTS AND REASONS

At present maximum rate of dividend to be paid to its members by any society is fixed at 12 per cent. under section 68 of the Gujarat Co-operative Societies Act, 1961. The rate of interest for deposits paid by banking institutions and companies are more attractive and would adversely affect the Co-operative societies in the field of raising funds by way of share capital. Some representations have also been received in this connection. The maximum limit of dividend is, therefore, required to be enhanced in the light of such representations. The said section is accordingly proposed to be amended.

The Gujarat High Court by its common judgement dated 17th July, 1984, in Amreli District Co-operative Sale and Purchase Union, Ltd. and Other V/s. the State of Gujarat in Special C. A. No. 1027 of 1981 with S. C. A. No. 1028 of 1981 has *inter-alia* struck down section 69 of the Act as the contribution towards the education fund was linked up with income and not with profit. In the light of the High Court judgement and the observations made therein the original section existing prior to amendment made by Act No. 23 of 1982 is proposed to be substituted to restore the original position.

This Bill seeks to amend the Gujarat Co-operative Societies Act, 1961 to achieve the aforesaid objects.

THAKORBHAI NAIK,

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves delegation of legislative power in the following respects :—

Clause 3.—Sub-section (1) of section 69 proposed to be substituted by this clause empowers the State Government to prescribe by rules the rate of contribution of the societies towards the education fund of the Gujarat State Co-operative Union.

The delegation of legislative power as proposed is necessary and is of a normal character.

Dated the 7th February, 1994.

THAKORBHAI NAIK,

Gandhinagar,

Dated the 15th February, 1994.

N. K. KATHIRIA,

Secretary,

Gujarat Legislative Assembly.



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PART V

Bill Introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 15th February, 1994 by Shri Ramsinh Parmar, Transport Minister, is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information:—

“GUJARAT BILL NO. 7 OF 1994.

THE BOMBAY MOTOR VEHICLES TAX (GUJARAT AMENDMENT) BILL, 1994.

A BILL

further to amend the Bombay Motor Vehicles Tax Act, 1958.

It is hereby enacted in the Forty-fifth Year of the Republic of India as follows:—

1. This Act may be called the Bombay Motor Vehicles Tax (Gujarat Amendment) Act, 1994.

Short title.

2. In the Bombay Motor Vehicles Tax Act, 1958 (hereinafter referred to as “the principal Act”), in section 20,—

Amendment of section 20 of Bom. LXV of 1958.

(1) in sub-section (1), after the words “Kutch area of the State of Bombay”, the words, brackets, figures and letters “and subject to the provisions of sub-sections (1A), (1B), (1C), (1D), (1E), and (1F)” shall be inserted;

(2) after sub-section (1), the following sub-sections shall be inserted, namely:—

“(1A) Notwithstanding anything contained in sub-section (1) and the provisions of the Tolls on Roads and Bridges Act, 1875, but subject to the provisions of sub-sections (1B), (1C), (1D), (1E) and (1F), the State Government may levy tolls on motor vehicles and trailers drawn by such vehicles, passing over—

Bom.
LXV of
1958.

Bom.
III
of
1875.

(a) any bridge including an approach road thereto or section of a new road or by-pass which is constructed, reconstructed, improved, or as the case may be, repaired by the State Government or by any person at his expense after the commencement of the Bombay Motor Vehicles Tax (Gujarat Amendment) Act, 1994 and the total capital outlay of construction, reconstruction, improvements or as the case may be, repairs, of which is not less than fifty lakhs of rupees; or,

Guj.
of
1994.

(b) any bridge including an approach road thereto or section of new road or by-pass, which, in the opinion of the State Government, is of special service to the public.

Explanation.—For the purposes of this section,—

(i) the expression “capital outlay” shall include the anticipated cost of certain essential ongoings or imminent works like improvements, strengthening, widening, structural repairs and maintenance.

(ii) the expression “person” shall include any company or association or body of individuals, whether incorporated or not or a firm.

(iii) for the removal of doubt, it is hereby clarified that the expression ‘constructed’ shall include a bridge including an approach road thereto or section of new road or by-pass which is ready for use.

(1B) The toll levied under sub-section (1A) shall be levied at such rate, for such period and on such bridges including an approach road thereto or section of new road or by-pass as the State Government may from time to time, by notification in the *Official Gazette*, declare :

Provided that not more than the capital outlay, interest thereon at such rate as the State Government may fix and the expenses of collection of toll shall be levied and collected under this section :

Provided further that when the bridge including an approach road thereto or section of a new road or by-pass is constructed, reconstructed, improved or as the case may be, repaired by a person other than the State Government, not more than the capital outlay, return on investment at such rate as the State Government may fix and the expenses of collection of toll shall be levied and collected under this section.

(1C) When the toll leviable under sub-section (1A) on any bridge including an approach road thereto or section of a new road or by-pass which is constructed, reconstructed, improved or as the case may be, repaired. —

(i) by the State Government, the State Government itself or through an agent authorised by it in this behalf,

(ii) by any person, such person or his servants,

shall collect the toll on such terms and conditions and in such manner as may be prescribed.

(1D) Where any additional bridge, being the bridge on or below the same stream, river or creek or road or rail-track including any approach road thereto is constructed as augmentation of the facility of the use of the existing bridge including an approach road thereto, then the network of such bridge including an approach road thereto shall be deemed to be one single entity for the purpose of levy of toll, so however that not more than the capital outlay of such additional bridge including an approach road thereto and the expenses of collection of toll shall be recovered.

(1E) The motor vehicles and trailers drawn by such vehicles liable to pay the toll under sub-section (1A) of this section shall not be allowed to pass over the bridge including an approach road thereto or section of new road or by-pass unless the toll is paid and the State Government or the agent authorised by the State Government or as the case may be, by a person referred to in sub-section. (1C) shall have power to prevent such vehicles from passing over the bridge.

(1F) (i) All motor vehicles and trailers drawn by such vehicles used by or on behalf of the State Government or the Central Government shall be exempted from the payment of the toll.

(ii) Subject to such condition as it may impose the State Government may, if it considers necessary so to do in the public interest, by notification in the *Official Gazette*, exempt any specified class or classes of motor vehicles and trailers drawn by such vehicles from the payment of toll under this section.”;

(3) in sub-section (2), for the words, brackets and figure “sub-section (1)”, the words, brackets, figures and letters “sub-sections (1), (1A), (1B), (1C), (1D), (1E), (1F)” shall be substituted;

(4) in the marginal note, after the words “motor vehicles”, the words “except in certain exigencies” shall be added.

3. In the principal Act, in section 23, in sub-section (2), after clause (1), the following clause shall be inserted, namely:—

“(m) to prescribe the terms and conditions and the manner of collection of toll;”.

Amend-
ment of
section 23
of Bom.
LXV
of 1958.

STATEMENT OF OBJECTS AND REASONS

In view of the rapid development of industries in the State of Gujarat, it has become necessary to improve and upgrade the means of communications in the State. It is, therefore, necessary to construct new bridges including approach roads, by-passes, section of a new road and to improve the riding quality of the existing roads to meet with the requirements of the heavy industrial traffic and other increased voluminous traffic in the State. Keeping in view the limited financial resources of the State, it is considered necessary to levy toll on motor vehicles and trailers drawn by such vehicles passing over bridge including approach roads thereto, section of a new road or by-passes which are constructed, reconstructed, improved or repaired after the commencement of the Bombay Motor Vehicles Tax (Gujarat Amendment) Act, 1994 and the total capital outlay of which construction, reconstruction, improvements or repairs is more than rupees fifty lakhs or which are considered to be of special service to the public. It is, therefore, considered expedient to amend section 20 of the Bombay Motor Vehicles Tax Act, 1958 to levy toll to the extent of the recovery of the capital outlay and interest thereon. When the bridge is constructed by a person other than the State Government, a provision is also made to collect toll by such person not only to the extent of recovery of capital outlay but also of the return on investment made by such person. It is also proposed that all motor vehicles and trailers drawn by such vehicles used by or on behalf of State Government or the Central Government or such other vehicles as may be notified by the State Government shall be exempted from the payment of toll.

This bill seeks to achieve the aforesaid objects.

RAMSINH PARMAR.

FINANCIAL MEMORANDUM

New sub-section (1A) of section 20 proposed to be inserted by clause 2 of the Bill empowers the State Government to collect the toll on motor vehicles and trailers drawn by such vehicles passing over the bridges. For that purpose, it is necessary to establish the toll plaza at such bridges for collection of the tolls. This provision, if enacted and brought into operation would involve non-recurring expenditure of about one lakh fifty thousand rupees from the Consolidated Fund of the State for establishment of toll plaza. The existing staff of the Roads and Buildings Department would collect the toll and therefore, no additional expenditure on this account would involve from the Consolidated Fund of the State.

RAMSINH PARMAR

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill provides for delegation of legislative power in the following respects:—

Clause-2. (i) Sub-section (1B) of section 20 proposed to be inserted by this clause empowers the State Government to declare by notification in the *Official Gazette*, the rates at which, the period for which and bridge in respect of which toll shall be levied.

(ii) Sub-section (1C) proposed to be inserted by this clause empowers the State Government to prescribe the terms and conditions and the manner in which the toll shall be collected.

(iii) Item (ii) of sub-section (1F) proposed to be inserted by this clause empowers the State Government by notification in the *Official Gazette*, to exempt any specified class or classes of motor vehicles and trailers drawn by such vehicles from the payment of toll.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 11th February, 1994.

RAMSINH PARMAR."

Gandhinagar,

Dated the 15th February, 1994.

N. K. KATHIRIA,

Secretary,

Gujarat Legislative Assembly.



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PART V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 3rd March, 1994 by Shri Savajibhai Korat, M. L. A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information :—

Gujarat Bill No. 8 of 1994.

**THE SAURASHTRA UNDERGROUND WATER RECHARGE AUTHORITY
 BILL, 1994**

A BILL

to provide for establishment of an authority to make special provision and to undertake special programmes for increasing underground waterlevel of the Saurashtra areas of the State and for matters and purposes connected therewith.

It is hereby enacted in the Forty-fourth Year of the Republic of India as follows :—

1. (1) This Act may be called the Saurashtra Underground Water Recharge Authority Act, 1994.

(2) It extends to the areas of the Saurashtra comprising the districts of Amreli, Bhavnagar, Junagadh, Jamnagar, Rajkot, Surendranagar and such other adjacent areas as may be specified by the State Government.

(3) It shall come into force at once.

2. In this act, unless the context otherwise requires :

(a) "Authority" means the Saurashtra Underground Water Recharge Authority established by the State Government under section 3 of this Act;

Short
title,
extent and
commence-
ment.

Defini-
tions.

(b) "Saurashtra areas" means the areas comprising of the districts of Amreli, Bhavnagar, Junagadh, Jamnagar, Rajkot, Surendranagar and such other adjacent areas as may be specified by the State Government in this behalf.

(c) "prescribed" means prescribed by rules made under this Act.

(d) "State Government" means the Government of the State of Gujarat.

(e) "underground water" means water below the ground level which is drawn for the domestic, agriculture or for any other purposes.

Establishment of the Saurashtra Underground Water Recharge Authority.

3. (1) The State Government, with effect from such date as may be notified in the *Official Gazette*, shall establish an Authority for increasing the underground water level of Saurashtra areas.

(2) The Authority established under sub-section (1) shall be a body corporate having perpetual succession and a common seal and may sue and be sued in its name and shall be competent to acquire and hold property both movable and immovable and to contract and do all things necessary for the purpose of this Act.

(3) For the purposes of this Act, the Authority established under sub-section (1) shall be deemed to be a Local Authority.

Constitution and term of office of the Authority.

4. (1) The Authority shall consist of the Chairman and five other members as may be appointed by the State Government:

Provided that the Chairman and members shall be persons having adequate technical knowledge and experience in the matter.

Provided further that out of the five members to be appointed by the State Government.--

(i) One member shall be the President or a Member of the District Panchayat from amongst the District Panchayats of the Saurashtra areas, having technical knowledge and aptitude;

(ii) One member shall be a member of the Gujarat Legislative Assembly from amongst the Saurashtra areas of the State.

(iii) One member shall be from the College of Engineering attached to the Saurashtra University.

(2) The term of office of the chairman and the members of the Authority shall be three years from the date of their appointment:

Provided that the President or a member of the District Panchayat and the member of the Gujarat Legislative Assembly shall cease to be Members of the Authority as soon as they cease to be the members of the respective bodies.

(3) The salaries, other allowances, conditions of service and other matters concerning the chairman and the members of the Authority shall be such as may be prescribed by the State Government by a notification published in the *Official Gazette*.

Functions of the Authority:

5. (1) For the purposes of this Act, the Authority shall programme and implement the schemes for the recharge of underground water of the Saurashtra areas. The schemes shall be prepared by the Authority using the latest available technology and shall have proven result in the field of recharge of underground water.

(2) For the purpose of undertaking the schemes and regulations made under this Act, the Authority shall have a right to enter or use any land of the Saurashtra areas specified under this Act.

(3) The detailed rules for undertaking the work of the scheme shall be framed by the Authority and shall come into force after it is approved by the State Government.

6. (1) The State Government shall provide necessary fund to the Authority for carrying out its activities.

Funds and
accounts
of the
Authority.

(2) The Authority shall have power to borrow money or raise funds through a suitable financial instrument from public or any institution recognised by the State Government or Central Government and shall also have power to accept donations.

(3) The Authority shall deposit the fund or money received by it with the State Bank of India or any other Bank approved by the State Government and the Bank account shall be operated by such persons of the Authority as may be authorised by it.

(4) The accounts of the Authority shall be maintained in such form as may be prescribed by the State Government.

7. The Authority shall prepare a report at the end of each year which shall consist of its programmes, the activities undertaken and the accounts of the Authority. The report shall be submitted to the State Government and the State Government shall cause it to be laid on the Table of the State Legislature.

Annual
Report.

8. (1) The State Government may, by notification in the *Official Gazette*, and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

Power to
make rules.

(2) Rules made under this section shall be laid before the State Legislature as soon possible after they are made and shall be subject to such modification as the State Legislature may make in the session in which they are so laid.

(3) Any modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

9. The Authority may, from time to time with the previous sanction of the State Government, make the regulations consistent with the provisions of this Act and the rules made thereunder for carrying out its day to day business.

Regula-
tions.

STATEMENT OF OBJECTS AND REASONS

In the areas of Saurashtra, the rivers are not perennial and, therefore, it is not possible to provide canal irrigation. In absence of canal irrigation, the agriculture has to rely on the underground water and for this reason day by day the number of tube-wells are being increased. It is therefore obviously seen that the underground water level is going down day by day. It is also apprehended that in some areas of Saurashtra, the quantum of underground water is going to be exhausted in a couple of ensuing years. The potable water is also not provided for the purpose of drinking and the people of this area have to rely on the available underground water which consists of fluoride and other dissolved impurities which in turn cause serious health hazards. No systematic programme has been undertaken by the State Government for the recharge of the underground water. With a view to overcome this serious problem, it is suggested to establish the Saurashtra Underground Water Recharge Authority which will look after this problem and undertake the schemes.

Hence this Bill.

Dated the 5th January, 1994.

SAVAJIBHAI KORAT,
M. L. A.

FINANCIAL MEMORANDUM

Sub-clause (3) of Clause 4 provides for salaries and other allowances to the Chairman and members of the Authority and clause 6 of the Bill provides for necessary fund for carrying out the activities of the Authority. This Bill if enacted and brought in to operation would involve recurring expenditure of approximately Rs. 2 crores from the Consolidated Fund of the State.

Dated the 5th January, 1994.

SAVAJIBHAI KORAT,
M. L. A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (2) of clause 1 empowers the State Government to specify area other than the areas comprising the districts of Amreli, Bhavnagar, Junagadh, Jamnagar Rajkot and Surendranagar.

Sub-clause (1) of clause 3 empowers the State Government to appoint an authority to be called "The Saurashtra Underground Water Recharge Authority" and to appoint a date on which it shall be effective.

Sub-clause (1) of clause 4 empowers the State Government to appoint to the Authority, the Chairman and five other members.

Sub-clause (3) of clause 4 empowers the State Government to prescribe the salaries, other allowances, condition of service and other matters concerning the Chairman and the members of the Authority.

Sub-clause (2) of clause 5 empowers the State Government to make rules and regulations subject to which the Authority shall have right to enter or use any land of the Saurashtra Area.

Sub-clause (3) of clause 5 empowers the State Government to approve the detailed rules framed by the Authority for undertaking the works of the scheme.

Sub-clause (3) of clause 6 empowers the State Government to approve any Bank, other than State Bank of India, in which the Authority shall deposit the fund or money received by it.

Sub-clause (4) of clause 6 empowers the State Government to prescribe a form, in which the accounts of the Authority shall be maintained.

Sub-clause (1) of the clause 8 empowers the State Government to make rules for carrying out the purposes of the Act.

The delegation of legislative powers as aforesaid is essential and of normal character.

Dated the 5th January, 1994.

SAVAJIBHAI KORAT,
M. L. A."

Gandhinagar,
Dated the 3rd March, 1994.

N. K. KATHIRIA,
Secretary,
Gujarat Legislative Assembly.



The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXXV] THURSDAY, MARCH 3, 1994/PHALGUNA 12, 1915

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V

Bill Introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 3rd March, 1994, by Shri Jaynarayan Vyas, M. L. A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information:—

"Gujarat Bill No. 9 of 1994."

THE GUJARAT MUNICIPALITIES (AMENDMENT) BILL, 1994.

A BILL

further to amend the Gujarat Municipalities Act, 1963.

It is hereby enacted in the Forty-fifth year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Municipalities (Amendment) Act, 1994.

Short
title
and
commence-
ment.

(2) It shall come into force at once.

2. In the Gujarat Municipalities Act, 1963 (hereinafter referred to as the principal Act) in section 47, for sub-sections (1), (2) and (3), the following shall be substituted, namely:—

Amend-
ment
of section
47 of Guj.
XXXIV of
1964.

"(1) There shall be a Chief Officer for every Municipality.

(2) The appointment of the Chief Officer shall be made by the State Government from amongst the cadre of the Gujarat Administrative Service.

(3) The Pay & Allowances of Chief Officer appointed by the State Government under sub-section (2) shall be paid by the Municipality from its fund."

Substi-
tution
of section
48 of Guj.
XXXIV of
1964.

3. In the principal Act, for section 48, the following shall be substituted, namely:—

Removal
of Chief
Officer.

"48 If the Municipality is of the opinion that the Chief Officer appointed under section-47 is not performing his duties in consonance with the policy framed or decision taken by the Board, then the Board may by a resolution passed by a majority of at-least two thirds of the total number of councillors present at voting, recommend to the State Government for other person in his place."

STATEMENT OF OBJECTS AND REASONS

At present the Chief Officers of the Municipalities are appointed by the respective Municipal Board. As they are not transferable and for their long service vested interest prevails. Sometimes it so happens that the Chief Officer is enjoying more power than the President or the Board. With a view to overcome this situation, it is suggested that a person from the common cadre of the Gujarat Administrative Service should be appointed as Chief Officer.

Hence this Bill.

JAY NARAYAN VYAS,
M.L.A."

Gandhinagar,
Dated the 3rd March, 1994.

N. K. KATHIRIA,
Secretary,
Gujarat Legislative Assembly.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



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Separate paging is given to this Part in order that it
 may be filed as a separate compilation.

PART V

Bill Introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 3rd March, 1994 by Shri Jaynarayan Vyas, M. L. A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information :—

“GUJARAT BILL NO. 10 OF 1994.

THE GUJARAT INDUSTRIAL DEVELOPMENT (AMENDMENT) BILL, 1994.

A BILL

further to amend the Gujarat Industrial Development Act, 1962.

It is hereby enacted in the Forty-fifth year of the Republic of India, as follows:—

1. (1) This Act may be called the Gujarat Industrial Development (Amendment) Act, 1994.

Short
title and
Commence-
ment.

(2) It shall come to force at once.

2. In the Gujarat Industrial Development Act, 1962, (hereinafter referred to as the principal Act) in section 4, in sub-section (1)—

Amend-
ment of
section-4
of Guj. 23
of 1962.

(1) after clause (c) the following clause shall be inserted, namely:—

“(cc) one Director to be chosen by the recognised Unions/Associations of the Corporation from amongst their office bearers.”

(2) in clause (d), for the word “six” the word “five” shall be substituted.

3. In the principal Act in section 5, for clause (a), the following clause shall be substituted, namely:—

Amend-
ment of
section 5
of Guj. 23
of 1962.

“(a) is an employee of the Corporation not being the Managing Director or a Director chosen under clause (cc) of sub-section (1) of section 4”.

STATEMENT OF OBJECTS AND REASONS

Workers participation in the management is desirable so that the Unions/Associations can be more responsible. They will also be a party to the decisions taken at the Board meeting and there would not be any opposition from the employees. Though the principle of joint management has been adopted, no concrete action has been taken to constitute the Joint Management Councils till date. However, it will not be difficult to adopt this principle in State owned Corporations. With a view to achieve this object, it is suggested that one member from the employee's unions/associations should be appointed as Director of the Gujarat Industrial Development Corporation.

Hence this bill.

JAYNARAYAN VYAS,
M.L.A."

Gandhinagar,
Dated the 3rd March, 1994.

N. K. KATHIRIA,
Secretary,
Gujarat Legislative Assembly.



The Gujarat Government Gazette

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Vol. XXXV]

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V

Bill introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127 A of the Gujarat Legislative Assembly Rules :—

THE GUJARAT (SUPPLEMENTARY) APPROPRIATION BILL, 1994.

GUJARAT BILL NO. 11 OF 1994.

A BILL

to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Gujarat for the services of the year ending on the thirty-first day of March, 1994.

It is hereby enacted in the Forty-fifth Year of the Republic of India as follows:—

1. This Act may be called the Gujarat (Supplementary) Appropriation Act, 1994. Short title.
2. From and out of the Consolidated Fund of the State of Gujarat, there shall be paid and applied sums not exceeding those specified in column 3 of the Schedule hereto annexed amounting in the aggregate to the sum of nine hundred seventy-two crores, twenty-one lakhs, ninety-one thousand rupees towards defraying the several charges which will come in course of payment during the financial year ending on the thirty-first day of March, 1994, in respect of the services and purposes specified in column 2 of the Schedule. Issue of Rs. 9,72,21,91,000 from and out of the Consolidated Fund of the State of Gujarat for the financial year 1993-94.
3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Gujarat by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year. Appropriation.

THE SCHEDULE

(See sections 2 and 3)

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding			
		Voted	Charged on the Consolidated Fund	Total	
1	2	3			
		Rs.	Rs.	Rs.	
1.	Agriculture, Cooperation and Rural Development Department	Revenue	60,000	1,000	61,000
2.	Agriculture	Revenue	76,52,16,000	..	76,52,16,000
		Capital	30,00,000	..	30,00,000
3.	Minor Irrigation Soil Conservation and Area Development	Revenue	78,34,000	..	78,34,000
4.	Animal Husbandry and Dairy Development	Revenue	1,07,80,000	93,000	1,08,73,000
		Capital	1,15,05,000	..	1,15,05,000
5.	Fisheries	Revenue	1,000	..	1,000
6.	Co-operation	Revenue	1,000	..	1,000
7.	Other Expenditure pertaining to Agriculture, Co-operation and Rural Development Department	Capital	5,00,000	..	5,00,000
8.	Education Department	Revenue	9,10,000	..	9,10,000
9.	Education	Revenue	87,59,83,000	11,77,06,000	99,36,89,000
11.	Energy and Petro-chemicals Department	Revenue	3,00,000	..	3,00,000
13.	Energy Projects	Revenue	5,04,56,10,000	..	5,04,56,10,000
5.	Finance Department	Revenue	11,49,000	..	11,49,000
17.	Treasury and Accounts Administration	Revenue	..	88,000	88,000
18.	Pensions and other Retirement Benefits	Revenue	29,55,00,000	..	29,55,00,000
19.	Other Expenditure pertaining to Finance Department	Capital	40,00,01,000	26,99,000	40,27,00,000
20.	Repayment of Debt pertaining to Finance Department and its Servicing.	Revenue	..	10,80,80,000	10,80,80,000
		Capital	..	27,76,01,000	27,76,01,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2	3		
		Rs.	Rs.	Rs.
21.	Food and Civil Supplies Department	Revenue	4,33,000	4,33,000
22.	Civil Supplies	Revenue	13,26,000	13,31,000
		Capital	63,49,000	63,49,000
23.	Food	Revenue	40,42,000	42,81,000
		Capital	40,00,000	40,00,000
24.	Other Expenditure pertaining to Food and Civil Supplies Department	Capital	1,00,000	1,23,000
25.	Forest and Environment Department	Revenue	12,72,000	12,72,000
26.	Forests	Revenue	3,000	4,55,000
29.	Governor	Revenue	..	4,75,000
30.	Council of Ministers	Revenue	39,97,000	39,97,000
31.	Elections	Revenue	1,88,53,000	1,88,70,000
32.	Public Service Commission	Revenue	..	8,50,000
33.	General Administration Department	Revenue	19,59,000	19,59,000
34.	Economic Advice and Statistics	Revenue	9,76,000	9,76,000
35.	Other Expenditure pertaining to General Administration Department	Revenue	46,51,000	46,51,000
		Capital	34,65,000	34,65,000
38.	Health and Family Welfare Department	Revenue	8,65,000	8,65,000
39.	Medical and Public Health	Revenue	8,69,73,000	8,73,13,000
40.	Family Welfare	Revenue	13,77,92,000	13,77,92,000
41.	Water Supply	Revenue	40,00,000	40,00,000
		Capital	6,56,00,000	6,56,00,000
42.	Other Expenditure pertaining to Health and Family Welfare Department.	Revenue	20,000	63,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2	3	3	3
		Rs.	Rs.	Rs.
43.	Home Department Revenue	41,70,000	..	41,70,000
44.	Police Revenue	17,15,76,000	1,000	17,15,77,000
45.	Jails Revenue	1,64,58,000	..	1,64,58,000
47.	Other Expenditure pertaining to Home Department Revenue	1,000	5,07,000	5,08,000
49.	Stationery and Printing Revenue	9,27,45,000	..	9,27,45,000
50.	Industries Capital	8,51,75,000	8,000	8,51,83,000
52.	Other Expenditure pertaining to Industries and Mines Department Revenue	86,00,000	15,000	86,15,000
	Capital	50,00,000	..	50,00,000
54.	Information and Publicity Revenue	19,29,000	1,20,000	20,49,000
56.	Other Expenditure pertaining to Information, Broadcasting and Tourism Department Revenue	..	1,04,000	1,04,000
61.	Administration of Justice Revenue	1,000	1,000	2,000
64.	Narmada Development Scheme Capital	9,37,56,000	..	9,37,56,000
65.	Irrigation and Soil Conservation Revenue	79,39,000	17,70,000	97,09,000
	Capital	1,15,21,000	2,49,97,000	3,65,18,000
66.	Other Expenditure pertaining to Narmada and Water Resources Department Revenue	..	2,57,84,000	2,57,84,000
	Capital	5,80,000	..	5,80,000
67.	Panchayats and Rural Housing Department Revenue	3,05,000	..	3,05,000
68.	Community Development Revenue	22,93,000	..	22,93,000
69.	Rural Housing Revenue	68,31,000	6,19,70,000	6,88,01,000
70.	Compensations and Assignments Revenue	1,29,39,000	..	1,29,39,000
71.	Other Expenditure pertaining to Panchayats and Rural Housing Department Revenue	1,49,50,000	..	1,49,50,000
	Capital	1,03,000	..	1,03,000
72.	Revenue Department Revenue	8,93,000	..	8,93,000
	Tax Collection Charges (Revenue Department) Revenue	1,000	6,57,000	6,58,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding			
		Voted	Charged on the Consolidated Fund	Total	
1	2	3			
		Rs.	Rs.	Rs.	
74.	District Administration	Revenue	1,08,21,000	..	1,08,21,000
75.	Relief on account of Natural Calamities	Revenue	1,000	..	1,000
		Capital	2,67,00,000	..	2,67,00,000
76.	Dangs District	Revenue	45,06,000	..	45,06,000
77.	Compensation and Assignments	Revenue	2,00,07,000	93,000	2,01,00,000
78.	Other Expenditure pertaining to Revenue Department	Revenue	1,20,30,000	..	1,20,30,000
80.	Non-Residential Buildings	Revenue	..	72,000	72,000
		Capital	3,000	98,000	1,01,000
81.	Residential Buildings	Capital	1,00,00,000	..	1,00,00,000
82.	Roads and Bridges	Revenue	3,00,00,000	9,77,000	3,09,77,000
		Capital	40,00,00,000	52,22,000	40,52,22,000
83.	Ports	Capital	73,00,000	..	73,00,000
84.	Gujarat Capital Construction Scheme	Revenue	16,16,000	..	16,16,000
		Capital	..	7,79,000	7,79,000
85.	Other Expenditure pertaining to Roads and Buildings Department	Revenue	78,25,000	69,96,000	1,48,21,000
88.	Social Security and Welfare	Revenue	5,20,41,000	..	5,20,41,000
89.	Welfare of Scheduled Tribes	Revenue	1,66,52,000	..	1,66,52,000
90.	Other Expenditure pertaining to Social Welfare and Tribal Development Department	Capital	5,80,000	..	5,80,000
91.	Special Component Plan for Scheduled Castes	Revenue	2,99,27,000	..	2,99,27,000
		Capital	43,00,000	..	43,00,000
92.	Tribal Area Sub-Plan	Revenue	7,34,12,000	9,26,000	7,43,38,000
		Capital	4,00,00,000	9,67,000	4,09,67,000

Ex. V-II-2

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2	3		
		Rs.	Rs.	Rs.
94.	Urban Housing Revenue	..	2,78,15,000	2,78,15,000
95.	Urban Development Revenue	..	57,000	57,000
99.	Youth Services and Cultural Activities Revenue	30,27,000	..	30,27,000
	Revenue	7,87,40,02,000	35,62,57,000	8,23,02,59,000
	Total : Capital	1,17,95,38,000	31,23,94,000	1,49,19,32,000
	Grand Total	9,05,35,40,000	66,86,51,000	9,72,21,91,000

STATEMENT OF OBJECTS AND REASONS

This Bill is introduced in pursuance of article 204 of the Constitution of India read with article 205 thereof, to provide for the appropriation out of the Consolidated Fund of the State of Gujarat of the moneys required to meet the supplementary expenditure on certain services and purposes in relation to the financial year ending on the thirty-first day of March, 1994.

The amounts are shown below:—

(a) Revenue Expenditure	Rs.	8,23,02,59,000
(b) Capital Expenditure	Rs.	1,49,19,32,000
Total	Rs.	<u>9,72,21,91,000</u>

Dated the 6th March, 1994.

CHHABILDAS MEHTA.

By order and in the name of the Governor of Gujarat,

SMT. K. R. TRIVEDI,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs
Department.

Gandhinagar, dated the 6th March, 1994.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



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Separate paging is given to this Part in order that it
may be filed as a separate compilation.

PART V

Bill Introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published
in the Gujarat Government Gazette. The date of publication to be
reported).

The following Bill is published with the consent of the Speaker
given under the proviso to rule 127 A of the Gujarat Legislative
Assembly Rules :-

THE GUJARAT APPROPRIATION (VOTE ON ACCOUNT) BILL, 1994.

GUJARAT BILL NO. 12 OF 1994.

A BILL

*to authorise withdrawal of certain sums from and out of the Consolidated Fund of
the State of Gujarat for the services of a part of the financial year ending on the
thirty-first day of March, 1995.*

It is hereby enacted in the Forty-fifth Year of the Republic of India as follows :-

1. This Act may be called the Gujarat Appropriation (Vote on Account) Act, 1994.

Short title.

2. From and out of the Consolidated Fund of the State of Gujarat, there may be withdrawn sums not exceeding those specified in column 3 of the Schedule hereto annexed amounting in the aggregate to the sum of three thousand two hundred seven crores, seventy-eight lakhs, seventy-nine thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1994-95.

Withdrawal
of Rs.
32,07,78,79
000 from and
out of the
Consolidated
Fund of the
State of
Gujarat for
the financial
year 1994-
95.

3. The sums authorised to be withdrawn from and out of the Consolidated Fund of the State of Gujarat by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

Appropriation.

No. of Vote/ Appro- priation.	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2		3	
		Rs.	Rs.	Rs.
11.	Energy and Petro-Chemicals Department	Revenue 15,78,000	..	15,78,000
12.	Tax collection charges (Energy and Petro-Chemicals Department)	Revenue 87,49,000	..	87,49,000
13.	Energy Projects	Revenue 1,66,67,000	..	1,66,67,000
14.	Other Expenditure pertaining to Energy and Petro-Chemicals Department	Capital 17,80,000	..	17,80,000
15.	Finance Department	Revenue 84,95,000	..	84,95,000
		Capital 1,19,000	..	1,19,000
16.	Tax Collection Charges (Finance Department)	Revenue 10,18,73,000	..	10,18,73,000
17.	Treasury and Accounts Administration	Revenue 6,09,97,000	..	6,09,97,000
18.	Pension and other Retirement Benefits	Revenue 85,72,83,000	1,33,000	85,74,16,000
19.	Other Expenditure pertaining to Finance Department	Revenue 1,61,17,63,000	..	1,61,17,63,000
		Capital 2,53,05,000	33,000	2,53,38,000
20.	Repayment of Debt pertaining to Finance Department and its Servicing	Revenue ..	3,55,79,32,000	3,55,79,32,000
		Capital ..	4,46,76,78,000	4,46,76,78,000
21.	Food and Civil Supplies Department	Revenue 94,38,000	..	94,38,000
22.	Civil Supplies	Revenue 6,49,25,000	..	6,49,25,000
		Capital 34,000	..	34,000
23.	Food	Revenue 1,84,24,000	..	1,84,24,000
		Capital 8,33,000	..	8,33,000

THE SCHEDULE
(See sections 2 and 3)

No. of Vote/ Appropriation.	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2		3	
		Rs.	Rs.	Rs.
1.	Agriculture, Co-operation and Rural Development Department	Revenue 80,15,000	..	80,15,000
2.	Agriculture	Revenue 86,45,24,000	..	86,45,24,000
		Capital 5,01,67,000	..	5,01,67,000
3.	Minor Irrigation, Soil Conservation and Area Development	Revenue 9,88,06,000	..	9,88,06,000
		Capital 28,33,000	..	28,33,000
4.	Animal Husbandry and Dairy Development	Revenue 9,55,11,000	..	9,55,11,000
		Capital 1,33,000	..	1,33,000
5.	Fisheries	Revenue 4,06,98,000	..	4,06,98,000
		Capital 1,20,67,000	..	1,20,67,000
6.	Co-operation	Revenue 6,36,13,000	..	6,36,13,000
		Capital 3,72,80,000	..	3,72,80,000
7.	Other expenditure pertaining to Agriculture, Co-operation and Rural Development Department	Capital 2,39,25,000	..	2,39,25,000
8.	Education Department	Revenue 44,60,000	..	44,60,000
9.	Education	Revenue 5,03,33,86,000	12,24,00,000	5,15,57,86,000
		Capital 2,00,000	..	2,00,000
10.	Other expenditure pertaining to Education Department	Revenue 1,50,63,000	..	1,50,63,000
		Capital 18,29,90,000	..	18,29,90,000

No. of Vote/ Appropriation.	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2		3	
		Rs.	Rs.	Rs.
24.	Other Expenditure pertaining to Food and Civil Supplies Department	Capital 37,60,000	..	37,60,000
25.	Forest and Environment Department	Revenue 22,69,000	..	22,69,000
26.	Forests	Revenue 14,09,43,000	..	14,09,43,000
		Capital 14,41,34,000	..	14,41,34,000
27.	Environment	Revenue 56,00,000	..	56,00,000
28.	Other Expenditure pertaining to Forests and Environment Department	Capital 76,00,000	..	76,00,000
29.	Governor	Revenue ..	25,68,000	25,68,000
30.	Council of Ministers	Revenue 73,58,000	..	73,58,000
31.	Elections	Revenue 51,01,000	..	51,01,000
32.	Public Service Commission	Revenue 9,52,000	40,55,000	50,07,000
33.	General Administration Department	Revenue 3,12,91,000	..	3,12,91,000
34.	Economic Advice and Statistics	Revenue 1,40,76,000	..	1,40,76,000

No. of Vote/ Appropriation.	Services and purposes	Sums not exceeding		
		Voted -	Charged on the Consolidated Fund	Total
1.	2		3	
		Rs.	Rs.	Rs.
35.	Other Expenditure pertaining to General Administration Department	Revenue 14,46,15,000	..	14,46,15,000
		Capital 1,74,05,000	..	1,74,05,000
36.	State Legislature	Revenue 1,22,85,000	1,33,000	1,24,19,000
37.	Loans and Advances to Government servants in Gujarat Legislature Secretariat.	Capital 20,37,000	..	20,37,000
38.	Health and Family Welfare Department	Revenue 69,37,000	..	69,37,000
39.	Medical and Public Health	Revenue 94,62,12,000	..	94,62,12,000
40.	Family Welfare	Revenue 22,53,33,000	..	22,53,33,000
41.	Water Supply	Revenue 22,63,05,000	..	22,63,05,000
		Capital 55,55,50,000	..	55,55,50,000
42.	Other expenditure pertaining to Health and Family Welfare Department	Revenue 8,47,98,000	..	8,47,98,000
		Capital 4,10,90,000	..	4,10,90,000
43.	Home Department	Revenue 56,07,000	..	56,07,000
44.	Police	Revenue 1,04,40,10,000	..	1,04,40,10,000
45.	Jails	Revenue 2,94,35,000	..	2,94,35,000
46.	Transport	Revenue 3,76,92,000	..	3,76,92,000

No. of Vote/ Appropriation.	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2		3	
		Rs.	Rs.	Rs.
47.	Other Expenditure pertaining to Home Department	Revenue 8,01,74,000 Capital 1,10,18,000	43,000 ..	8,02,18,000 1,10,18,000
48.	Industries and Mines Department Revenue	36,58,000	..	36,58,000
49.	Stationery and Printing	Revenue 7,48,90,000	..	7,48,90,000
50.	Industries	Revenue 24,43,70,000 Capital 39,33,000		24,43,70,000 39,33,000
51.	Mines and Minerals	Revenue 2,47,47,000	..	2,47,47,000
52.	Other Expenditure pertaining to Industries and Mines Department	Revenue 15,88,000 Capital 85,00,000		15,88,000 85,00,000
53.	Information, Broadcasting and Tourism Department	Revenue 9,90,000	..	9,90,000
54.	Information and Publicity	Revenue 4,28,34,000	..	4,28,34,000
55.	Tourism	Revenue 77,25,000 Capital 9,00,000		77,25,000 9,00,000
56.	Other Expenditure pertaining to Information, Broadcasting and Tourism Department	Revenue 46,77,000 Capital 33,00,000		46,77,000 33,00,000
57.	Labour and Employment Department	Revenue 23,42,000	..	23,42,000
58.	Labour and Employment	Revenue 13,96,92,000 Capital 67,000		13,96,92,000 67,000
59.	Other Expenditure pertaining to Labour and Employment Department	Capital 97,70,000	..	97,70,000

No. of Vote/ Appropriation.	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2		3	
		Rs.	Rs.	Rs.
60.	Legal Department	Revenue 47,07,000	..	47,07,000
		Capital 8,000	..	8,000
61.	Administration of Justice	Revenue 12,19,14,000	1,59,78,000	13,78,92,000
62.	Other Expenditure pertaining to Legal Department	Revenue 46,30,000	..	46,30,000
		Capital 58,05,000	..	58,05,000
63.	Legislative and Parliamentary Affairs Department	Revenue 25,40,000	..	25,40,000
64.	Other Expenditure pertaining to Legislative and Parliamentary Affairs Department	Capital 11,10,000	..	11,10,000
65.	Narmada and Water Resources Department	Revenue 62,70,000	..	62,70,000
66.	Narmada Development Scheme	Capital 2,55,64,15,000	..	2,55,64,15,000
67.	Irrigation and Soil Conservation	Revenue 1,65,52,88,000	..	1,65,52,88,000
		Capital 58,41,27,000	..	58,41,27,000
68.	Other Expenditure pertaining to Narmada and Water Resources Department	Revenue 4,67,000	..	4,67,000
		Capital 3,42,95,000	..	3,42,95,000
69.	Panchayats and Rural Housing Department	Revenue 38,11,000	..	38,11,000
70.	Community Development	Revenue 29,03,12,000	..	29,03,12,000
		Capital ..	2,77,000	2,77,000

No. of Vote/ Appropriation.	Services and purposes	Sums not exceeding			
		Voted	Charged on the Consolidated Fund	Total	
1	2		3		
		Rs.	Rs.	Rs.	
71.	Rural Housing	Revenue	9,35,60,000	16,83,67,000	26,19,27,000
		Capital	77,33,000	..	77,33,000
72.	Compensations and Assignments	Revenue	5,60,94,000	..	5,60,94,000
73.	Other Expenditure pertaining to Panchayats and Rural Housing Department	Revenue	3,28,03,000	..	3,28,03,000
		Capital	7,25,85,000	..	7,25,85,000
74.	Revenue Department	Revenue	1,00,52,000	..	1,00,52,000
75.	Tax Collection Charges (Revenue Department)	Revenue	9,11,61,000	9,33,000	9,20,94,000
76.	District Administration	Revenue	9,41,47,000	..	9,41,47,000
77.	Relief on account of Natural Calamities	Revenue	28,25,00,000	..	28,25,00,000
		Capital	8,33,000	..	8,33,000
78.	Dangs District	Revenue	4,43,37,000	..	4,43,37,000
		Capital	17,000	..	17,000
79.	Compensations and Assignments	Revenue	2,51,82,000	14,23,000	2,66,05,000
		Capital	19,00,000	14,67,000	33,67,000
80.	Other Expenditure pertaining to Revenue Department	Revenue	15,80,000	2,000	15,82,000
		Capital	1,92,10,000	..	1,92,10,000
81.	Roads and Buildings Department	Revenue	83,72,000	..	83,72,000

V-Extra-12-3

No. of Vote/ Appropriation.	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2		3	
		Rs.	Rs.	Rs.
82.	Non-Residential Buildings	Revenue 30,62,34,000	1,04,000	30,63,38,000
		Capital 10,78,35,000	..	10,78,35,000
83.	Residential Buildings	Revenue 13,09,17,000	..	13,09,17,000
		Capital 2,22,58,000	..	2,22,58,000
84.	Roads and Bridges	Revenue 77,11,52,000	..	77,11,52,000
		Capital 15,22,33,000	..	15,22,33,000
85.	Ports	Capital 2,73,33,000	..	2,73,33,000
86.	Gujarat Capital Construction Scheme	Revenue 75,64,000	..	75,64,000
		Capital 2,23,33,00	..	2,23,33,000
87.	Other Expenditure pertaining to Roads and Buildings Department	Revenue 2,24,60,00	..	2,24,60,000
		Capital 1,90,86,000	..	1,90,86,000
88.	Social Welfare and Tribal Development Department	Revenue 32,91,000	..	32,91,000
89.	State Excise	Revenue 78,95,000	..	78,95,000
90.	Social Security and Welfare	Revenue 22,96,84,000	..	22,96,84,000
		Capital 46,67,000	..	46,67,000
91.	Welfare of Scheduled Tribes	Revenue 9,01,06,000	..	9,01,06,000
		Capital 17,27,000	..	17,27,000
92.	Other Expenditure pertaining to Social Welfare and Tribal Development Department	Capital 73,80,000	..	73,80,000

No. of Vote/ Appropriation.	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2		3	
		Rs.	Rs.	Rs.
93.	Special Component Plan for Scheduled Castes	Revenue 37,51,44,000	..	37,51,44,000
		Capital 1,98,18,000	..	1,98,18,000
94.	Tribal Area Sub-Plan	Revenue 88,52,59,000	..	88,52,59,000
		Capital 23,57,46,000	..	23,57,46,000
95.	Urban Development and Urban Housing Department	Revenue 21,92,000	..	21,92,000
96.	Urban Housing	Revenue 2,17,32,000	3,09,35,000	5,26,67,000
		Capital 1,81,77,000	..	1,81,77,000
97.	Urban Development	Revenue 15,29,80,000	..	15,29,80,000
		Capital 7,16,67,000	..	7,16,67,000
98.	Compensations, Assignment and tax collection charges	Revenue 8,47,87,000	2,07,81,000	10,55,68,000
99.	Other Expenditure pertaining to Urban Development and Urban Housing Department	Revenue 37,71,000	..	37,71,000
		Capital 30,55,000	..	30,55,000
100.	Youth Services and Cultural Activities Department	Revenue 10,50,000	..	10,50,000
101.	Youth Services and Cultural Activities	Revenue 2,80,84,000	..	2,80,84,000

No. of Vote/ Appropriation.	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2		3	
		Rs.	Rs.	Rs.
102.	Other expenditure pertaining to Youth Services and Cultural Activities Department	Capital 17,50,000	..	17,50,000
	Total	Revenue 18,53,68,03,000	3,92,57,88,000	22,46,25,91,000
		Capital 5,14,58,34,000	4,46,94,54,000	9,61,52,88,000
	Grand Total	23,68,26,37,000	8,39,52,42,000	32,07,78,79,000

STATEMENT OF OBJECTS AND REASONS

This Bill is introduced in pursuance of clause (2) of the article 206 of the Constitution of India, to provide for the appropriation out of the Consolidated Fund of the State of Gujarat of the moneys required to meet the expenditure charged on the Consolidated Fund of the State of Gujarat, and the Grants made in advance by the Legislative Assembly in respect of the estimated expenditure for a part of the financial year ending on the 31st March, 1995.

The amounts are shown below :-

	Rs.
(a) Revenue Expenditure	22,46,25,91,000
(b) Capital Expenditure	9,61,52,88,000
Total	32,07,78,79,000

Dated the 8th March, 1994.

CHHABILDAS MEHTA.

By order and in the name of the Governor of Gujarat,

SMT. K. R. TRIVEDI,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs
Department.

Gandhinagar, dated the 8th March, 1994.



The Gujarat Government Gazette
EXTRAORDINARY
 PUBLISHED BY AUTHORITY

Vol. XXXV]

THURSDAY JUNE 9, 1994/JYAISTHA 19, 1916

Separate paging is given to this Part in order that it
 may be filed as a separate compilation.

PART V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:—

**THE GUJARAT TAX ON LUXURIES (HOTELS AND LODGING
 HOUSES) (AMENDMENT) BILL, 1994.**

Gujarat Bill No. 13 of 1994.

A BILL

further to amend the Gujarat Tax on Luxuries (Hotels and Lodging Houses) Act, 1977.

It is hereby enacted in the Forty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Tax on Luxuries (Hotels and Lodging Houses) (Amendment) Act, 1994.

(2) It shall be deemed to have come into force on the 1st April, 1994.

2. In the Gujarat Tax on Luxuries (Hotels and Lodging Houses) Act, 1977 (hereinafter referred to as "the principal Act"), in section 2, —

(1) for clause (d), the following clause shall be substituted, namely:—

"(d) 'hotel' means a building or part of a building where lodging accommodation with or without board is provided for a monetary consideration and includes a club, lodging house, gymkhana, inn, motel, public house or any place, where residential accommodation is provided for a monetary consideration ;".

(2) in clause (e), for the words "not less than thirty five rupees", the words "more than one hundred rupees" shall be substituted.

Short title
and
commence-
ment.

Amend-
ment of
section 2
of Guj.
24 of
1977.

Guj. 24
of 1977,

Repeal
and
savings.

3. (1) The Gujarat Tax on Luxuries (Hotels and Lodging Houses) (Amendment) Ordinance, 1994 is hereby repealed.

Guj. Ord.
1 of 1994.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

Under the existing provisions of the Gujarat Tax on Luxuries (Hotels and Lodging Houses) Act, 1977, the clubs, gymkhanas and such other institutions though providing facility of accommodation of lodging for a monetary consideration are not covered by the term "hotel" and thereby Government loses revenue. In order to bring more revenue to the State Exchequer, it was considered necessary to widen the scope of the term 'hotel' defined in section 2 of the Act.

As the Gujarat Legislative Assembly was not in session, the Gujarat Tax on Luxuries (Hotels and Lodging Houses) (Amendment) Ordinance, 1994 was promulgated to amend the said Act to achieve the aforesaid object. This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

Dated the 8th June, 1994.

CHHABILDAS MEHTA,

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 9th June, 1994.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXXV]

FRIDAY JUNE 10, 1994/JYAISTHA 20, 1916

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PART V

Bill introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*, The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules.—

THE DR. BABASAHEB AMBEDKAR OPEN UNIVERSITY BILL, 1994.

A BILL GUJARAT BILL NO. 14 OF 1994.

to establish and incorporate an Open University in the State of Gujarat for the introduction and promotion of the Open University and distance education system in the educational pattern of the State.

It is hereby enacted in the Forty-fifth Year of the Republic of India as follows :—

CHAPTER I PRELIMINARY

1. (1) This Act may be called the Dr. Babasaheb Ambedkar Open University Act, 1994.

Short title and comment.

(2) This section shall be deemed to have come into force on the 13th April, 1994 and the remaining provisions of this Act shall be deemed to have come into force on the 26th April, 1994.

2. In this Act, unless the context otherwise requires,—

Definitions.

(1) "Authorities" means the authorities of the University specified in section 15;

(2) "Academic Planning Board" means the Academic Planning Board of the University constituted under section 17 ;

(3) "Board of Management" means the Board of Management of the University constituted under section 16 ;

(4) "Chancellor" means the Chancellor of the University ;

(5) "distance education system" means the system of imparting education through any means of communication such as broadcasting, telecasting, correspondence courses, seminars, contact programmes or the combination of any two or more of such means ;

(6) "employee" means any person appointed by the University, and includes teachers and other academic staff of the University ;

(7) "Finance Committee" means the Finance Committee of the University constituted under section 18 ;

(8) "prescribed" means prescribed by the Statutes, Ordinances, Regulations or Rules made under this Act ;

(9) "recognised institution" means an institution established for research or specialised studies and recognised as such by the University ;

(10) "regional centre" means a centre established or maintained by the University for the purpose of co-ordinating and supervising the work of study centres in any region and for performing such other functions as may be conferred on such centre by the Board of Management ;

(11) "school" means a school of studies of the University ;

(12) "Statutes", "Ordinances" and "Regulations" means respectively, the Statutes, Ordinances and Regulations of the University made under this Act and for the time being in force ;

(13) "student" means a student of the University, and includes any person who has enrolled himself for pursuing any course of study of the University ;

(14) "study centre" means a centre established, maintained or recognised by the University for the purpose of advising, counselling, evaluating or for rendering any other assistance required by the students ;

(15) "teachers" means professors, readers, lecturers and such other persons as may be designated by the Ordinances for imparting instruction in the University or for giving guidance or rendering assistance to students for pursuing any course of study of the University ;

(16) "University" means the Dr. Babasaheb Ambedkar Open University established under section 3 ;

(17) "Vice-Chancellor" means the Vice-Chancellor of the University.

CHAPTER II THE UNIVERSITY

Establishment
and
incorporation
of University.

3. (1) There shall be established a University by the name of 'the Dr. Babasaheb Ambedkar Open University'.

(2) The headquarters of the University shall be at Ahmedabad, and the University may establish, maintain or recognise institutes, schools, regional centres and study centres at such other places in the State as it may deem fit.

(3) The first Vice-Chancellor, the first members of the Board of Management, the Academic Planning Board and Finance Committee and all persons who may hereafter become such officers or members, so long as they continue to hold such office or membership, are hereby constituted and declared to be a body corporate by the name of 'the Dr. Babasaheb Ambedkar Open University'; and the University shall have perpetual succession and a common seal and shall sue and be sued by the said name.

Objects
of University.

4. The objects of the University shall be to advance and disseminate learning and knowledge by a diversity of means, including the use of any communication technology, to provide opportunities for higher education to a larger segment of the population and to promote the educational well being of the community generally, to encourage the Open University and distance education system in the education pattern of the State.

5. The University shall have the following powers, namely :—

- (i) to provide for instruction in such branches of knowledge, technology, vocations and professions as the University may determine from time to time and to make provision for research, advancement and extension ;
- (ii) to plan and prescribe courses of study of degrees, diplomas, certificates or for any other purpose ;
- (iii) to hold examination or test and confer degrees and diplomas on, and grant certificates or other academic distinctions or recognitions to persons who have pursued approved course of study in the University or conducted research in the manner laid down by the Statutes and Ordinances ;
- (iv) to confer honorary degrees or other academic distinctions in the manner laid down by the Statutes ;
- (v) to withdraw or cancel any degree, diploma or certificate conferred or granted by the University in the manner prescribed by Statutes ;
- (vi) to determine the manner in which distance education system in relation to the academic programmes of the University may be organised ;
- (vii) to institute professorships, readerships, lecturerships, and other academic posts necessary for imparting instruction or for preparing educational material or for conducting other academic activities including guidance, designing and delivery of course and evaluation of the work done by the students and to prescribe their qualifications ;
- (viii) to appoint, engage or recognise persons as teachers ;
- (ix) to lay down the courses of instruction for the various examinations ;
- (x) to co-operate with, and seek the co-operation of, other Universities and institutions of higher learning, professional bodies and organisations for such purpose as the University, may determine ;
- (xi) to hold and manage trusts and endowments and institute and award fellowships, scholarships, medals, prizes and such other awards for recognition of merit ;
- (xii) to establish, maintain or recognise such regional centres as may be determined by the University from time to time ;
- (xiii) to establish, maintain or recognise study centres in the manner laid down by the Statutes ;
- (xiv) to inspect regional centres, study centres and recognised institutions and to take measures to ensure that proper standards of instruction, teaching and training are maintained in them and that adequate library and laboratory provisions are made therein ;
- (xv) to provide for the preparation of instructional materials including films, cassettes, tapes, video cassettes and other software ;
- (xvi) to organise and conduct refresher courses, workshops, seminars and other programmes for teacher, lesson writers, evaluators and other academic staff ;
- (xvii) to organise common laboratories, libraries, museums and other equipments for teaching and research ;
- (xviii) to recognise examinations of, or periods of study (whether in full or part) at, other Universities, institutions or other places of higher learning as equivalent to examinations or periods of study in the University, and to withdraw such recognition at any time ;

(xix) to make provision for research and development in educational technology and matters related thereto ;

(xx) to create administrative, ministerial and other posts as the University may deem necessary from time to time and to make appointments thereto ;

(xxi) to receive benefactions, donations and gifts for educational and other social or national causes and maintain proper accounts thereof ;

(xxii) to acquire, hold and manage property both movable and immovable, to lease, sell or otherwise transfer or dispose of any property movable or immovable, which may vest in, or be acquired by it, for the purposes of the University, and to contract and do all other acts and things necessary for the purposes of this Act ;

Provided that no such lease, sale or transfer of immovable property shall be made without the prior consent of the State Government ;

Provided further that where the State Government is satisfied that any such property may, in the interest of the University, be given on lease, sold or otherwise transferred or disposed of, the State Government shall issue necessary directions to the University and the University shall comply with such directions forthwith ;

(xxiii) to borrow, with the approval of the State Government, whether on the security of the property of the University or otherwise, money for the purposes of the University ;

(xxiv) to enter into, carry out, vary or cancel contracts ;

(xxv) to fix, demand and receive such fees and other charges, as may be prescribed by the Ordinances ;

(xxvi) to promote control and maintain discipline among the students of the University ;

(xxvii) to lay down and regulate the salary scales, allowances and other conditions of service of the employees and the members of the teaching, other academic and non-teaching staff of the University and their code of conduct ;

(xxviii) to recognise any institution of higher learning or studies for such purposes as the University may determine and to withdraw such recognition ;

(xxix) to engage, either on contract or otherwise, visiting professors, emeritus professors, consultants, fellows, scholars, artists, course writers and such other persons who may contribute to the advancement of the objects of the University ;

(xxx) to conduct, co-ordinate, supervise, regulate and control post-graduate teaching and research work in the University ;

(xxxi) to recognise persons working in other Universities, institutions or organisations as teachers of the University on such terms and conditions as may be laid down by the Ordinances ;

(xxxii) to determine standards and to specify conditions for the admission of students to course of study of the University which may include examination, evaluation and any other method of testing ;

(xxxiii) to take disciplinary action against the students of the University and to impose such punishment upon them as may be deemed fit for breach of discipline or misconduct, within or outside the University including the use of unfair means at an examination or in relation thereto by themselves or by any other persons or abetment thereof ;

(xxiv) to make arrangements for the promotion of the general health and welfare of the students and the employees;

(xxv) to do all such other acts as may be necessary or incidental to the exercise of all or any of the powers of the University and conducive to the promotion of the object of the University.

6. The University shall, in exercise of its powers, have jurisdiction over the whole of the State of Gujarat.

Jurisdiction.

7. (1) The University shall be open to persons of either sex and of whatever race, creed, caste or class and it shall not be lawful for the University to adopt or impose on any person, any test whatsoever relating to sex, race, creed, caste, class or religious belief or profession or political or other opinion in order to entitle him to be appointed as a teacher of the University or to hold any other office or post therein or admitted as a student in the University or to graduate thereat or to qualify for any degree, diploma or other academic distinction or to enjoy or exercise any privilege of the University or any benefication thereof.

University open to all classes, castes and creeds.

(2) Nothing in sub-section (1) shall be deemed to prevent the University from making any special provision for the appointment or admission of women or of persons belonging to the weaker sections of the society, and in particular, of person belonging to the Scheduled Castes or Scheduled Tribes, in accordance with the directives, if any, given from time to time by the State Government.

CHAPTER III

OFFICERS OF THE UNIVERSITY

8. The following shall be the officers of the University, namely:—

Officers of University.

- (i) the Chancellor;
- (ii) the Vice-Chancellor;
- (iii) the Directors;
- (iv) the Registrar; and
- (v) such other officers in service of the University as may be declared by the Statutes to be officers of the University.

9. (1) The Governor of Gujarat shall be the Chancellor of the University.

Chancellor and his powers.

(2) The Chancellor shall be competent to call from time to time such information or records relating to any affairs of the University, and the Vice-Chancellor shall furnish the same. It shall also be lawful for the Chancellor, after perusal of such information or records, to give in the interest of the University, directives to the Vice-Chancellor as he deems fit, and the Vice-Chancellor shall comply with such directives.

(3) Subject to the provisions of sub-sections (4) and (5), the Chancellor shall have the right to cause an inspection to be made, by such person or persons as he may direct, of the University, its buildings, libraries, laboratories and equipments and of any regional centre or a study centre and also of the examination, instruction and other work conducted or done by the University, and to cause an inquiry to be made in like manner in respect of any matter connected with the administration and finances of the University.

(4) The Chancellor shall, in every case, give notice to the University of his intention to cause an inspection or inquiry to be made and the University shall, on receipt of such notice, have the right to make, within thirty days from the date of receipt of the notice or such other period as the Chancellor determine, such representation to him as it may consider necessary.

(5) After considering the representation, if any, made by the University, the Chancellor may cause to be made such inspection or inquiry as referred to in sub-section (3).

(6) Where an inspection or inquiry has been caused to be made by the Chancellor, the University shall be entitled to appoint a representative who shall have the right to appear in person and to be heard at such inspection or inquiry.

(7) The Chancellor may address the Vice-Chancellor with reference to the result of such inspection or inquiry together with such views and advice with regard to the action to be taken thereon as the Chancellor may be pleased to offer and on receipt of the address made by the Chancellor, the Vice-Chancellor shall communicate forthwith to the Board of Management the result of the inspection or inquiry and the views of the Chancellor and the advice tendered by him with regard to the action to be taken thereon.

(8) The Board of Management shall communicate through the Vice-Chancellor to the Chancellor such action, if any, as it proposes to take or has been taken by it on the result of such inspection or inquiry.

(9) Where the Board of Management does not take action to the satisfaction of the Chancellor within a time limit fixed by the Chancellor, the Chancellor may, after considering any explanation furnished or representation made by the Board of Management, issue such direction as he may think fit and the Board of Management shall be bound to comply with such direction.

(10) The State Government may, whenever it deems fit, cause a like inspection or inquiry to be made in the manner described in sub-sections (2) to (9) and shall have, for the purposes of such inspection or inquiry, all the powers of the Chancellor under the said sub-sections.

Vice-
Chancellor.

10. (1) The Vice-Chancellor shall be appointed by the State Government from amongst three persons recommended under sub-section (3) by a Committee appointed for the purposes under sub-section (2).

(2) (a) For the purposes of sub-section (1), the Chancellor shall appoint a Committee which shall consist of the following members, namely :—

(i) one member not connected with the University to be nominated in the manner prescribed by the Statutes by the Board of Management;

(ii) one member to be nominated in the manner prescribed by the Statutes by the Vice-Chancellors of all the Universities established by law in the State of Gujarat;

(iii) one member to be nominated by the Chancellor.

(b) The Chancellor shall appoint one of the three members of the Committee as its Chairperson.

(3) The Committee so appointed shall within a reasonable time select three persons whom it considers fit for being appointed as Vice-Chancellor and shall recommend to the State Government the names of the persons so selected together with such other particulars as may be relevant :

Provided that as far as possible, the Committee shall not select any such person who if appointed as Vice-Chancellor would cease to hold that office on account of attaining the age of 65 years before completion of the term of three years.

(4) The Vice-Chancellor shall hold office for a term of three years and he shall be eligible for re-appointment to that office for a further term of three years :

Provided that the State Government may require any Vice-Chancellor after his term has expired, to continue in office for such period not exceeding a total period of one year as may be specified by the State Government.

Provided further that no person appointed as Vice-Chancellor shall continue to hold office as such after he attains the age of 65 years.

(5) The emoluments to be paid to the Vice-Chancellor, and the terms and conditions subject to which he shall hold office, shall be such as may be prescribed by the Statutes;

Powers of
Vice-
Chancellor.

11. (1) The Vice-Chancellor shall be the principal academic and executive officer of the University, and shall exercise the power of supervision and control over the affairs of the University and give effect to the decisions of all the authorities of the University.

(2) Notwithstanding anything contained in this Act, if the Vice-Chancellor is of the opinion that immediate action is necessary on any matter, he may exercise any power conferred on any authority of the University by or under this Act and shall inform such authority, about the action taken by him on such matter:

Provided that if the authority concerned is of the opinion that such action ought not to have been taken, it may refer the matter to the Chancellor whose decision thereon shall be final:

Provided further that any person in the service of the University who is aggrieved by the action taken by the Vice-Chancellor under this sub-section shall have the right to appeal against such action to the Board of Management within ninety days from the date on which such action is communicated to him and thereupon the Board of Management may confirm, modify or reverse the action taken by the Vice-Chancellor.

(3) Notwithstanding anything contained in this Act, the Vice-Chancellor, if he is of the opinion that any decision or order of any authority is beyond the powers of the authority conferred on it or is inconsistent with the provisions of this Act, Statutes, Ordinances, Rules or Regulations or that any decision taken is not in the interest of the University or is likely to lead to breach of peace, he may ask the authority concerned to review its decision within sixty days of such decision and if the concerned authority refuses to review its decision either in whole or in part as directed by the Vice-Chancellor or no decision is taken by it within the said period of sixty days, the matter shall be referred to the State Government whose decision thereon shall be final:

Provided that the decision of the authority concerned shall remain in abeyance during the period of review of such decision by the authority or the State Government, as the case may be, under this sub-section.

(4) Where the authority after reconsideration, revises or modifies the decision or order in the manner stated by the Vice-Chancellor, such revised or modified decision or order shall revive from the date of such revision or modification.

(5) It shall be the duty of the Vice-Chancellor to ensure that this Act, the Statutes, Ordinances, Regulations and Rules are faithfully observed and he shall have all powers necessary for this purpose.

(6) The Vice-Chancellor shall exercise such other powers and perform such other functions as may be prescribed by the Statutes and Ordinances.

12. The Directors shall be appointed in such manner, on such emoluments and other conditions of service as may be prescribed by rules made by the State Government and shall exercise such powers and perform such duties and functions, as may be prescribed by the Statutes.

Directors.

13. (1) The Registrar shall be appointed in such manner, on such emoluments and other conditions of service as may be prescribed by rules made by the State Government

Registrar.

(2) The Registrar empowered by the Board of Management shall have the power to enter into and sign agreements and contracts and authenticate records on behalf of the University.

(3) The Registrar shall exercise such powers and perform such duties and functions as may be prescribed by the Statutes.

14. The manner of appointment, emoluments, powers and duties of the other officers of the University shall be such as may be prescribed by the Statutes.

Other officers.

CHAPTER IV

AUTHORITIES OF THE UNIVERSITY

15. The following shall be the authorities of the University, namely :—

- (i) the Board of Management;

Authorities of University.

- (ii) the Academic Planning Board;
- (iii) the Finance Committee;
- (iv) such other authorities as may be declared by the Statutes to be the authorities of the University.

Board of
Management.

16. (1) The Board of Management shall be the principal executive body of the University.

(2) The constitution of the Board of Management, the term of office of its members and its powers and functions shall be such as may be prescribed by the Statutes.

Academic
Planning
Board.

17. (1) There shall be constituted an Academic Planning Board of the University which shall be the principal academic and planning body of the University. The Board shall be responsible for the maintenance of standards of learning, education, instruction evaluation and examination within the University and shall also be responsible for the monitoring of the developments of the University and shall exercise such powers and perform such other duties and functions as may be conferred or imposed upon it by the Statutes.

(2) The constitution of the Academic Planning Board, the term of office of its members and its powers and functions shall be such as may be prescribed by the Statutes.

Finance
Committee.

18. The constitution, power, duties and functions of the Finance Committee shall be such as may be prescribed by the Statutes.

Other
authorities.

19. The constitution, powers, duties and functions of the other authorities which may be declared by the Statutes to be the authorities of the University shall be such as may be prescribed by the Statutes.

CHAPTER V

STATUTES, ORDINANCES, REGULATIONS AND RULES

Statutes.

20. Subject to such conditions as may be prescribed by or under the provisions of this Act, the Statutes may provide for all or any of the following matters, namely :—

(a) the powers, duties and functions that may be exercised and performed by the Vice-Chancellor;

(b) the emoluments and other conditions of service of the Vice-Chancellor;

(c) the manner of appointment and emoluments of the officers, and the powers, duties and functions that may be exercised and performed by the Directors, Registrar and other officers;

(d) the constitution of the Board of Management and other authorities of the University, the term of office of the members of such authorities and the powers and functions that may be exercised and performed by such authorities;

(e) the manner of appointment of teachers and other employees of the University, qualifications, code of the conduct and other conditions of service including the manner of termination of service and other disciplinary action;

(f) the acceptance and management of trusts, bequests, donations and endowments;

(g) conferment of honorary degrees;

(h) holding of convocations to confer degrees;

(i) institution and maintenance by the University of departments, centres of research or specialised studies and post-graduate centres;

(j) registration of graduates and maintenance of register of registered graduates;

(k) procedure at meetings of the authorities of the University and for the transaction of their business;

- (l) the maximum number of students to be admitted in the study centres;
- (m) all other matters which, by or under this Act, are to be, or may be prescribed by the Statutes.

Making of
Statutes

21. (1) The first Statutes shall be framed by the State Government.

(2) The Board of Management may, from time to time, make new or additional Statutes or may amend or repeal the Statutes referred to in sub-section (1):

Provided that the Board of Management shall not make, amend or repeal any Statute affecting the status, powers or constitution of any authority of the University until such authority has been given a reasonable opportunity to express, within time fixed by the Board of Management, its opinion in writing on the proposed changes and any opinion so expressed has been considered by the Board of Management.

(3) Every new Statute or addition to the Statutes or any amendment or repeal thereof shall be presented to the Chancellor who may assent thereto or withhold assent or remit to the Board of Management for reconsideration in the light of the observations, if any, made by him.

(4) A new Statute or a Statute amending or repealing the existing Statute shall not be valid unless it has been assented to by the Chancellor.

22. (1) Subject to the provisions of this Act and the Statutes, the Ordinances may provide for all or any of the following matters, namely:—

Ordina-
nces.

(a) the admission of students, the courses of study and the fees thereof, the qualifications pertaining to degrees, diplomas, certificates and other courses, the conditions for the grant of fellowships, awards and like;

(b) the conduct of examinations, including the terms and conditions for the appointment of examiners, moderators and such other staff and their duties;

(c) laying down the policy and norms regarding:—

(i) fixation of examination fees and emoluments, travelling and other allowances to be paid to the examiners, moderators and such other staff appointed for the examination work;

(ii) payment, to teachers, lesson writers, evaluators and other academic staff appointed for organisation and conducting refresher courses, workshops seminars and other programmes;

(iii) rates of tuition fees and other fees receivable from the students;

(iv) rates of remuneration to be paid to visiting professors, emeritus professors, consultants, fellows, scholars, artists, course writers;

(d) the conduct and discipline of the students and the action to be taken against them for breach of discipline or misconduct, including the following, namely:—

(i) use of unfair means at an examination or in relation thereto, by himself or by any other student, or abetment thereof;

(ii) refusal to appear or give evidence in any authorised inquiry by an officer in charge of an examination, or by any officer or authority of the University; or

- (iii) disorderly or otherwise objectionable conduct whether within or outside the University;
- (e) the conduct of examinations and other tests, and the manner in which the candidates may be assessed or examined by the examiners;
- (f) the inspection of regional centres, study centres and recognised institutions;
- (g) the mode of execution of contracts or agreements for, or on behalf of, the University;
- (h) the rules to be observed and enforced by study centres and recognised institutions regarding transfer of students;
- (i) the holding of convocations, to confer degrees, diplomas, to grant certificates and other academic distinctions, and recognitions to persons who have passed approved course of study in the University or conducted research;
- (j) collaboration with other Universities in the State, other statutory authorities and with departments of the State Government;
- (k) the appointments, for a specified period or periods of teachers and other academic staff working in any other University or organisation for undertaking joint projects;
- (l) the principles governing the seniority of service of the employees of the University;
- (m) the procedure for the settlement of dispute between the University and the students;
- (n) provision for reservation of adequate number of posts of teachers, officers and other employees of the University for the members of the Scheduled Castes and Scheduled Tribes;
- (o) manner of withdrawal of recognition;
- (p) generally all matters for which provision is in the opinion of the Board of Management necessary for exercise of the powers conferred or the performance of the duties;
- (q) any other matter which by this Act or the Statutes is to be, or may be, provided for by the Ordinances.

(2) The first Ordinances shall be made by the Vice-Chancellor or in his absence by the Board of Management with the previous approval of the State Government and the Ordinances may be amended, repealed or added to at any time by the Board of Management in such manner as may be proscribed by the Statutes.

Regulations.

23. The authorities of the University may, subject to the approval of the Board of Management, make regulations consistent with this Act, the Statutes and the Ordinances for the conduct of their own business and that of the committees, if any, appointed by them and not provided for by this Act, the Statutes or the Ordinances, in such manner as may be proscribed by the Statutes. —

Power to make rules.

24. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may be made for all or any of the following matters, namely :—

- (a) manner of appointment, emoluments and other conditions of service of the Directors under section 12;

(b) manner of appointment, emoluments and other conditions of service of the Registrar under section 18; and

(c) any other matter which is to be or may be prescribed by rules.

(3) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as may be after they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette* and shall, thereupon, take effect.

CHAPTER VI

FINANCE

25. (1) The University shall establish a fund to be called the University Fund.

Univer-
sity fund.

(2) The following shall form part of, or be paid into, the University fund, namely :-

(a) all contributions or grants made by the State Government, the Central Government, the Indira Gandhi National Open University and the University Grants Commission;

(b) the income of the University from all sources whatsoever including income from fees and charges;

(c) all income or moneys from trust, bequests, donations, endowments, subventions and other grants;

(d) any sums borrowed from the Banks with the previous permission of the State Government.

(3) The University shall have, and maintain, a Contingency Fund under a separate head in the University accounts, to which shall be credited such sums as may, from time to time, be granted as contributions or grant by the State Government specially for this purpose. Such Fund shall be used only for making advances for the purpose of meeting unforeseen expenditure.

(4) With the previous sanction of the State Government, any portion of the University Fund may from time to time, be credited by the University to a separate head in the University accounts:

Provided that there shall be credited and debited to such special head only such sums as shall expressly relate to the objects for which such separate fund is created:

Provided further that the Board of Management may, by passing a special resolution, authorise transfer of any amount temporarily from one head to another in the University accounts.

(5) The University Fund shall, at the discretion of the Board of Management, be kept in the State Bank of India, or in any Scheduled Bank as defined in the Reserve Bank of India Act, 1934, which holds a licence issued by the Reserve Bank of India under section 22 of the Banking Regulation Act, 1949.

II of
1934.

10 of 1949.

26. (1) The annual financial estimates of the University for the ensuing financial year shall be prepared under the direction of the Board of Management, at least five months before the commencement of the financial year.

Annual
financial
estimate.

(2) The financial year of the University shall be the same as that of the State Government.

(3) The financial estimates shall be submitted to the Board of Management for its approval.

(4) The Board of Management shall thereafter forward the copies of the financial estimates to the State Government.

Annual
accounts
and audit.

27. (1) The annual statement of accounts of the University for a financial year shall be prepared under the direction of the Board of Management within a period of three months after the close of the financial year.

(2) The annual accounts as approved by the Board of Management shall be audited by the Auditor appointed by the State Government.

(3) The annual accounts, as approved by the Board of Management together with the copy of the audit report and a copy of the statement showing the action taken by the University on the objections and points raised by the Auditor in his previous reports, shall be forwarded by the Board of Management as soon as possible and in any case, within the period of nine months from the end of financial year to the State Government and to the Auditor appointed by the State Government.

(4) It shall be competent for the State Government to give directions to the University regarding the manner in which the accounts relating to certain specific activities or schemes shall be maintained or to take necessary action against the authority, the officer or any employee of the University found guilty in the audit report for committing irregularities and the University shall act according to the direction of the State Government.

Annual
Report.

28. The annual report of the University shall be prepared under the directions of the Board of Management which shall include, among other matters, the steps taken by the University towards the fulfilment of its objectives.

Finan-
cial con-
trol of
State
Govern-
ment.

29. (1) Without obtaining the prior approval of the State Government or any officer authorised by it in this behalf, the University shall not—

- (i) create any new post of officers, teachers or other employees;
- (ii) revise the pay, allowances, post-retirement benefits and other benefits having financial implications offered to its officers, teachers and other employees;
- (iii) incur any expenditure on any development work.

(2) Any post created, any financial benefits offered to its officers, teachers and other employees or any expenditure incurred on any development work, without the prior approval of the State Government or such authorised officer, may be treated as unapproved expenditure for the purposes of payment of grant-in-aid.

CHAPTER VII

SUPPLEMENTARY PROVISIONS

Condi-
tions of
service
of emp-
loyees.

30. (1) Every employee of the University shall be appointed under written contract and such contract shall not be inconsistent with the provisions of this Act, the Statutes and the Ordinances.

(2) The contract referred to in sub-section(1) shall be lodged with the University and a copy of which shall be furnished to the employee concerned.

X of
1940.

31. Any dispute arising out of a contract between the University and any officer or teacher of the University shall, on the request of the officer or teacher concerned, be referred to a Tribunal of Arbitration consisting of one member nominated by the Board of Management, one member nominated by the officer or teacher concerned and an umpire to be nominated by the Chancellor. The decision of the Tribunal shall be final and no suit shall lie in any civil court in respect of the matter decided by the Tribunal. Every such request shall be deemed to be submission to arbitration upon the terms of this section within the meaning of the Indian Arbitration Act, 1940, and the provisions of that Act shall apply accordingly.

Tribunal
of Arbitra-
tion.

32. Subject to the provisions of this Act and the Statutes, any officer or authority of the University may, by order, delegate his or its powers, except the power to make Statutes, Ordinances, and Regulations to any other officer or authority under his or its control, and subject to the condition that the ultimate responsibility for the exercise of the powers so delegated shall continue to vest in the officer or authority delegating them.

Delega-
tion of
powers.

33. (1) Where any question arises as to—

(a) the interpretation of any provision of this Act or any Statutes, Ordinances Regulations or Rules, or

(b) whether any person has been duly appointed as, or is entitled to be, a member of any authority or other body of the University,

Disputes
as to
constitu-
tion of
University
Authori-
ties and
bodies.

the matter shall be referred to the State Government whose decision thereon shall be final.

(2) Any nominee or *ex-officio* member appointed on any authority or body of the University shall be deemed to have vacated his office, whenever his nomination or appointment is cancelled by the authority concerned or he ceases to hold office by virtue of which he has been a member of the authority or body of the University.

34. When any vacancy occurs in the office of a member (other than an *ex-officio* member) of any authority or other body of the University before the expiry of the term of office of such member, the vacancy shall be filled up, as soon as conveniently may be, by appointment or co-option, as the case may be, of a member who shall hold office so long only as the member in whose place he has been appointed or co-opted would have held it, if the vacancy had not occurred.

Filling of
casual
vacancy.

35. No act or proceedings of any authority or any other body of the University shall be invalidated merely by reason of any vacancy in its membership.

Procee-
dings
not in-
vali-
dated
by vacan-
cies.

36. It shall be the duty of every authority and officer of the University to ensure that the interest of the University is duly safeguarded.

Autho-
rities and
officers
to be
respon-
sible.

37. No suit or other legal proceedings shall lie against any officer, employee or authority of the University for anything which is in good faith done or intended to be done in pursuance of any of the provisions of this Act, the Statutes, the Ordinances, the Regulations or the Rules.

Protec-
tion of
action
taken in
good
faith.

Mode of
proof of
Univer-
sity
record.

38. A copy of any receipt, application, notice, order, proceedings, resolution of any authority or committee of the University, or other documents in the possession of the University, or any entry in any register duly maintained by the University, if certified by the Registrar, shall be admitted as evidence of the matters and transactions specified therein, where the original thereof would, if produced, have been admissible in evidence.

Power to
remove
diffi-
culties.

39. If any difficulty arises in giving effect to the provision of this Act, the State Government may by order, published in the *Official Gazette*, make such provisions, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty.

Transi-
tional
provi-
sions.

40. Notwithstanding anything contained in this Act and the Statutes,—

(a) the first Vice-Chancellor and the first Registrar shall be appointed by the State Government as soon as practicable after the commencement of this Act, for a period not exceeding three years on such terms and conditions as the State Government thinks fit;

(b) the first Board of Management shall consist of not more than fifteen members who shall be nominated by the State Government and they shall hold office for a term of three years;

(c) the first Academic Planning Board shall consist of not more than eleven members who shall be nominated by the State Government and they shall hold office for a term of three years; and

(d) the first Finance Committee shall consist of not more than seven members who shall be nominated by the State Government and they shall hold office for a term of three years.

Repeal
and
savings.

41. (1) The Dr. Babasaheb Ambedkar Open University Ordinance, 1994, is hereby repealed. **Guj. Ord.
5 of
1994.**

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.

STATEMENT OF OBJECTS AND REASONS

At the State level, there is no Open University imparting higher education in the regional language. It is, therefore, considered necessary to establish an Open University in the State to impart higher education. The Open University based on rich heritage of State shall endeavour through extension of education and training to play positive role in the development of the State and thereby promote and advance the culture of the people of the State.

For this purpose, a Bill called the Dr. Babasaheb Ambedkar Open University Bill, 1994 was introduced in the Gujarat Legislative Assembly on 11th February, 1994 but could not be taken up for consideration by the House for want of time. Therefore, as the Gujarat Legislative Assembly was not in session, the Dr. Babasaheb Ambedkar Open University Ordinance, 1994 was promulgated on 13th April, 1994 to enable the State Government to establish an Open University from the academic year June, 1994. This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

The following notes on clauses explain some of the important provisions of the Bill:-

Clause 1.—This clause provides for short title and commencement.

Clause 2.—This clause provides for definitions.

Clauses 3 to 7.—These clauses provide for the establishment and incorporation, objects, powers and the jurisdiction of the University.

Clauses 8 to 14.—These clauses relate to officers of the University and their powers, duties and functions.

Clauses 15 to 19.—These clauses relate to the constitution of different authorities of the University and their powers, duties and functions.

Clauses 20 to 24.—These clauses relate to the making of Statutes, Ordinances, Regulations and Rules by certain Authorities.

Clause 25.—This clause provides for University fund.

Clauses 26 to 29.—These clauses provide for the preparation of the annual financial estimates, annual account, audit, annual report and the financial control of the State Government.

Clause 30.—This clause provides for the conditions of service of employees of the University.

Clause 31.—This clause provides for the Tribunal of Arbitration in case of dispute arising out of a contract between the University and any officer or teacher of the University.

Clause 32.—This clause provides for delegation of powers to any officer or authority of the University.

Clause 33.—This clause provides for reference of disputes as to the interpretation of Act or constitution of University authorities or bodies to the State Government and finality of the decision of the State Government.

Clauses 34 to 37.—These clauses provide for filling up of casual vacancies, proceedings of any authority of University are not invalidated by vacancies, interest of University is to be safeguarded by the officers and authority and indemnify any officer or employees of the University for his action done or intended to be done in good faith.

Clause 38.—This clause provides for the powers of the State Government to remove difficulty.

Clause 40.—This clause makes provision for appointment of the first Vice-Chancellor and the Registrar for a period not exceeding three years after passing of the Act. It also provides for the constitution of the first Board of Management, Academic Planning Board and Finance Committee for a term of three years.

NARHARI AMIN,

FINANCIAL MEMORANDUM

Sub-clause (2) (a) of clause 25 of the Bill contemplates payment of contribution or the grant to the University among others by the State Government. This provision, if enacted, and brought into operation would involve an estimated annual recurring expenditure of rupees two crores and forty-one lakhs from the Consolidated Fund of the State towards the grants to be made to the University.

NARHARI AMIN,

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill provides for delegation of legislative powers in the following respects;—

Clause 5.—(i) This clause empowers the concerned authority of the University to prescribe the powers specified in that clause.

(ii) Sub-clause (iii) of this clause empowers the concerned authority of the University to prescribe the manner in which approved course of study are to be pursued, the examination and tests to be passed and conditions under which research is to be carried on by persons on whom the University may confer degree and diplomas and to whom it may grant certificate.

(iii) Sub-clause (iv) empowers the Board of Management to prescribe by Statutes the manner in which honorary degrees or other academic distinctions are to be conferred by the University.

(iv) Sub-clause (v) empowers the Board of Management to prescribe by Statutes the manner in which the University may withdraw or cancel any degree, diploma or certificate conferred or granted by the University.

(v) Sub-clause (vi) empowers the University to determine manner in which distance education in relation to academic programme of University may be organised.

(vi) Sub-clause (vii) empowers the University to prescribe the qualification for the posts of Professor, Reader, Lecturer and other academic posts.

(viii) Sub-clause (ix) empowers the University to lay down the courses of instruction for various examinations.

(ix) Sub-clause (xiii) empowers the Board of Management to establish, maintain or recognise study centres in the manner laid down in Statutes.

(2) Sub-clause (xxv) empowers the Board of Management to prescribe by Ordinances, the fees and other charges to be fixed, demanded or received by the University.

(xi) Sub-clause (xxvi) empowers the Board of Management to recognise person working in other Universities, institutions or organisations on such terms and conditions as laid down in the Ordinance.

(xii) Sub-clause (xxvii) empowers the University to determine the standard and to specify the conditions for admission of students to the courses of study.

Clause 8.—This clause empowers the Board of Management to declare by Statutes other officers in the service of University to be officers of the University.

Clause 10.—(i) Sub-clause (2)(a)(i) of this clause empowers the Board of Management to nominate one Member not connected with the University, on the Committee in the manner prescribed by Statutes and sub-item (ii) empowers the Vice-Chancellors of all University to nominate one Member on the Committee in the manner prescribed by Statutes.

(ii) Sub-clause (5) of this clause empowers the Board of Management to determine by the Statutes the emoluments to be paid to the Vice-Chancellor and the terms and conditions subject to which he shall hold office.

Clause 11.—Sub-clause (6) of this clause empowers the Vice-Chancellor to exercise such other powers and perform such functions as may be prescribed by Statutes and Ordinances.

Clause 12.—This clause empowers the State Government to prescribe by rules the manner, the emoluments and conditions of service on which the Directors shall be appointed.

Clause 13.—(i) Sub-clause (1) of this clause empowers the State Government to prescribe the manner, the emoluments and conditions of service on which Registrar shall be appointed.

(ii) Sub-clause (3) of this clause empowers the Registrar to exercise such powers and perform such duties and functions as may be prescribed by the Board of Management by the Statutes.

Clause 14.—This clause empowers the Board of Management to prescribe by Statutes the manner of appointment, emoluments and the powers and duties of the other officers of the University.

Clause 15.—Item (iv) of this clause empowers the Board of Management to declare by Statutes such authorities to be the authorities of the University.

Clause 16.—Sub-clause (2) of this clause empowers the Board of Management to prescribe by Statutes its constitution, the term of office of its members and its powers and functions.

Clause 17.—Sub-clause (2) of this clause empowers the Board of Management to prescribe by Statutes the constitution of Academic Planning Board, the term of its members and the powers and functions to be performed by it.

Clause 18.—This clause empowers the Board of Management to prescribe by Statutes the constitution of Finance Committee and the powers, duties and functions to be performed by the Committee.

Clause 19.—This clause empowers the Board of Management to prescribe by Statutes the constitution, powers, duties and functions of other authorities of the University.

Clause 20.—This clause empowers the Board of Management to prescribe by Statutes all or any of the matters enumerated in sub-clauses (a) to (m).

Clause 21.—This clause empowers the State Government to frame the first Statutes and also empowers the Board of Management to make, amend, repeal or add to those Statutes.

Clause 22.—Sub-clause (2) of this clause empowers the Vice-Chancellor and in his absence the Board of Management to make first Ordinance for the matters specified in sub-clause (1) with the previous approval of the State Government and also empowers the Board of Management to amend, repeal or add to those Ordinances.

Clause 23.—This clause empowers the authorities of the University to make regulation with the approval of the Board of Management in the prescribed manner.

Clause 24.—This clause empowers the State Government to make rules generally for carrying out the purposes of the Act and particularly for all or any of the matters specified in sub-clause (2).

Clause 32.—This clause empowers the officer or authority to delegate his or its powers to any other officer or authority.

The delegation of the aforesaid legislative powers is necessary and is of a normal character.

Dated the 9th June, 1994.

NARHARI AMIN.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 10th June, 1994.

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EXTRAORDINARY

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Separate paging is given to this Part in order that it
may be filed as a separate compilation.

PART V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:—

THE BOMBAY STAMP (GUJARAT AMENDMENT) BILL 1994.

GUJARAT BILL NO. 15 OF 1994.

A BILL

further to amend the Bombay Stamp Act, 1958.

It is hereby enacted in the Forty-fifth year of the Republic of India as follows:—

1. (1) This Act may be called the Bombay Stamp (Gujarat Amendment) Act, 1994.

Short title
and comm-
encement.

(2) This section shall be deemed to have come into force on the 31st March, 1994 and the remaining provisions of this Act shall be deemed to have come into force on the 4th April, 1994.

Bom. LX
of 1958.

2. In the Bombay Stamp Act, 1958 (hereinafter referred to as "the principal Act"), in section 2,

Amendme-
nt of section
2 of Bom.
LX of
1958.

(1) after clause (dd), the following new clause shall be inserted, namely:—

"(e) "clearance list" means a list of transactions relating to contracts required to be submitted to the clearing house of an association in accordance with the rules or bye-laws of the association :

Provided that no instrument shall, for the purposes of this Act, be deemed to be a clearance list unless it contains the following declaration signed by the person dealing in such transaction or on his behalf by a properly constituted attorney, namely:—

"I/We hereby solemnly declare that the above list contains a complete and true statement of my/our transactions including crossed out transactions and transactions required to be submitted to the clearing house in accordance with the rules/bye-laws of the association. I/We further declare that no transaction for which an exemption is claimed under Article 5 or Article 39 in Schedule I to the Bombay Stamp Act, 1958, as the case may be, is omitted."

Bom. LX
of 1958.

Explanation.—For the purposes of this clause, transaction shall include both sale and purchase." ;

(2) for clause (g), the following clause shall be substituted, namely:—

"(g) "conveyance" includes,—

(i) a conveyance on sale,

(ii) every instrument,

(iii) every decree or final order of any Civil Court ; or

(iv) every order made by the High Court under section 394 of the Companies I of 1956. Act, 1956 in respect of amalgamation of companies,

by which property, whether movable or immovable, or any estate or interest in any property is transferred to, or vested in, any other person, *inter vivos*, and which is not otherwise specifically provided for by Schedule I.

Explanation. —For the purposes of this clause, an instrument whereby a co-owner of any property transfers his interest to another co-owner of the property and which is not an instrument of partition shall be deemed to be an instrument by which property is transferred *inter vivos* ;" ;

(3) after clause (j), the following new clause shall be inserted, namely :—

"(ja) "immovable property" includes land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth;" ;

(4) in clause (la),—

(i) after the words "any movable", the words "or immovable" shall be inserted;

(ii) for the words "such gift", the words "such oral gift" shall be substituted;

(5) in clause (n),—

(i) for the word "immovable", the words "movable or immovable or both" shall be substituted ;

(ii) after sub-clause (iv), the following new sub-clause shall be inserted, namely :—

"(v) a decree or final order of any Civil Court in respect of a lease ;

Provided that where subsequently an instrument of lease is executed in pursuance of such decree or order, the stamp duty, if any, already paid and recovered on such decree or order shall be adjusted towards the total duty leviable on such instrument;

(6) after clause (p), the following new clause shall be inserted; namely :—

“(pa) “movable property” includes standing timber, growing crops and grass, fruits upon and juice in trees and property of every other description, except immovable property, by which any right or liability is or is purported to be created, transferred, limited, extended, extinguished or recorded ;”.

3. In the principal Act, in section 3A, after the word “executed”, the words “in respect of the property situated” shall be inserted.

Amendment of section 3A of Bom. LX of 1958.

4. In the principal Act, in section 17, for the words “at the time of execution” the following shall be substituted, namely:—

Amendment of section 17 of Bom. LX of 1958.

“at the time of execution or immediately thereafter on the next working day following the day of execution :

Provided that the clearance list described in Articles 18A, 18B, 18C, 18D or 18E of Schedule I may be stamped by an officer authorised by the State Government by rules made under this Act, if such clearance list is submitted for stamping by the clearing house of an Association in accordance with its rules and bye-laws with the requisite amount of stamp duty, within two months from the date of its execution.”.

5. In the principal Act, in section 30,—

Amendment of section 30 of Bom. LX of 1958.

- (i) in clause (e), the word “and” shall be deleted ;
- (ii) in clause (f), the word “and” shall be inserted at the end ;
- (iii) after clause (f), the following clause shall be inserted, namely :—
“(g) in any other case, by the person executing the instrument.”.

6. In the principal Act, in section 31, in sub-section (I), for the words “not exceeding twenty five rupees and not less than five rupees”, the words “not exceeding one hundred rupees and not less than twenty-five rupees” shall be substituted.

Amendment of section 31 of Bom. LX of 1958.

7. In the principal Act, in section 32A,—

Amendment of section 32A of Bom. LX of 1958.

(I) for sub-section (I), the following sub-section shall be substituted, namely:—

“(1) Every instrument of conveyance, exchange, gift, certificate of sale, partition, partnership, settlement, power of attorney to sell immovable property when given for consideration or transfer of lease by way of assignment, presented for registration under the provisions of the Registration Act, 1908 shall be accompanied by a true copy thereof; and if an officer registering such instrument under the aforesaid Act or any person referred to in section 33 before whom such instrument is produced or comes in the performance of his functions, has reason to believe that the consideration set forth therein does not approximate to the market value of the property which is the subject matter of such instrument, or, as the case may be, the market value of the property which is the subject matter of such instrument, has not been truly set forth therein, he may either before or after registering the instrument or, as the case may be, performing his functions in respect of such instrument, refer the instrument or true copy thereof to the Collector of such district in which either the whole or any part of the property is situated for determining the true market value of such property and the proper duty payable on the instrument under this section.”;

XVI of 1908.

(2) in sub-section (2), for the words and figures "section 31 or" the words and figures "section 31 or instrument or true copy of instrument under" shall be substituted;

(3) in sub-section (3), after words "of two hundred and fifty rupees", the words "or the amount of the proper duty or of the deficient portion thereof whichever is less" shall be inserted;

(4) in sub-section (4), for the words "two years", the words "six years" shall be substituted.

Substitution of section 46 of Bom. LX of 1958.

8. In the principal Act, for section 46, the following section shall be substituted, namely:—

'46. (1) Where any person required to pay any amount of duty, penalty or other sums under this Act does not pay within the time prescribed for its payment he shall be liable to pay simple interest at the rate of twenty four per cent. per annum on such amount or on any less amount thereof for the period for which such amount remains unpaid.

Recovery of duties, penalties and interest.

(2) All duties, penalties, interest and other sums required to be paid under this Act may be recovered by the Collector by distress and sale of the movable or immovable property of the person from whom the same are due, or as an arrears of land revenue."

Amendment of section 53 of Bom. LX of 1958.

9. In the principal Act, in section 53, in sub-section (1), after the word and letters "Chapter, III", the words, letter, brackets and figures "except sub-section (3) of section 32A" shall be inserted.

Insertion of new section 53A in Bom. LX of 1958.

10. In the principal Act, after section 53, the following new section shall be inserted namely:—

"53A. (1) Notwithstanding anything contained in sub-section (3) of section 32, sub-section (3) of section 32A, sub-section (2) of section 39 and sub-section (2) of section 41, when through mistake or otherwise any instrument is charged with less duty than leviable thereon, or is held not chargeable with duty, by the Collector, the Chief Controlling Revenue Authority may, within a period of six years from the date of certificate of the Collector under sections 32, 32A, 39 or 41, as the case may be, required the concerned party to produce before him the instrument and, after giving reasonable opportunity of being heard to the party, examine such instrument whether any duty is chargeable or any duty is levied less thereon and pass an order for recovery of the deficit duty, if any, from the concerned party. An endorsement shall be made on the instrument after payment of such deficit duty.

Revision of Collector's decision under section 32, 32A, 39 and 41.

(2) On failure to produce the original instrument by the party, the Chief Controlling Revenue Authority shall proceed under this section on the basis of the true copy or an abstract of the instrument filed with the Collector and such true copy or abstract shall be deemed to be the original instrument for the purposes of this section."

Amendment of Schedule I to Bom. LX of 1958.

11. In the principal Act, in Schedule-I—

(I) in Article 5,—

(i) in the heading, after the words "MEMORANDUM OF AN AGREEMENT", the words "OR ITS RECORDS" shall be inserted;

(ii) in clause (h), under the heading "exemption", after the words "Memorandum of Agreement", the words "or its records" shall be inserted;

(2) in Article 6, in clause (2), in sub-clause (a), for items (i) to (viii), the following items shall be substituted, namely:—

“(i) where the amount of loan or debt does not exceed Rs. 15,00,000. Fifty paise for every hundred rupees or part thereof.

(ii) where it exceeds Rs. 15,00,000. One rupee for every hundred rupees or part thereof.”;

(3) in Article 18, for the words, “Five rupees”, the words “Two rupees” shall be substituted;

(4) after Article 18, the following new Articles shall be inserted, namely:—

“18A. (1) CLEARANCE LIST, relating to the transactions for the purchase or sale of Government securities submitted to the clearing house of a stock exchange. The sum of duties payable under Article 5(b) or 39(g), as the case may be, in respect of each of the entries in such list on the value of the securities calculated at the making up price or the contract price, as the case may be.

(2) CLEARANCE LIST, relating to the transactions for the purchase or sale of a share, script, stock, bond, debenture, debenture-stock or other marketable security of a like nature in or of an incorporated company or other body corporate submitted to the clearing house of a stock exchange whether recognised or not under the Securities Contracts (Regulation) Act, 1956. The sum of duties payable under Article 5 (c) (i) or 39 (f), as the case may be, in respect of each of the entries in such list on the value of the securities calculated at the making up price or the contract price, as the case may be.

18B. CLEARANCE LIST, relating to the transactions for the purchase or sale of cotton submitted to the clearing house of a Cotton Association. The sum of duties payable under Article 5 (d) or 39 (a), as the case may be, in respect of each of the entries in such list on the units of transactions or part thereof.

18C. CLEARANCE LIST, relating to the transactions for the purchase or sale of bullion or species submitted to the clearing house of a Bullion Association. The sum of duties payable under Article 5(e) or 39(b), as the case may be, in respect of each of the entries in such list on the units of transactions or part thereof.

18D. CLEARANCE LIST, relating to the transactions for the purchase or sale of oil seeds submitted to the clearing house of Oil Seed Association. The sum of duties payable under Article 5 (f) or 39 (c), as the case may be, in respect of the entries in such list on the units of transactions or part thereof.

18E. CLEARANCE LIST, relating to the transactions for the purchase or sale of yarn of any kind, non-mineral oil or spices of any kind. The sum of duties payable under Article 5 (g) or 39 (d), as the case may be, in respect of the entries in such list on the units of transactions or part thereof.”;

XLII of
1956.

(5) in Article 20,—

(1) after clause (b), the following new clause shall be inserted, namely :—

“(c) CONVEYANCE (not being a transfer charged or exempted under Article No. 56) of the property which is subject matter of the conveyance so far it relates to premises—

The same duty as is leviable under Article 20(b).;

(i) of a Corporation formed and registered under the Bombay Non-Trading Corporations Act, 1959; or

Bom. xxvi of 1959.

(ii) of a Board constituted under the Gujarat Housing Board Act, 1961, or the Gujarat Rural Housing Board Act, 1972; or

Guj. xxviii of 1961.

Guj. 22 of 1972.

(iii) to which provisions of the Gujarat Ownership Flats Act, 1973 apply

Guj. 13 of 1973.

by such Corporation, Board, Society, Company or, as the case may be, Association, in favour of its member or, as the case may be, allottee (whether in consequence of purchase of his share or not) or by such member or, as the case may be, allottee in favour of another member or allottee (whether in consequence of transfer of his share to another member or, as the case may be, allottee or not).”;;

(2) The existing explanation shall be re-numbered as explanation II and before explanation II as so re-numbered, the following explanation shall be inserted, namely :—

“Explanation I.—For the purposes of this Article, an agreement to sell an immovable property or an irrevocable power of attorney shall, in case of transfer of the possession of such property before, at the time of, or after the execution of such agreement or power of attorney, be deemed to be a conveyance and the stamp duty thereon shall be chargeable accordingly:

Provided that the provisions of section 32A shall apply *mutatis mutandis* to such agreement or power of attorney as are applicable to a conveyance :

Provided further that where subsequently a conveyance is executed in pursuance of such agreement of sale, or an irrevocable power of attorney, the stamp duty, if any, already paid and recovered on the agreement of sale or an irrevocable power of attorney which is deemed to be a conveyance, shall be adjusted towards the total duty leviable on the conveyance.”;

(6) in Article 21, for the words “Ten rupees”, the words “Twenty rupees” shall be substituted;

(7) in Article 25, for the words “Fifty rupees”, the words “Five hundred rupees” shall be substituted;

(8) for Article 27, the following Article shall be substituted, namely :—

“27. FURTHER CHARGE—Instrument of, that is to say, any instrument imposing a further charge on mortgaged property—

(a) when the original mortgage is one of the description referred to in clause (a) of Article 36 (that is, with possession).

The same duty as is leviable on a conveyance under Article 20(a) for the amount of further charge secured by such instrument.

(b) when such mortgage is one of the description referred to in clause (b) of Article 36 (that is, without possession)-

(i) if at the time of execution of the instrument of further charge possession of the property is given under such instrument.

Eight rupees for every Rs. 100 or part thereof for the total amount of the charge (including the original mortgage and any further charge already made) less the duty already paid on such original mortgage and further charge.

(ii) if possession is not so given.

Three rupees for every Rs. 100 or part thereof for the amount of the further charge secured by such instrument.”;

(9) in Article 31, for the words “Five rupees”, the words “Two rupees” shall be substituted;

(10) in Article 32, for the words “Forty rupees”, the words “Sixty rupees” shall be substituted;

(11) in Article 35, in clause (a), for the words “One hundred rupees”, the words “One thousand rupees” shall be substituted;

(12) in Article 36,—

(I) in clause (a),—

(i) the words “or is not” shall be deleted;

(ii) in column 2, after the words “conveyance under”, the words, brackets and letter “clause (a) of” shall be inserted;

(2) the existing clause (b) shall be re-lettered as clause (c) of that Article and before clause (c) as so re-lettered, the following clause shall be inserted, namely :—

“(b) when possession of the property or any part of the property comprised in such deed is not given or not agreed to be given.

Three rupees for every Rs. 100 or part thereof for the amount secured by such deed.

Explanation.—A mortgager who gives to the mortgagee a power of attorney to collect rents or a lease of the property mortgaged or part thereof, shall be deemed to have given possession within the meaning of this Article.”;

(13) in Article 45,—

(I) in clauses (a), (b) and (c), in column (2), for the words “Ten rupees”, the words “Twenty rupees” shall be substituted;

(2) clause (g) shall be re-lettered as clause (h) of that Article and before clause (h) as so re-lettered, the following clause shall be inserted, namely:—

“(g) When given for consideration with the right to sell an immovable property, or when given, with or without consideration, to a promoter or a developer by whatever name called, for construction or development of, or sale or transfer (in any manner whatsoever), of, any immovable property, or when given, with or without consideration, irrevocable power of attorney transferring the possession of any immovable property ;

The same duty as is leviable on a conveyance under Article 20 for the amount of the consideration or, as the case may be, market value of the immovable property whichever is greater.”;

(3) in clause (h) as so re-lettered, for the words "Ten rupees", the words "Twenty rupees" shall be substituted;

(4) for the existing N.B. and the explanation below the Article, the following shall be substituted, namely :—

Explanation I.—For the purposes of this Article, more persons than one when belonging to the same firm shall be deemed to be one person.

Explanation II.—The term 'registration' includes every operation incidental "to registration under the Registration Act, 1908.

**XVI of
1908.**

Explanation III.—Where, under clause (g), duty has been paid on the power of attorney, and a conveyance relating to that property is subsequently executed in pursuance of the power of attorney between the executant of the power of attorney and the person in whose favour it is executed, the duty on conveyance shall be the duty calculated on the market value of the property reduced by duty paid on the power of attorney.";

(14) in Article 57,—

(1) in column 1, after the words "under lease", the words "or by way of decree or final order passed by any Civil Court or any Revenue Officer" shall be inserted;

(2) in column 2, for the words and figures "Article 20 for the amount of consideration for the transfer", the words, figures, letter and brackets "Article 20 (a) for the amount of consideration for the transfer or, as the case may be, market value of the immovable property which ever is greater" shall be substituted.

**Repeal and
savings.**

12. (1) The Bombay Stamp (Gujarat Amendment) Ordinance, 1994 is hereby repealed.

**Guj. Ord. 4
of 1994.**

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

With a view to augmenting the financial resources of the State, preventing evasion of tax by removing certain lacunae in the Bombay Stamp Act, 1958 and thereby to bring more revenue to State Exchequer, it was expedient to amend the provisions of the said Act. It was also considered necessary to give certain reliefs in the payment of stamp duty.

As the Gujarat Legislative Assembly was not in session, the Bombay Stamp (Gujarat Amendment) Ordinance, 1994 was promulgated to achieve the aforesaid objects. This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

The following notes on clauses explain in brief the important provisions of the Bill:-

Clause 2.—(i) Since it is proposed to levy stamp duty on list of transaction relating to contracts required to be submitted to the clearing house of an association, the term 'clearing house' is defined by sub-clause (1) of this clause.

(ii) sub-clause (2) of this clause defines the term 'conveyance' so as to include a conveyance made in respect of an amalgamation of companies by the order of the High Court under section 394 of the Companies Act, 1956.

(iii) sub-clause (3) of this clause defines the term 'immovable property' and sub-clause (6) defines the term 'movable property'.

Clause 3.—When instrument is executed in urban area the additional duty is chargeable under section 3A. It is noticed that to evade the stamp duty, the instrument is being executed in the rural area though the property is situated in the urban area. To curb this evasion, it is proposed to amend section 3A suitably by this clause.

Clause 4.—The amendment in section 17 proposed by this clause gives facility to the person to stamp the instrument on the next working day following the day of execution.

Clause 5.—This clause proposes to insert new clause (g) in section 30 so as to provide that the expenses of proper stamp shall be borne by the person executing the instrument in the cases other than those provided in clauses (a) to (f) of that section.

Clause 6.—This clause propose to amend section 31 to provide for enhancing the rate of fees not exceeding one hundred and not less than twenty-five rupees when the instrument is presented to the Collector for adjudication.

Clause 7.—(i) Sub-section (1) of section 32A proposed to be substituted by clause (1) of this clause provides that every instrument presented for registration shall be accompanied by a true copy thereof. The registering officer may refer the instrument to the Collector of the district where the property is situated, for determining the true market value of such property and for the proper duty payable on such instrument.

(ii) Sub-section (3) proposed to be amended by sub-clause (3) of this clause provides that where the deficient portion of duty is less than Rs. 250/—the penalty shall not be more than the amount of proper duty payable on instrument or of the deficient portion thereof.

(iii) Sub-section (4) proposed to be amended by sub-clause (4) of this clause empowers the Collector to call for, *suo motu*, examination of instrument to satisfy himself as to the correctness of the consideration or of the market value of the property within a period of six years from the date of registration of instrument.

Clause 8.—Section 46 proposed to be substituted by this clause provides for charging of interest at the rate of 24 per cent on the amount of duty, penalty and other sums not paid within the prescribed time limit. The duty, penalty, interest and other sums payable under the Act is recoverable as arrears of land revenue.

Clause 10.—This clause proposes to insert new section 53 A which empowers the Chief Controlling Revenue Authority to review, *suo motu*, the certificate granted by the Collector under sections 32, 32A, 39 or 41 within a period of six years when, through mistake or otherwise, the instrument is charged with less duty than leviable thereon.

Clause 11.—This clause amends Schedule I of the Act and revises the rates of duty payable on the instruments.

DALSUKHBHAI GODHANI.

MEMORANDUM REGARDING DELEGATED LEGISLATION.

This Bill involves delegation of legislative power in the following respects:—

Clause 5.—The proviso to section 17 proposed to be inserted by this clause empowers the State Government to authorise by rules an officer to stamp the clearance list described in Articles 18A, 18 B, 18 C, 18D or 18E of Schedule I of the Act.

The delegation of the legislative power as aforesaid is necessary and is of a normal character.

Dated the 10th June, 1994.

DALSUKHBHAI GODHANI.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 10th June, 1994.

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 may be filed as a separate compilation.

PART V

Bill introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*, The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127-A of the Gujarat Legislative Assembly Rules—

THE BOMBAY MOTOR VEHICLES TAX (GUJARAT AMENDMENT) BILL, 1994.

Gujarat Bill No. 16 of 1994.

A BILL

further to amend the Bombay Motor Vehicles Tax Act, 1958.

It is hereby enacted in the Forty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Bombay Motor Vehicles Tax (Gujarat Amendment) Act, 1994.

Short
title
and
commen-
cement.

(2) It shall be deemed to have come into force on the 1st April, 1994.

2. In the Bombay Motor Vehicles Tax Act, 1958 (hereinafter referred to as "the principal Act"), in section 3A, the following Explanation shall be added at the end, namely:—

Amendment
of section
3A of
Bom. LXV
of 1958.

Bom.
LXV
of
1958.

"*Explanation.*—For the purposes of this section, "Luxury designated omnibus" means any omnibus permitted to carry more than twenty passengers and having seating layout of two and two or one and three or one and two or one and one on either side with a gangway of any width in between though any one row of seats in such omnibus may consist of more than four seats."

Amend-
ment of
section 20
of Bom.
LXV of
1958.

3. In the principal Act, in section 20,—

(1) in sub-section (1), after the words “Kutch area of the State of Bombay”, the words, brackets, figures and letters “and subject to the provisions of sub-sections (1A), (1B), (1C), (1D), (1E) and (1F)” shall be inserted ;

(2) after sub-section (1), the following sub-sections shall be inserted, namely:—

“(1A) Notwithstanding anything contained in sub-section (1) and the provisions of the Tolls on Roads and Bridges Act, 1875, but subject to the provisions of sub-sections (1B), (1C), (1D), (1E) and (1F), the State Government may levy toll on motor-vehicles and trailers drawn by such vehicles passing over—

Bom.
III of
1875.

(a) any bridge including an approach road thereto or section of a new road or by-pass which is constructed, reconstructed, improved or, as the case may be, repaired by the State Government or by any person at his expense after the commencement of the Bombay Motor Vehicles Tax (Gujarat Amendment) Act, 1994 and the total capital outlay of construction, reconstruction, improvements or, as the case may be, repairs, of which is not less than fifty lakhs of rupees; or

Guj.
of 1994..

(b) any bridge including an approach road thereto or section of a new road or by-pass, which, in the opinion of the State Government, is of a special service to the public.

Explanation.—For the purposes of this section,—

(i) the expression “capital outlay” shall include the anticipated cost of certain essential ongoing or imminent works like improvements, strengthening, widening, structural repairs and maintenance;

(ii) the expression “person” shall include any company or association or body of individuals, whether incorporated or not, or a firm;

(iii) for the removal of doubt, it is hereby clarified that the expression ‘constructed’ shall include a bridge including an approach road thereto or section of a new road or by-pass which is ready for use.

(1B) The toll leviable under sub-section (1A) shall be levied at such rate, for such period and on such bridges including an approach road thereto or section of a new road or by-pass, as the State Government may from time to time, by notification in the *Official Gazette*, declare:

Provided that not more than the capital outlay, interest thereon at such rate as the State Government may fix and the expenses of collection of toll shall be levied and collected under this section:

Provided further that when the bridge including an approach road thereto or section of a new road or by-pass is constructed, reconstructed, improved or, as the case may be, repaired by a person other than the State Government, not more than the capital outlay, return on investment at such rate as the State Government may fix and the expenses of collection of toll shall be levied and collected under this section.

(1C) When the toll leviable under sub-section (1A) on any bridge including an approach road thereto or section of a new road or by-pass which is constructed, reconstructed, improved or, as the case may be, repaired,—

(i) by the State Government, the State Government itself or through an agent authorised by it in this behalf;

(ii) by any person, such person or his servants,

shall collect the toll on such terms and conditions and in such manner as may be prescribed.

(1D) Where any additional bridge, being the bridge on or below the same stream, river or creek or road or rail-track including any approach road thereto is constructed as

augmentation of the facility of the use of the existing bridge including an approach road thereto then the network of such bridge including an approach road thereto shall be deemed to be one single entity for the purpose of levy of toll, so however that not more than the capital outlay of such additional bridge including an approach road thereto, and the expenses of collection of toll shall be recovered.

(1E) The motor vehicles and trailers drawn by such vehicles liable to pay the toll under sub-section (1A) shall not be allowed to pass over the bridge including an approach road thereto or section of a new road or by-pass unless the toll is paid and the State Government or the agent authorised by the State Government or as the case may be, by a person referred to in sub-section (1C) shall have power to prevent such vehicles from passing over the bridge.

(1F) (a) All motor vehicles and trailers drawn by such vehicles used by or on behalf of the State Government or of the Central Government shall be exempted from the payment of toll.

(b) Subject to such condition as it may impose, the State Government may, if it considers necessary so to do in the public interest, by notification in the *Official Gazette*, exempt any specified class or classes of motor vehicles and trailers drawn by such vehicles from the payment of toll

(3) in sub-section (2), for the words, brackets and figure "sub-section (1)", the words, brackets, figures and letters "sub-sections (1), (1A), (1B), (1C), (1D) (1E), (1F)" shall be substituted;

(4) in the marginal note, after the words "motor vehicles", the words "except in certain exigencies" shall be added.

4. In the principal Act, in section 23, in sub-section (2), after clause (l), the following clause shall be inserted, namely:—

"(m) to prescribe the terms and conditions and the manner of collection of toll;"

5. (1) The Bombay Motor Vehicles Tax (Gujarat Amendment) Ordinance, 1994 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall in so far as it is not inconsistent with the principal Act as amended by this Act be deemed to have been done or taken under the principal Act as amended by this Act.

Amend-
ment
of section
23 of Bom.
LXV
of 1958.
Repeal
and
savings.

Guj.
Ord. 2
of 1994.

STATEMENT OF OBJECTS AND REASONS

The existing section 3A of the Bombay Motor Vehicles Tax Act, 1958 provides for different rates of tax for ordinary designated omnibus and luxury or tourist designated omnibus. The tax on the luxury or tourist designated omnibus is higher than ordinary omnibus. The expression "luxury omnibus" is not defined either in the Motor vehicles Act, 1988 or in the said Bombay Act. Therefore, omnibus which is generally known as luxury bus and which conforms to the specifications prescribed for tourist vehicles under the Central Act is taxed at the rates specified for luxury omnibus. It is noticed that the operators of the omnibus modify slightly the specifications prescribed for tourist vehicles in their vehicles and thereby evade the tax payable at the higher rates applicable to the luxury omnibus. In order to leave no scope for evasion of tax levied on luxury omnibus, it was considered necessary to define the said expression by inserting Explanation in section 3A of the Act.

In view of the rapid development of industries in the State of Gujarat, it has become necessary to improve and upgrade the means of communication in the State. It is therefore, necessary to construct new bridges including approach roads, by-passes, sections of a new road and to improve the riding quality of the existing roads to meet with the requirements of the heavy industrial traffic and other increased voluminous traffic in the State. Keeping in view the limited financial resources of the State, it was considered necessary to levy toll on motor vehicles and trailers drawn by such vehicles passing over bridge including approach roads thereto, section of a new road or by-passes which are constructed, reconstructed, improved or repaired after the commencement of the Bombay Motor Vehicles Tax (Gujarat Amendment) Act, 1994 and the total capital outlay of which construction, re-construction, improvements, or repairs is more than fifty lakhs rupees or which are considered to be of a special service to the public. It was, therefore, considered expedient to amend section 20 of the Bombay Motor Vehicles Tax Act, 1958 to levy toll to the extent of the recovery of the capital outlay and interest thereon. When the bridge is constructed by a person other than the State Government, a provision is also made to empower to collect toll by such person not only to the extent of recovery of capital outlay but also of the return on investment made by such person. A provision is made to exempt all motor vehicles and trailers drawn by such vehicles used by or on behalf of State Government or of the Central Government or such other vehicles as may be notified by the State Government. In this regard, a Bill called the Bombay Motor Vehicles Tax (Gujarat Amendment) Bill, 1994 was introduced in the Gujarat Legislative Assembly on 15th February, 1994 but could not be taken up for consideration by the House for want of time.

As the Gujarat Legislative Assembly was not in session, the Bombay Motor, Vehicles Tax (Gujarat Amendment) Ordinance, 1994 to amend the said Act was promulgated to achieve the aforesaid objects. This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

RAMSINH PARMAR.

FINANCIAL MEMORANDUM

The explanation proposed to be inserted by clause 2 of the Bill excludes the omnibus permitted to carry passengers up to twenty. The tax at higher rate prescribed for Luxury omnibus paid by operators of such omnibuses as per the provisions of the Ordinance will require to be refunded. The estimated amount of refund to be paid to the operators of such omnibuses would involve non-recurring expenditure of about twenty-one lakhs rupees from the Consolidated Fund of the State.

New sub-section (1A) proposed to be inserted in section 20 by clause 3 of the Bill empowers the State Government to collect the toll on motor vehicles and trailers drawn by such vehicles passing over the bridges. For that purpose, it is necessary to establish the toll plaza at such bridges for collection of the tolls. This provision, if enacted and brought into operation would involve non-recurring expenditure of about one lakh fifty thousand rupees from the Consolidated Fund of the State for establishment of toll plaza. The existing staff of the Roads and Buildings Department would collect the toll and therefore, no additional expenditure on this account would involve from the Consolidated Fund of the State.

RAMSINH PARMAR

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves for delegation of legislative powers in the following respects :—

Clause 3.—(i) Sub-section (1B) of section 20 proposed to be inserted by this clause empowers the State Government to declare by notification, in the *Official Gazette*, the rates at which, the period for which and the bridge in respect of which toll shall be levied.

The first proviso of sub-section (1B) empowers the State Government to fix the rate of interest on capital outlay and the second proviso empowers the State Government to fix the rate of return on investment made by a person other than the State Government.

(ii) Sub-section (1C) proposed to be inserted by this clause empowers the State Government to authorise an agent to collect the toll and to prescribe the terms and condition and the manner in which the toll shall be collected.

(iii) Clause (b) of sub-section (1F) proposed to be inserted by this clause empowers the State Government to exempt by, notification in the *Official Gazette*, any specified class or classes of motor vehicles and trailers drawn by such vehicles from the payment of toll.

Clause 4.—Clause (m) of sub-section (2) of section 23 proposed to be inserted by this clause empowers the State Government to prescribe by rules the terms and conditions and the manner of collection of toll.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 10th June, 1994.

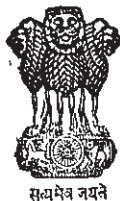
RAMSINH PARMAR.

By order and in the name of the Governor of Gujarat,

Gandhinagar, Dated the 10th June, 1994.

KUM. H. K. JHAVERI,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department



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MONDAY, JUNE 13, 1994/ JYAISTHA 23, 1916

Separate paging is given to this Part in order that it
 may be filed as a Separate Compilation.

PART V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules.—

THE GUJARAT SALES TAX (AMENDMENT) BILL, 1994.

GUJARAT BILL NO. 17 OF 1994.

A BILL

further to amend the Gujarat Sales Tax Act, 1969.

It is hereby enacted in the Forty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Sales Tax (Amendment) Act, 1994.

(2) This section and section 9 shall be deemed to have come into force on the 31st March, 1994 and the remaining sections of this Act shall be deemed to have come into force on the 1st April, 1994.

2. In the Gujarat Sales Tax Act, 1969 (hereinafter referred to as "the principal Act"), in section 3A, in sub-section (5), for the words "five paise", the words "ten paise" shall be substituted.

3. In the principal Act, in section 7, the words, brackets and figure "of sub-section (1)" occurring at two places shall be deleted.

Short
title and
commen-
cement.

Amend-
ment of
section 3A
of Guj.
1 of 1970.

Amend-
ment of
section 7 of
Guj. 1 of
1970.

Guj. 1
of 1970.

Amend-
ment of
section 10A
of Guj. 1 of
1970.

4. In the principal Act, in section 10A,—

(1) in sub-section (1),—

(a) the words, brackets, letter and figures “except the dealer referred to in sub-clause (f) of clause (10) of section 2” shall be deleted;

(b) the words, brackets and figures “and also goods wholly or partially exempt from payment of tax under sub-section (2) of section 49” shall be deleted;

(2) after sub-section (1) but before the table, the following new sub-section shall be inserted, namely:—

“(1A) Where the turnover of all specified sales by any dealer liable to pay tax under section 3A has first exceeded rupees fifty lakhs or the aggregate of the turnover of all specified sales and the turnover of all sales by any dealer liable to pay tax under both the sections 3 and 3A has first exceeded rupees fifty lakhs, in any year in which the Gujarat Sales Tax (Amendment) Act, 1994 comes into force, and every year thereafter, there shall be levied a turnover tax on taxable turnover of specified sales or the aggregate of taxable turnover of all specified sales and the taxable turnover of all sales effected by him of all taxable goods at the rates specified in the table below.”;

Guj. of
1994.

(3) in sub-section (4), for the words “the turnover of all sales”, the words “the turnover of all sales, the turnover of all specified sales or, as the case may be, the aggregate of turnover of all specified sales and the turnover of all sales” shall be substituted:

(4) the following explanation shall be added at the end, namely:—

“Explanation.—For the purposes of this section,—

(1) the expression “taxable turnover” means turnover of all taxable goods as derived after deductions made under sub-section (2); and

(2) the expression “taxable goods” means the goods which are taxable or which would have been taxable under this Act but for exemption granted under sub-section (2) of section 49.”.

Amend-
ment of
section
12 of Guj.
1 of 1970.

5. In the principal Act, in section 12,—

(1) in clause (1),—

(a) in sub-clause (b), the word “or” shall be added at the end;

(b) after sub-clause (b), the following sub-clause shall be inserted, namely:—

“(aa) that the goods are purchased by him for resale in the course of inter-State trade or commerce and that such goods will be resold within six months from the date of such purchase by himself.”;

(2) in clause (2),—

(a) in sub-clause (c), the word “or” shall be added at the end;

(b) after sub-clause (c), the following sub-clause shall be inserted, namely:—

“(aa) that the goods are purchased on behalf of his principal who is a licensed dealer for resale in the course of inter-State trade or commerce and that such goods will be resold by the principal himself in the course of inter-

State trade or commerce within six months from the date of such purchase by the commission agent."

6. In the principal Act, for section 13, the following section shall be substituted, namely:—

Substitution of section 13 of Guj. 1 of 1970.

"13. There shall not be deducted from the turnover of sales sales of goods to a licensed dealer, recognised dealer or to a commission agent holding a permit purchasing on behalf of his principal, as provided in section 7 or 8 unless—

No deduction from turnover except on a certificate.

(A) the licensed dealer,—

(i) certifies in the prescribed form that the goods are purchased for resale in the course of export out of the territory of India within six months from the date of such purchase by himself; or

(ii) certifies in the prescribed form that the goods specified in Schedule II-Part B are intended,—

(a) for resale by him within the State of Gujarat otherwise than in the course of inter-State trade or commerce or export out of the territory of India within six months from the date of such purchase; or

(b) for resale by him in the course of export out of the territory of India within six months from the date of such purchase; or

(B) the recognised dealer certifies in the prescribed form that the goods other than prohibited goods sold to him are goods purchased by him for use by him as raw or processing materials or as consumable stores in the manufacture of taxable goods for sale by him ; or

(C) the commission agent certifies in the prescribed form that the goods are purchased on behalf of his principal who—

(i) is a licensed dealer—

(a) and the goods will be resold by the principal himself in the course of export out of the territory of India within six months from the date of such purchase by the commission agent; or

(b) who will resell the goods specified in Schedule II-Part B,—

(i) within the State of Gujarat otherwise than in the course of inter-State trade or commerce or export out of the territory of India within six months from the date of such purchase; or

(ii) in the course of export out of the territory of India within six months from the date of such purchase;

or

(ii) is a recognised dealer, and the goods purchased being goods other than prohibited goods will be used by the principal as raw or processing materials or as consumable stores in the manufacture of taxable goods for sale, and that the commission agent will despatch the goods to his principal or to the principal's order within three months from the date of such purchase by the commission agent."

7. In the principal Act, in section 19A,—

(1) sub-section (2) shall be deleted;

Amendment of section 19A of Guj. 1 of 1970

(2) the following explanation shall be added at the end, namely:—

“Explanation.—For the purposes of this section, the expression “oil cakes” shall mean oil cakes other than cotton seed oil cakes.”

Insertion of
new section
30AA in
Guj. 1 of
1970.

8. In the principal Act, after section 30A, the following new section shall be inserted, namely:—

Cancellation of
certificate
of registration
in
certain
circum-
stances.

“30AA. (1) Where a registered dealer without entering into a transaction of sale issues to another registered dealer a bill or cash memorandum with the intention to defraud the Government revenue or with the intention that the Government may be defrauded of its revenue the Commissioner may, after making such inquiry as he thinks fit and giving a reasonable opportunity of being heard, cancel the certificate of registration of the registered dealer issuing or accepting such bill or cash memorandum either prospectively or retrospectively from such date as the Commissioner may, having regard to the circumstances of the case, fix :

Provided that notwithstanding the cancellation of a certificate of registration under this section,—

(a) the liability of the dealer shall continue in respect of any tax, penalty or interest for any period prior to the date of the order of the Commissioner cancelling the certificate of registration;

(b) where a dealer, who has purchased goods from the dealer whose certificate of registration is cancelled under this section at any time during the period commencing on the date of cancellation and ending on the date of the order of Commissioner cancelling the certificate of registration, proves to the satisfaction of the Commissioner that the tax due in respect of goods sold to him has been paid, such purchase of goods shall be deemed to have been made from a registered dealer.”.

Substitution of section 42 of
Guj. 1 of
1970.

9. In the principal Act, for section 42, the following section shall be substituted, namely:—

Time limit
for assess-
ment in
certain
cases.

“42. Where a fresh assessment is required to be made in pursuance of any order under section 65, 67 or 69 or in pursuance of an order of any court or authority, such fresh assessment shall be made at any time within three years from the date of such order :

Provided that in computing the period of limitation, any period during which assessment proceedings are stayed by an order or injunction of any court or authority shall be excluded.”.

10. In the principal Act, in section 44, for the third proviso, the following shall be substituted, namely :—

“Provided that the provisions of the proviso to section 42 shall *mutatis mutandis* apply to computation of period of limitation specified in this section.”.

Amend-
ment of
section 44
of Guj.
1 of 1970.

11. In the principal Act, in section 47,—

(1) in sub-section (4A), in the proviso, clause (ii) shall be deleted;

(2) after sub-section (4A), the following new sub-section shall be inserted, namely:—

“(4B) Where a dealer is liable to pay interest under sub-section (4A) and he makes payment of an amount which is less than the aggregate of the amount of tax, penalty and interest, the amount so paid shall be first applied towards the amount of interest, thereafter the balance, if any, towards the amount of penalty and thereafter the balance, if any, towards the amount of tax.”.

Amend-
ment of
section 47
of Guj.
1 of 1970.

12. In the principal Act, in section 50, for the proviso, the following shall be substituted, namely:—

“Provided that the provisions of the proviso to section 42 shall *mutatis mutandis* apply to computation of period of limitation specified in this section.”.

Amend-
ment of
section 50
of Guj.
1 of 1970.

13. In the principal Act, in section 54, in sub-section (1), in clause (aa),—

(1) after the words and figures “assessment under section 41”, the words “for the specified year” shall be and shall be deemed always to have been inserted with effect from 1st April, 1993;

(2) the following explanation shall be and shall be deemed always to have been added at the end with effect from the 1st April, 1993, namely:—

“*Explanation.*—For the purposes of this clause, the expression “specified year” means—

(i) the financial year commencing from the 1st April 1993;

(ii) the calendar year commencing from the 1st January 1993;

(iii) Samvat year 2049 commencing from the *kartak sud akam*;

(iv) co-operative year commencing from 1st October, 1993; or

(v) any such year thereafter.”.

Amend-
ment of
section 54
of Guj.
1 of 1970.

14. In the principal Act, in section 66, clause (4) shall be deleted.

Amend-
ment of
section 66
of Guj.
1 of 1970.

15. In the principal Act, in section 75, in sub-section (1), for the words “two thousand rupees”, the words “twenty thousand rupees” shall be substituted.

Amend-
ment of
section 75
of Guj.
1 of 1970.

Amend-
ment of
Schedule
I of Guj.
1 of 1970.

16. In the principal Act, in Schedule I,—

(i) for the entry at serial No. 14, the following entry shall be substituted, namely:—

1	2	3
"14. Cattle-feed including fodder, concentrates and cotton seed oil cakes (but excluding cotton seeds), other oil cakes and de-oiled cakes.		

(ii) in the entry at serial No. 15A, in column 2, after the words "doors and windows", the words "handmade *papda* and *pidhia*" shall be added.

Amend-
ment of
Schedule
II, Part
A to Guj.
1 of 1970.

17. In the principal Act, in Schedule II, in Part A,—

(i) after the entry at serial No. 16, the following new entry shall be added, namely:—

1	2	3	4
"16A. Cast iron castings	four paise - in the rupee	four paise in the rupee.	"

(ii) for the entry at serial No. 33, the following entry shall be substituted, namely:—

1	2	3	4
"33. Kerosene excluding kerosene for domestic use sold for public distribution system	eight paise in the rupee	eight paise in the rupee.	"

(iii) in the entry at serial No. 35, in columns 3 and 4, for the words "twenty one paise", the words "twenty-five paise" shall be substituted;

(iv) in the entry at serial No. 74, in columns 3 and 4, for the words "seven paise", the words "four paise" shall be substituted.

Guj.
Ord. 3
of 1994.

18. (1) The Gujarat Sales Tax (Amendment) Ordinance, 1994 is hereby repealed.

Repeal and
savings.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

With a view to augmenting the financial resources of the State, preventing evasion of tax by removing certain lacunae in the Gujarat Sales Tax Act, 1969, and thereby bringing more revenue to the State Exchequer and giving certain reliefs in the rate of tax, it was expedient to amend the provisions of the said Act.

As the Gujarat Legislative Assembly was not in session, the Gujarat Sales Tax (Amendment) Ordinance, 1994 was promulgated to achieve the aforesaid objects. This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

The following notes on clauses explain in brief the important provisions of the Bill :—

Clause 2.—This clause seeks to amend sub-section (5) of section 3A of the Act for increasing maximum limit of rate of sales tax on the turnover of specified sales of goods from five paise to ten paise in a rupee.

Clause 4.—This section seeks to amend section 10A. Under existing section 10A a dealer who transfers property in goods involved in the execution of a work contract was excluded for the purpose of the said section. Such exclusion is done away with. Moreover, turnover of specified sales of taxable goods is not liable to turnover tax under the said section. By this clause, it is proposed to make turnover of specified sales of such goods liable to turnover tax.

Clauses 5 and 6.—By these clauses, it is proposed to amend sections 12 and 13 of the Act. Under the existing section 13, a dealer can purchase goods free of tax for the purposes of sale in the course of inter-State trade or commerce. It is noticed that the State does not get the revenue when this facility is mis-used. With a view to curbing tax evasion, it is proposed to levy tax on such sales of goods to a licensed dealer or commission agent at the rate of four paise in a rupee and in cases where lesser rate is specified for such goods at that lesser rate.

Clause 7.—This clause seeks to delete sub-section (2) of section 19A.

Clause 8.—With a view to preventing evasion of the tax, it is proposed to insert a new section 30AA empowering the Commissioner to cancel the certificate of registration, either prospectively or retrospectively, of the registered dealer issuing or accepting Bill or Cash Memorandum without entering into a transaction of sale and with the intention to defraud the Government revenue or with the intention that the Government may be defrauded of its revenue.

Clause 9.—This clause seeks to substitute section 42 of the Act by a new section so as to remove the time limit for completion of assessment in certain cases.

Clause 11.—With a view to making the tax recovery more effective, it is proposed to insert new sub-section (4B) in section 47 of the Act to provide for the manner in which the payment of amount is to be applied in cases where the dealer is liable to pay interest, penalty and tax.

Clause 13.—Section 54 of the Act as amended by Guj. Act No. 11 of 1993 came into force on 1st April, 1993 and it provides for payment of interest at the rate of fourteen per cent per annum on the amount of refund in respect of the period beginning from the date immediately following the date of closure of the accounting year to which the said amount relates to the date of the order of assessment. A question has arisen as to for which accounting year the amended section was applicable, this clause seeks to clarify the same by amending section 54 suitably and defining the expression 'specified year'.

Clause 15.—This clause seeks to amend section 75 so as to raise the maximum amount of fine from rupees two thousand to twenty thousand.

Clauses 16 and 17.—These clauses seek to amend certain entries in Schedules I and II.

MANOHARSINHJI JADEJA.

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative power in the following respect :—

Clause 13.—Clause (A), Clause (B) and Clause (C) of section 13 of the Act proposed to be substituted by this clause empowers the State Government to prescribe the form in which the licensed dealer, recognised dealer, or, as the case may be, the commission agent has to certify the matters referred to therein.

The delegation of legislative power as aforesaid is necessary and is of a normal character.

Dated the 13th June, 1994.

MANOHARSINHJI JADEJA.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 13th June, 1994.

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Separate paging is given to this Part in order that it
 may be filed as a separate compilation.

PART V**Bill introduced in the Gujarat Legislative Assembly.**

The following Bill which was introduced on the 23rd June, 1994 by Shri Madanlal Kapadia is published under rule 127—A of the Gujarat Legislative Assembly Rules for general information :—

“GUJARAT BILL NO. 18 OF 1994.

**THE BOMBAY PROVINCIAL MUNICIPAL CORPORATIONS (GUJARAT AMENDMENT)
 BILL, 1994.**

A BILL

further to amend the Bombay Provincial Municipal Corporations Act, 1949.

It is hereby enacted in the Forty-fifth year of the Republic of India as follows:—

1. (1) This Act may be called the Bombay Provincial Municipal Corporation (Gujarat Amendment) Act, 1994.

(2) It shall come into force at once.

Bombay
 LIX of
 1949.

2. In the Bombay Provincial Municipal Corporations Act, 1949 after section 397 the following new section shall be inserted namely:—

“397A (1) If an officer of the Corporation empowered in this behalf by general or special order of Commissioner has reason to believe that any person in city limits has committed an act or acts of evasion of octroi or toll he may arrest such person and shall as soon as may be inform him of the grounds for such arrest.

Short title
 and
 Commence-
 ment.

Insertion
 of new
 section
 397A in
 Bom. LIX
 of 1949.

Power to
 arrest.

(2) Every person arrested under sub-section (1) shall, without unnecessary delay, be taken to Magistrate.

(3) Where an officer of Corporation has arrested any person under sub-section (1), he shall, for the purpose of releasing such person on bail or otherwise, have the same powers as the officer-in-charge of a police station has and is subjected to the same provisions under the Code of Criminal procedure Act, 1973.

II of 1974.

(4) Notwithstanding anything contained in the Code of Criminal Procedure Act, 1973 an act of an evasion of octroi or toll shall be a cognisable offence."

II of 1974.

STATEMENT OF OBJECTS AND REASONS

Octroi is the main source of income of a Municipal Corporation. Now-a-days incidents of evasion of Octroi occur in large number. The only provision made in the Bombay Provincial Municipal Corporations Act, 1949 for evading octroi is to recover penalty from the octroi evaders. This provision seems to be inadequate in the present circumstances. Therefore, the Corporation should be equipped with more powers to deal high-handedly with octroi evaders. This will increase the income of the Municipal Corporation by crores of rupees and more works of public interest would be taken up. On receiving the powers to arrest such offenders, the hands of the Corporation will be strengthened. With the intention of inserting such a provision in the aforesaid Act this bill has been brought.

Gandhinagar,
Dated the 16th February, 1994.

MADANLAL KAPADIA,
M. L. A."

Gandhinagar,
Dated the 23rd June, 1994.

N. K. KATHIRIA,
Secretary,
Gujarat Legislative Assembly.



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PART V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on 23rd June 1994 by Shri Parsottambhai Rupala is published under rule 127—A of the Gujarat Legislative Assembly Rules for general information :—

“GUJARAT BILL NO. 19 OF 1994.

THE GUJARAT CIVIL SERVICES (SUPERANNUATION) BILL, 1994.

A BILL

to provide for retirement on attaining the age of 58 years and for prohibition of extension of service after retirement of employees under the State civil services or under the services of a Board, Corporation, local authority or any other organization which is controlled or financed by the Government of the State of Gujarat.

It is hereby enacted in the Forty-fifth year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Civil Services (Superannuation) Act, 1994.

Short title,
extent and
commen-
cement.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, specify.

2. In this Act, unless the context otherwise requires—

Definitions.

(a) “Board, Corporation or local authority” means any Board, Corporation or Local authority constituted by the State Government under any law existing in the State.

(b) "employee" means a person appointed on the Civil Services of the State Government or any board, corporation, local authority or any institution controlled or financed by the State Government.

(c) "Civil Services" means services under the State Government or any board, corporation, local authority or any institution controlled or financed by the State Government.

(d) "State Government" means the Government of the State of Gujarat.

Retirement

3. Any Officer or employee belonging to any class, cadre or grade in the Civil Services of the State Government or in the services of any Board, Corporation or local authority constituted under any existing law or controlled or financed by the State Government shall retire from such service on superannuation after attaining the age of 58 years.

Prohibition of extension in service after retirement.

4. No Officer or employee in the Civil Services of the State Government or in the services of any Board, Corporation or Body constituted under any existing law or controlled or financed by the State Government shall in any case be re-employed or shall be given extension in service after retirement on attaining the age of 58 years.

STATEMENT OF OBJECTS AND REASONS

On the one hand there is a large scale of unemployment prevailing in the State and the problem of unemployment is becoming grave day by day. On the other hand, it has become the regular tendency of the Government and other Boards, Corporations and Bodies controlled or financed by the State Government to give extension of service to many Officers and employees after their retirement on attaining the age of 58 years. This trend adds to the problem of unemployment and to the deterioration of the functioning of the administration. To overcome this problem to a substantial extent, this legislation is essentially required.

Hence this Bill.

PARSOTTAMBHAI RUPALA,

M.L.A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (3) of clause 1 of the Bill empowers the State Government to specify in the Official Gazette, the date on which the Act shall come into force.

The delegation of legislative powers as aforesaid is necessary and of normal character.

PARSOTTAMBHAI RUPALA,

M. L. A.

Gandhinagar,
Dated the 23rd June, 1994.

N. K. KATHIRIA,
Secretary,
Gujarat Legislative Assembly.



The Gujarat Government Gazette
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Separate paging is given to this Part in order that it
 may be filed as a separate compilation.

PART V

Bill introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*.
 The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule
 127A of the Gujarat Legislative Assembly Rules :-

**THE BOMBAY PROVINCIAL MUNICIPAL CORPORATIONS (GUJARAT
 AMENDMENT) BILL, 1994.**

GUJARAT BILL NO.20 OF 1994.

A BILL

further to amend the Bombay Provincial Municipal
 Corporations Act, 1949.

It is hereby enacted in the Forty-fifth Year of the Republic
 of India as follows:-

Short title . 1. This Act may be called the Bombay Provincial
 Municipal Corporations (Gujarat Amendment) Act, 1994.

**Substi-
 tution of
 section
 8 of Bom.
 LIX of
 1949.** 2.. In the Bombay Provincial Municipal Corporations Act,
 1949 (hereinafter referred to as "the principal Act"),
 for section 8, the following shall be substituted,
 namely:-

**Bom.
 LIX
 of
 1949**

**Qualifica-
tion of
voters .**

"8. (1) For every ward, there shall be a list of voters.

(2) The list of voters shall be the same as the electoral roll of the Gujarat Legislative Assembly prepared and revised in accordance with the provisions of the Representation of the People Act, 1950 for the time being in force and as revised, modified, up-dated and published in accordance with the provisions of sub-section (3).

43 of
1950.

(3) Subject to the superintendence, direction and control of the State Election Commission, the list of voters shall be revised, modified, up-dated and published by such officers as may be designated by the State Election Commission in this behalf in the prescribed manner.

(4) No person shall be entitled to have his name included in the list of voters for more than one ward and for any ward more than once.

(5) The list of voters for any ward published under sub-section (2) shall remain in operation until a revised list of voters in respect of a municipal Corporation is so published."

**Amend-
ment of
section
10 of
Bom. LIX
of 1949.**

3. In the principal Act, in section 10, in sub-section (1), for figures and word "13, 17 and 404", the figures and word "13 and 404" shall be substituted.

**Deletion
of section
17 of Bom.
LIX of 1949.**

4. In the principal Act, section 17 shall be deleted.

STATEMENT OF OBJECTS AND REASONS

The existing section 8 provides for qualifications of voters. One of the qualifications is requisite business premises or taxation qualification for being entitled to be enrolled in municipal election roll as a voter. In order to have uniformity of laws relating to local authorities for being a voter, it is necessary to do away with such qualification.

The voting right for the election to the House of the People and to the Legislative Assembly of every State was available to the voters who were not less than twenty-one years of age. By the Constitution (Sixty-first Amendment) Act, 1988, the Constitution of India has been amended with the result that voters who are not less than eighteen years of age have become entitled to vote at such election. It is, therefore, not necessary now to prepare and maintain two separate rolls for the purpose of elections of Municipal Corporations and to the Legislative Assembly of the State. The electoral roll of a constituency prepared for election to the Legislative Assembly of the State is proposed to be adopted for elections to the Municipal Corporations also. For this purpose, it is considered necessary to substitute section 8 by a new section and to make consequential amendments in sections 10 and 17 of the Act. This Bill seeks to amend the said Act to achieve the aforesaid objects.

NARHARI AMIN

MEMORANDUM REGARDING DELEGATED LEGISLATION.

The Bill involves delegation of legislative power in the following respect:-

Clause 2- Sub-section (3) of new section 8 proposed to be substituted by this clause empowers the State Election Commission to designate the officer to revise, modify, update and publish the list of voters and empowers the State Government to prescribe the manner in this behalf.

The delegation of legislative power as aforesaid is necessary and is of normal character.

Dated the 30th June, 1994.

NARHARI AMIN

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 30th June, 1994.



The Gujarat Government Gazette
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may be filed as a separate compilation.

PART V

Bill introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*.
The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule
127A of the Gujarat Legislative Assembly Rules.—

**THE GUJARAT LOCAL AUTHORITIES (TEMPORARY POSTPONEMENT OF
ELECTIONS) BILL, 1994.**

GUJARAT BILL NO. 21 OF 1994.

A BILL

**to provide for temporary postponement of election of local
authorities.**

WHEREAS in the wake of widespread rain in the State of
Gujarat, it is difficult to hold election of local authorities
during the monsoon season;

AND WHEREAS the Election Commission of India has decided
and directed to revise the electoral rolls intensively of all
the constituencies of the State of Gujarat with reference to
1st January, 1995 as the qualifying date and also fixed the 4th
January, 1995 as the date for final publication of electoral
rolls;

AND WHEREAS electoral rolls for Assembly constituencies would be the list of voters for the purpose of election of local authorities;

AND WHEREAS it is likely that large sections of the public would be covered by intensive revision of electoral rolls; and they may not be deprived of their right of franchise in the ensuing elections of local authorities;

AND WHEREAS for the reasons stated above, it is considered necessary to provide for temporary postponement of the elections of local authorities and to provide for other connected matters.

It is hereby enacted in the Forty-fifth Year of the Republic of India as follows :-

Short title.

1. This Act may be called the Gujarat Local Authorities (Temporary Postponement of Elections) Act, 1994.

Definitions.

2. In this Act, unless the context otherwise requires -

(a) 'election' means and includes entire election process commencing from the preparation of list of voters and all stages culminating into election of a Councillor or, as the case may be, a member of the local authority and it is always deemed to have meant and included entire election process;

(b) 'local authority' means a panchayat, a municipality and a Municipal Corporation constituted under the relevant Act;

(c) 'relevant Act' in relation to -

(i) a panchayat, means the Gujarat Panchayats Act, 1993,

Guj.18
of 1993.

(ii) a municipality, means the Gujarat Municipalities Act, 1963,

Guj.34
of 1964.

(iii) a Corporation, means the the Bombay Provincial Municipal Corporations Act, 1949.

Bom. LIX
of 1949.

Postponement
of election
of local
authorities.

3. Notwithstanding anything contained in the relevant Act or the rules or bye-laws or order made thereunder or in any judgement, decree or order of any court or authority, during the period from the date of the commencement of this Act and upto and inclusive of 4th January, 1995, no general election of the councillors of any Corporation or of any municipality or of members of any panchayat and no election to fill up any casual vacancy of any such Councillor or member shall be held; and the election shall be started thereafter of such local authority of which duration has already expired before the commencement of this Act or is due to expire before 1st June, 1995 or formed for such area which are declared as transitional or smaller

urban area and shall be completed before the 1st June, 1995 in accordance with the provisions of the relevant Act and the rules made thereunder.

Application of
relevant Act.

4. Except as otherwise provided by or under this Act, the provisions of the relevant Act shall in all other respects apply in case of a Corporation, municipality or panchayat.

Removal of
difficulties.

5. If any difficulty arises in giving effect to the provisions of this Act, or by reasons of anything contained therein, or in giving effect to the relevant Act in respect of any matter contained in this Act, the State Government may, as occasion arises, by order, do anything which appears to it to be necessary for the purpose of removing the difficulty.

STATEMENT OF OBJECTS AND REASONS

The monsoon has set in and has become active throughout the State of Gujarat and in its opening phase has wrought damage to life and property. It has therefore, become difficult to hold the election of the local authorities during this monsoon. Again, the electoral roll of the Assembly constituencies of the State would be adopted as a list of voters for the purposes of election of local authorities. The directions of the Election Commission of India contained in its letter No. 23/94-P.S.II/275 dated 27th May, 1994 provide for revision of electoral rolls intensively of all the constituencies of the State with reference to 1st January, 1995 as the qualifying date and fixed 4th January, 1995 as the date for final publication of electoral rolls for the Assembly constituencies. In view of such intensive revision of electoral roll, a large number of people would be covered. In order to enable such persons to exercise their right of franchise in the ensuing election to the local authorities, it is considered necessary to postpone the election of local authorities for a period upto 4th January, 1995 and thereafter to hold and complete the election before the 1st June, 1995 in accordance with the provisions of the relevant Act.

This Bill is brought as a temporary measure to achieve the aforesaid object.

Dated the 30th June, 1994.

CHHABILDAS MEHTA

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 30th June, 1994.

Government Central Press, Gandhinagar



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 may be filed as a Separate Compilation.

PART V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 13th July, 1994 by Shri Dalsukhbhai Godhani, Minister for Revenue, is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information :—

**“THE BOMBAY INAMS (KUTCH AREA) ABOLITION (GUJARAT AMENDMENT)
 BILL, 1994.**

GUJARAT BILL NO. 22 OF 1994.

A BILL

further to amend the Bombay Inams (Kutch Area) Abolition Act, 1958 for certain purposes.

It is hereby enacted in the Forty-fifth Year of the Republic of India as follows:—

1. This Act may be called the Bombay Inams (Kutch Area) Abolition (Gujarat Amendment) Act, 1994.

Short
title.

Bom.
XCVIII
of 1958.

2. In the Bombay Inams (Kutch Area) Abolition Act, 1958 (hereinafter referred to as “the principal Act”), in section 14, after sub-section (4), the following sub-section shall be inserted, namely:—

Amend-
ment of
Section
14 of
Bom.
XCVIII
of 1958.

“(5) Notwithstanding the expiry of the period specified in sub-section (4), the claim may be notified by a creditor under sub-section (2) before the end of December, 1994.”.

Insertion
of new
section

16D in Bom.
XCVIII
of 1958.

Further
extension
of time
for
making
applica-
tion for
compen-
sation.

3. In the principal Act, after section 16C, the following new section shall be inserted, namely :—

“16D. (1) Notwithstanding the expiry of the period specified in section 16C for making an application for compensation under section 15 or 16, any person claiming compensation under section 12, 13 or 16 may make an application therefor to the Collector before the end of December, 1994.

(2) Where an application for compensation made by any person before the commencement of the Bombay Inams (Kutch Area) Abolition (Gujarat Amendment) Act, 1994 was not admitted by the Collector, such person shall also be entitled to make an application under sub-section (1).

Guj.
of 1994.

(3) On receipt of an application under sub-section (1), the Collector shall admit the same and all the provisions of this Act shall apply to the application as if it were an application made within the period prescribed under section 15 or, as the case may be, under section 16:

Provided that if the Collector refuses to admit such application, the applicant may make an appeal to the State Government against the order of the Collector within a period of three months from the date of the order and the State Government may pass such order thereon as it may deem fit.”

STATEMENT OF OBJECT AND REASONS

The period for notifying his claim by a creditor of an inamdar or holder of a sub-inam specified under sub-section (2) of Section 14 of the Bombay Inams (Kutch Area) Abolition Act, 1958; the period for making an application for determination of the amount of compensation payable to inamdar or holder of a sub-inam prescribed under sub-section (1) of section 15 of the said Act; and the period for making an application for compensation payable to any person prescribed under sub-section (2) of section 16; has been extended from time to time and it was last extended in 1969, upto the end of September, 1969. It is brought to the notice of the State Government that still a large number of creditors, Inamdars, holders of sub-inams and other persons have not been able to avail themselves of the opportunity to make the necessary application. It is, therefore, considered necessary to extend the aforesaid periods upto the end of December, 1994.

This Bill seeks to achieve the aforesaid object.

DALSUKHBHAI GODHANI,

FINANCIAL MEMORANDUM

Clause 3 of the Bill, which proposes to insert new section 16D provides for extension of time limit for making application for compensation under section 15 or 16. The person entitled to claim compensation would apply to the Collector within the extended time limit and the compensation payable to such persons would involve an estimated expenditure of about Rs. 20,55,649/- from the Consolidated Fund of the State out of which about Rs. 91,200/- would be of a recurring nature and about Rs. 19,64,449/- would be of a non-recurring nature.

Dated the 8th July, 1994.

DALSUKHBHAI GODHANI."

Gandhinagar,
Dated the 13th July, 1994.

N. K. KATHIRIA,
Secretary,
Gujarat Legislative Assembly.



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PART V

Bill introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 13th July, 1994 by Shri Manoharsinhgi Jadeja, Minister for Finance, is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information :—

“THE GUJARAT STATE GUARANTEES (AMENDMENT) BILL, 1994.

Gujarat Bill No. 23 of 1994.

A BILL

further to amend the Gujarat State Guarantees Act, 1963.

It is hereby enacted in the Forty-fifth Year of the Republic of India as follows:—

1. This Act may be called the Gujarat State Guarantees (Amendment) Act, 1994.

Short title.

Guj. XXII
of 1963.

2. In the Gujarat State Guarantees Act, 1963, in section 2, in sub-section (1), for the letters and figures “Rs. 60,00,00,00,000”, the letters and figures “Rs. 80,00,00,00,000” shall be substituted.

Amend-
ment of
section 2
of Guj.
XXII of,
1963.

STATEMENT OF OBJECTS AND REASONS

Sub-section (1) of section 2 of the Gujarat State Guarantees Act, 1963 fixes Rs. 60,00,00,00,000 to be the limit upto which the State may give guarantees. With a view to meet with increasing demands made in this behalf on the State in the wake of expansion of agricultural and industrial activities in the State, it is considered necessary to raise the limit upto Rs. 80,00,00,00,000. This Bill provides accordingly.

Dated the 8th July, 1994.

MANOHARSINHJI JADEJA,".

Gandhinagar,
Dated the 13th July, 1994.

N. K. KATHIRIA,
Secretary,
Gujarat Legislative Assembly.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



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PART V

Bill introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127-A of the Gujarat Legislative Assembly Rules :—

THE GUJARAT MUNICIPALITIES (AMENDMENT) BILL, 1994.

GUJARAT BILL NO. 24 OF 1994.

A BILL

further to amend the Gujarat Municipalities Act, 1963.

It is hereby enacted in the Forty fifth Year of the Republic of India as follows :—

1. (1) This Act may be called the Gujarat Municipalities (Amendment) Act, 1994.

(2) It shall come into force on such date as the State Government may by notification in the *Official Gazette*, appoint.

2. In the Gujarat Municipalities Act, 1963 (hereinafter referred to as "the principal Act"), in Chapter-III,—

(1) for the heading "PRESIDENT, VICE PRESIDENT, COUNCILLORS AND CHIEF OFFICER" the heading "PRESIDENT, VICE-PRESIDENT, COUNCILLORS AND OFFICERS AND SERVANTS OF THE MUNICIPALITY" shall be substituted;

(2) for the sub-heading "(3) Chief Officer and other Officers" appearing after section 46, the sub-heading "(3) Officers and servants of the Municipalities" shall be substituted.

Short:
title and
Commen-
cement.

Substi-
tution of
heading,
sub-head-
ing and
sections
to 50
in Gu.
34 of
1964.

Guj. 34
of 1964.

(3) In the principal Act, for sections 47, 48, 49 and 50 the following shall be substituted, namely :—

Appoint-
ment of
Chief
officers
and other
officers.

“47. (1) (a) For every municipality there shall be a Chief Officer appointed by the State Government.

(b) The Chief Officer of a municipality shall forthwith be transferred from that municipality by the State Government if a resolution to that effect is passed by the municipality with not less than two thirds of the total number of councillors of the municipality voting in favour of such resolution.

(2) A municipality may, with the previous sanction of the Director, and shall, if so required by the State Government, create all or any of the following posts:—

- (i) a municipal engineer,
- (ii) a water works engineer,
- (iii) a municipal health Officer,
- (iv) a municipal auditor,
- (v) a municipal education officer, and
- (vi) any other officer as may be designated by the State Government in this behalf.

(3) Subject to the provisions of section 47A, the recruitment and conditions of service of the officers referred to in sub-sections (1) and (2) shall be such as may be prescribed.”

(4) Subject to the provisions of section 47A, the power to make appointment to the posts referred to in sub-section (2) shall vest in the municipality.

Consti-
tution of
Municipal
Services.

47A. (1) If the State Government is of the opinion that it is necessary and expedient so to do for bringing about a uniform and a more efficient service of officers in municipalities for the purpose of carrying out the functions and duties under this Act, it may, notwithstanding anything contained in this Act, by notifications in the *Official Gazette*.—

(a) constitute in respect of all municipalities in municipal boroughs having such population of such number as may be specified in the notification, a municipal service or services (to be called by such designation as may be specified in the notification) of—

- (i) Chief Officers of such municipalities, and
- (ii) all or any other officers referred to in sub-section (2) of section 47;

(b) direct from time to time that each such municipal service shall consist of such classes, cadres and posts (including grades of posts); and

(c) Specify the initial strength of officers in each such class or cadre.

(2) The State Government may make rules for,—

(a) regulating the mode of recruitment by holding examinations or otherwise, including provision for the absorption in municipal service constituted under this section or otherwise, of persons already working under any municipality ;

(b) providing for terminal benefits such as compensation, pension or gratuity or the like, to persons who elect not to be absorbed in any such service or who elect to retire; and

(c) the conditions of service of persons appointed to, or absorbed to such municipal services ;

Provided that the conditions of service of any person absorbed in any such service shall not be less advantageous than those applicable to him immediately before such absorption.

(3) The provisions of section 48 shall cease to apply to persons appointed to or absorbed in such municipal services constituted under this section:

Provided that, such cessor shall not, in relation to persons absorbed in any such service, effect the previous operation of section 48 in respect of any thing done omitted to be done before such absorption.

(4) Notwithstanding anything contained in sub-section (2) of section 47, the power to appoint officers of any municipal service constituted under this section including promotions, transfers, and powers in relation to all matters regarding their conditions of service shall vest in the State Government.

(5) The officers included in any municipal service constituted under this section shall be the servants of the State Government but they shall draw their salaries and allowances directly from the municipal fund.

(6) There shall be paid every year out of the municipal fund to the State Government such cost as the State Government may determine on account of pension, leave and allowances other than those drawn from the municipal fund under sub-section (5) of the officers belonging to any of municipal services constituted under this section and all the expenses incurred by the State Government for administering the municipal service or services constituted under this section. If any municipality fails to pay such cost and expenses or the salaries and allowances of such officers within the period prescribed in this behalf then the provision of sub-section (3) of section 262 shall apply to the payment of such cost and expenses or the salaries and allowances of such officers as they apply in relation to the payment of the expense and remuneration not paid under that section.

48. (1) Without prejudice to the provisions of any law for the time being in force and subject to any rules made under section 47A, the following penalties may, for good and sufficient reasons be imposed upon any officer or servant of a municipality, namely:—

Imposition
of
penalties.

- (i) Censure,
- (ii) withholding of increments or promotion including stoppage at an efficiency bar;
- (iii) reduction to a lower post on a fixed pay or a time scale or to a lower stage in a time-scale;
- (iv) recovery from his pay of the whole or part of any pecuniary loss caused to the municipality by negligence or breach of orders ;
- (v) fine ;
- (vi) suspension ;
- (vii) removal from service, which does not disqualify him from future employment ;
- (viii) dismissal from service, which ordinarily disqualifies him from future employment.

(2) Any of the penalties mentioned in sub-section (1) may be imposed on an officer or servant of a municipality by the authority competent to make the appointment of such officer or servant ;

(3) No officer or servant shall be reduced to a lower post or removed or dismissed from service and no punishment involving any monetary loss shall be imposed on him under this section unless he has been given a reasonable opportunity of showing cause against such reduction, removal, dismissal or punishment :

Provided that this sub-section shall not apply -

(a) where a person is reduced, removed or dismissed or punished on the ground of conduct which has led to his conviction or a criminal charge, or

(b) where the competent authority is satisfied that, for reasons to be recorded in writing by such authority, it is not reasonably practicable to give to such person an opportunity to show cause ;

(4) An appeal shall lie to the authority mentioned in column (2) of the table below against any order imposing any penalty made by the authority mentioned in column (1) of the said table.

Table

Authority imposing the penalty (1)	Superior authority to which appeal may lie. (2)
Chief Officer	Executive Committee
Executive Committee or president	Municipality
Municipality	Director of

(5) No such appeal shall be entertained unless it is preferred within one month from the date of receipt of the order appealed against by the officer or servant concerned.

Powers
and
duties
of chief
Officer.

49. (1) The Chief Officer shall,—

(a) subject to the control, direction and supervision of the president, supervise the financial and executive administration of the municipality and perform such duties and exercise such powers as may be imposed or conferred upon him or delegated to him by or under the Act.

(b) take steps to give effect to all the decisions or resolutions of the Municipality;

(c) cause to be maintained and supervise the accounts and registers of the Municipality;

(d) subject to the orders of the municipality, take prompt steps to remove any irregularity pointed out by an auditor;

(e) prepare budget estimates and submit them to the executive committee;

(f) report all cases of fraud, embezzlement, theft or loss of municipal money and property to the president and the relevant Committee;

(g) exercise supervision and control over the acts and proceedings of all the officers and servants of the municipality;

(h) subject to the rules, by laws and general or special orders made under the Act determine all questions relating to pay, allowances, leave and other benefits in respect of the officers and servants of the municipality;

(i) furnish to the Collector or such other officer as the Collector shall from time to time nominate in this behalf, a copy of every resolution passed at any meeting of the municipality.

(2) The Chief Officer may with the previous sanction of the Director delegate any of the powers or duties to any municipal officer or servant:

Provided that, such delegation shall be subject to such limitations, if any, as may be prescribed by the Director and also to the control and revision by the Chief Officer.

50. (1) A municipality may with the previous sanction of the Director create such posts of officers and servants other than those specified in sub-sections (1) and (2) of section 47 as it shall deem necessary for the purposes of carrying out the duties under the Act;

Appointment of other officers and servants of the municipalities.

(2) The recruitment of such officers and servants and their condition of service shall be such as may be determined in accordance with rules made under section 271.

(3) The power to make appointment in any post referred to in sub-section (1) shall vest in the municipality or in the authority empowered by the municipality by rules made in this behalf under section 271."

3. In the principal Act, after section 129, the following new section shall be inserted, namely:-

Insertion of new section 129 A in Guj. 34 of 1964.

"129A. (1) Subject to such rules as the State Government make in this behalf it shall be lawful for a municipality, to lease by public auction or private contract the collecting of octroi:

Farming of octroi.

(2) All sums payable under the terms and conditions of the lease, if not paid, shall be recoverable as arrears of land revenue.

(3) The lessee and every person employed by the lessee to assist him in the collection of octroi shall be deemed to be appointed by the municipality to collect the same under this Act and shall exercise all the powers and be subject to all the responsibilities attaching to persons appointed to collect such octroi under this Act.

(4) Any rules or orders for the levy, collection and recovery of any such octroi shall have effect subject to the provisions of this section."

4. In the principal Act, section 273 shall be deleted.

Deletion of section 273 of Guj. 34 of 1964.

STATEMENT OF OBJECTS AND REASONS

Chief Officer of a municipality is a key officer in whom the administration of the municipality vests. Under the existing provisions of the Gujarat Municipalities Act, 1963 he is appointed by the municipality. He is also removable by the municipality by a resolution passed by a majority of two thirds of the total number of the councillors. It has been noticed in practice that since the councillors change every five years, where as the Chief Officer cannot be transferred, he tends to abuse his powers and maladminister the municipality. In order to avoid such situations and to improve the administration of the municipalities it is considered necessary to provide for appointment and transfer of the Chief Officer by the State Government and to take power to constitute a municipal service of Chief Officer in the State. It is also considered necessary to enable the State Government to have similar powers in respect of the services of municipal health officers, water works engineers, municipal auditors etc. so that whenever the State Government considers it necessary, it can take appropriate action. Accordingly, it is proposed to substitute the existing provisions of section 47 to 50 of the Act and insert new section 47-A.

It is found that there are leakages in the collection of octroi through its employees in some municipalities with the result that their financial position is adversely affected. It is possible to improve the situation by leasing by public auction or private contract the collecting of octroi by private agencies. Accordingly, power is taken by the new section 129 A proposed to be inserted by clause 3.

This Bill seeks to amend the said Act to achieve the aforesaid objects.

NARHARI AMIN,

FINANCIAL MEMORANDUM

Sub-section (6) of section 47A proposed to be substituted by sub-clause (3) of clause 2 of the Bill initially involves expenditure from the Consolidated Fund of the State in respect of the cost to be incurred by the State Government on account of pension, leave and allowances of the officers belonging to municipal services and for administering the municipal services constituted under that sub-section. The cost would be reimbursed to Government by the municipality. This provision if enacted and brought into operation would involve an estimated annual expenditure of about Rupees twenty lakhs from the Consolidated Fund of the State. The expenditure is of non-recurring nature.

NARHARI AMIN,

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves delegation of legislative powers in the following respects :-

Clause 1.- Sub-clause (2) of this clause empowers the State Government to appoint by notification in the *Official Gazette* the date on which the Act shall come into force.

Clause 2 (i) Sub-section (3) of Section 47 proposed to be substituted by sub-clause (3) empowers the State Government to prescribe by rules the recruitment and conditions of service of the Officers referred to in sub-sections (1) and (2) of the said section 47.

(ii) Sub-section (1) of Section 47A proposed to be substituted by sub-clause (3) empowers the State Government to constitute by notification in the *Official Gazette* a municipal service or services of Chief Officers and all or any of other officers specified in sub-section (2) of section 47.

(iii) Sub-section (3) of Section 47 A proposed to be substituted by the sub-clause (3) empowers the State Government to make rules for regulating the mode of recruitment including provision for absorption in municipal services constituted under this clause of persons working under any municipality providing for terminal benefits to persons who elect not to be absorbed or who elect to retire and the conditions of service of persons appointed or absorbed in municipal service.

(iv) Sub-clause (1) of Section 129A proposed to be inserted by clause 3 of the Bill empowers the State Government to make rules subject to which it shall be lawful for a municipality to lease by public auction or private contract the collecting of octroi.

The delegation of legislative powers as aforesaid is necessary and is of normal character.

Dated the 13th July, 1994.

NARHARI AMIN.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

[Gandhinagar, dated 13th July, 1994.



The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXXV]

THURSDAY, JULY 14, 1994/ASADHA 23, 1916

Separate paging is given to this Part in order that it
may be filed as a separate compilation.

PART V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:—

THE GUJARAT APPROPRIATION BILL, 1994.

GUJARAT BILL NO. 25 OF 1994.

A BILL

to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the State of Gujarat for the services of the financial year ending on the thirty-first day of March, 1995.

It is hereby enacted in the Forty-fifth Year of the Republic of India as follows:—

1. This Act may be called the Gujarat Appropriation Act, 1994.

2. From and out of the Consolidated Fund of the State of Gujarat, there may be withdrawn sums not exceeding those specified in column 3 of the Schedule hereto annexed amounting in the aggregate to the sum of seven thousand twenty-four hundred crores, thirty-three lakhs, thirty-nine thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1994-95 in respect of the services and purposes specified in column 2 of the Schedule.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Gujarat by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

Short title.

With-
drawal
of Rs.
70,24,33,39,
000 from
and out of
the Consol-
idated
Fund of
the State
of Gujarat
for the
financial
year
1994-95.

Appro-
priation.

THE SCHEDULE

(See sections 2 and 3).

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2	3		
		Rs.	Rs.	Rs.
1.	Agriculture, Co-operation and Rural Development Department	Revenue	1,60,31,000	.. 1,60,31,000
2.	Agriculture	Revenue	1,76,42,69,000	.. 1,76,42,69,000
		Capital	10,03,33,000	.. 10,03,33,000
3.	Minor Irrigation, Soil Conservation and Area Development.	Revenue	19,76,13,000	.. 19,76,13,000
		Capital	56,67,000	.. 56,67,000
4.	Animal Husbandry and Dairy Development.	Revenue	22,81,25,000	.. 22,81,25,000
		Capital	2,67,000	.. 2,67,000
5.	Fisheries	Revenue	8,13,95,000	.. 8,13,95,000
		Capital	9,01,84,000	.. 9,01,84,000
6.	Co-operation	Revenue	12,74,27,000	.. 12,74,27,000
		Capital	7,45,59,000	.. 7,45,59,000
8.	Education Department.	Revenue	89,20,000	.. 89,20,000
9.	Education	Revenue	10,18,41,82,000	24,48,00,000 10,42,89,82,000
		Capital	4,00,000	.. 4,00,000
10.	Other Expenditure pertaining to Education Department.	Revenue	3,16,42,000	.. 3,16,42,000
11.	Energy and Petro-Chemicals Department.	Revenue	36,57,000	.. 36,57,000
12.	Tax collection charges (Energy and Petro-chemicals Department).	Revenue	1,74,99,000	.. 1,74,99,000
13.	Energy Projects.	Revenue	2,03,33,33,000	.. 2,03,33,33,000
		Capital	2,35,90,50,000	.. 2,35,90,50,000
14.	Other Expenditure pertaining to Energy and Petro-Chemicals Department.	Capital	2,00,00,000	.. 2,00,00,000

No. of Vote/ Appropriation.	Services and purposes		Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
1	2			3	
			Rs.	Rs.	Rs.
15	Finance Department	Revenue	1,77,90,000	..	1,77,90,000
		Capital	2,37,000	..	2,37,000
16	Tax Collection Charges (Finance Department)	Revenue	21,28,51,000	..	21,28,51,000
17	Treasury and Accounts Administration	Revenue	12,29,20,000	..	12,29,20,000
18	Pension and other Retirement Benefits	Revenue	1,71,45,67,000	2,67,000	1,71,48,34,000
19	Other Expenditure pertaining to Finance Department	Revenue	3,23,90,25,000	..	3,23,90,25,000
		Capital	80,00,000	67,000	80,67,000
20	Repayment of Debt pertaining to Finance Department and its Servicing	Revenue	..	7,11,58,63,000	7,11,58,63,000
		Capital	..	8,93,53,55,000	8,93,53,55,000
21	Food and Civil Supplies Department	Revenue	1,91,37,000	..	1,91,37,000
22	Civil Supplies	Revenue	12,98,51,000	..	12,98,51,000
		Capital	67,000	..	67,000
23	Food	Revenue	3,70,97,000	..	3,70,97,000
		Capital	16,67,000	..	16,67,000
25	Forest and Environment Department	Revenue	45,37,000	..	45,37,000
26	Forests	Revenue	28,91,70,000	..	28,91,70,000
		Capital	30,54,51,000	..	30,54,51,000
27	Environment	Revenue	1,12,00,000	..	1,12,00,000
29	Governor	Revenue	..	51,37,000	51,37,000
30	Council of Ministers	Revenue	1,49,42,000	..	1,49,42,000
31	Elections	Revenue	15,27,01,000	..	15,27,01,000
32	Public Service Commission	Revenue	20,03,000	81,10,000	1,01,13,000

No. of Vote/ Appro- priation.	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2		3	
		Rs.	Rs.	Rs.
33	General Administration Department	Revenue 6,30,81,000	..	6,30,81,000
34	Economic Advice and Statistics	Revenue 2,95,12,000	..	2,95,12,000
35	Other Expenditure pertaining to General Administration Department	Revenue 28,92,31,000	..	28,92,31,000
36	State Legislature	Revenue 2,45,71,000	2,67,000	2,48,38,000
38	Health and Family Welfare Department	Revenue 1,38,73,000	..	1,38,73,000
39	Medical and Public Health	Revenue 1,97,15,22,000	..	1,97,15,22,000
40	Family Welfare	Revenue 45,06,67,000	..	45,06,67,000
41	Water Supply	Revenue 45,26,10,000	..	45,26,10,000
		Capital 1,11,11,00,000	..	1,11,11,00,000
42	Other Expenditure pertaining to Health and Family Welfare Department	Revenue 16,95,97,000	..	16,95,97,000
43	Home Department	Revenue 1,12,13,000	..	1,12,13,000
44	Police	Revenue 2,12,72,24,000	..	2,12,72,24,000
45	Jails	Revenue 5,88,70,000	..	5,88,70,000
46	Transport	Revenue 7,99,75,000	..	7,99,75,000
		Capital 1,86,00,000	..	1,86,00,000
47	Other Expenditure pertaining to Home Department	Revenue 16,03,49,000	86,000	16,04,35,000
		Capital 7,41,67,000	..	7,41,67,000
48	Industries and Mines Department	Revenue 73,17,000	..	73,17,000
49	Stationery and Printing	Revenue 15,97,80,000	..	15,97,80,000
50	Industries	Revenue 52,67,40,000	..	52,67,40,000
		Capital 1,31,79,52,000	..	1,31,79,52,000
51	Mines and Minerals	Revenue 5,44,93,000	..	5,44,93,000
52	Other Expenditure pertaining to Industries and Mines Department	Revenue 31,77,000	..	31,77,000
		Capital 50,00,000	..	50,00,000

No. of Vote/ Appro- priation.	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2		3	
		Rs.	Rs.	Rs.
53	Information, Broadcasting and Tourism Department	Revenue 19,80,000	..	19,80,000
54	Information and Publicity	Revenue 10,08,74,000 Capital 20,00,000	..	10,08,74,000 20,00,000
55	Tourism	Revenue 2,28,50,000 Capital 28,00,000	..	2,28,50,000 28,00,000
56	Other Expenditure pertaining to Information, Broadcasting and Tourism Department	Revenue 93,53,000	..	93,53,000
57	Labour and Employment Department	Revenue 46,85,000	..	46,85,000
58	Labour and Employment	Revenue 33,99,42,000 Capital 1,33,000	..	33,99,42,000 1,33,000
60	Legal Department	Revenue 94,13,000 Capital 17,000	..	94,13,000 17,000
61	Administration of Justice	Revenue 25,43,88,000	3,19,57,000	28,63,45,000
62	Other Expenditure pertaining to Legal Department.	Revenue 92,61,000	..	92,61,000
63	Legislative and Parliamentary Affairs Department	Revenue 50,80,000	-	50,80,000
65	Narmada and Water Resources Department	Revenue 1,25,40,000	..	1,25,40,000
66	Narmada Development Scheme	Capital 5,11,28,29,000	..	5,11,28,29,000
67	Irrigation and Soil Conservation	Revenue 3,40,69,42,000 Capital 1,18,82,55,000	..	3,40,69,42,000 1,18,82,55,000
68	Other Expenditure pertaining to Narmada and Water Resources Department	Revenue 9,33,000	..	9,33,000
69	Panchayats and Rural Housing Department	Revenue 76,22,000	..	76,22,000
70	Community Development	Revenue 58,06,23,000 Capital ..	.. 5,53,000	58,06,23,000 5,53,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding			
		Voted	Charged on the Consolidated Fund	Total	
1	2		3		
		Rs.	Rs.	Rs.	
71	Rural Housing	Revenue	19,63,40,000	33,67,33,000	53,30,73,000
		Capital	1,54,67,000	..	1,54,67,000
72	Compensations and Assignments	Revenue	11,21,89,000	..	11,21,89,000
73	Other Expenditure pertaining to Panchayats and Rural Housing Department	Revenue	6,56,07,000	..	6,56,07,000
74	Revenue Department	Revenue	2,01,03,000	..	2,01,03,000
75	Tax Collection Charges (Revenue Department)	Revenue	19,22,23,000	18,67,000	19,40,90,000
76	District Administration	Revenue	19,09,93,000	..	19,09,93,000
77	Relief on account of Natural Calamities	Revenue	56,50,00,000	..	56,50,00,000
		Capital	16,67,000	..	16,67,000
78	Dangs District	Revenue	8,86,73,000	..	8,86,73,000
		Capital	33,000	..	33,000
79	Compensations and Assignments	Revenue	5,03,63,000	28,47,000	5,32,10,000
		Capital	38,00,000	29,33,000	67,33,000
80	Other Expenditure pertaining to Revenue Department	Revenue	31,60,000	3,000	31,63,000
		Capital	6,80,000	..	6,80,000
81	Roads and Buildings Department	Revenue	1,67,43,000	..	1,67,43,000
82	Non-Residential Buildings	Revenue	61,24,68,000	2,08,000	61,26,76,000
		Capital	22,31,21,000	..	22,31,21,000
83	Residential Buildings	Revenue	26,18,33,000	..	26,18,33,000
		Capital	5,22,41,000	..	5,22,41,000
84	Roads and Bridges	Revenue	1,54,95,05,000	..	1,54,95,05,000
		Capital	32,94,67,000	..	32,94,67,000
85	Ports	Capital	5,46,67,000	..	5,46,67,000
86	Gujarat Capital Construction Scheme	Revenue	1,51,29,000	..	1,51,29,000
		Capital	4,81,67,000	..	4,81,67,000

No. of Vote/ Appropriation:	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2	3		
		Rs.	Rs.	Rs.
87	Other Expenditure pertaining to Roads and Buildings Department	Revenue 4,49,20,000	..	4,49,20,000
	Capital	33,34,000	..	33,34,000
88	Social Welfare and Tribal Development Department	Revenue 65,82,000	..	65,82,000
89	State Excise	Revenue 1,57,90,000	..	1,57,90,000
90	Social Security and Welfare	Revenue 48,16,82,000	..	48,16,82,000
	Capital	93,33,000	..	93,33,000
91	Welfare of Scheduled Tribes	Revenue 18,11,39,000	..	18,11,39,000
	Capital	34,53,000	..	34,53,000
93	Special Component Plan for Scheduled Castes	Revenue 78,26,40,000	..	78,26,40,000
	Capital	6,25,47,000	..	6,25,47,000
94	Tribal Area Sub-Plan	Revenue 1,86,14,57,000	..	1,86,14,57,000
	Capital	66,48,07,000	..	66,48,07,000
95	Urban Development and Urban Housing Department	Revenue 43,83,000	..	43,83,000
96	Urban Housing	Revenue 4,34,63,000	6,18,70,000	10,53,33,000
	Capital	3,63,53,000	..	3,63,53,000
97	Urban Development	Revenue 31,99,59,000	..	31,99,59,000
	Capital	14,33,33,000	..	14,33,33,000
98	Compensations, Assignment and tax collection charges	Revenue 16,95,73,000	4,15,62,000	21,11,35,000
99	Other Expenditure pertaining to Urban Development and Urban Housing Department	Revenue 75,41,000	..	75,41,000
100	Youth Services and Cultural Activities Department	Revenue 21,00,000	..	21,00,000
101	Youth Services and Cultural Activities.	Revenue 5,84,19,000	..	5,84,19,000
Total		Revenue 40,00,16,49,000	7,85,15,77,000	47,85,32,26,000
		Capital 13,45,12,05,000	8,93,89,08,000	22,39,01,13,000
Grand Total		53,45,28,54,000	16,79,04,85,000	70,24,33,39,000

STATEMENT OF OBJECTS AND REASONS

Article 204 (1) of the Constitution of India requires that as soon as may be after the grants have been made by the Assembly, there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of the State of all moneys required to meet—

(a) the grants so made by the Assembly, and

(b) the expenditure charged on the Consolidated Fund of the State but not exceeding in any case the amount shown in the Statement previously laid before the Legislative Assembly.

The Bill accordingly specifies the gross amount required to meet grants made by the Assembly and the expenditure charged on the Consolidated Fund of this State for the financial year ending on the 31st March, 1995.

The amounts are shown below :—

	Rs.
(a) Revenue Expenditure	47,85,32,26,000
(b) Capital Expenditure	22,39,01,13,000
Total..	70,24,33,39,000

Dated the 14th July, 1994.

MANOHARSINHJI JADEJA.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 14th July, 1994.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



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PART V

Bill introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 14th July, 1994 by Shri Harjivandas Patel, M.L.A. is published under rule 127--A of the Gujarat Legislative Assembly Rules for general information :—

"GUJARAT BILL NO. 26 OF 1994.

THE BOMBAY ELECTRICITY DUTY (GUJARAT AMENDMENT) BILL, 1994.

A BILL

further to amend the Bombay Electricity Duty Act, 1958.

It is hereby enacted in the Forty-fifth year of the Republic of India, as follows:—

(1) This Act may be called the Bombay Electricity Duty (Gujarat Amendment) Act, 1994.

(2) It shall come into force at once.

2. In the Bombay Electricity Duty Act, 1958 in Schedule I, in Part I, for item (7), the following items shall be substituted, namely:—

"(7) For energy consumed in respect of premises used for residence and/or for carrying out, without use of motive power any of the following self employed activities such as cottage industries, handicrafts, manual or jobwork by the consumer and his family members, namely:—

1. Tailoring work including cleansing, ironing, cutting or sewing of chindis or clothes.
2. Embroidery work ;
3. Knitting work ;
4. Making kites and dyeing and rolling kite thread ;

10 per-
cent of
consum-
ption
charges.

Short
title and
commen-
cement.

Amend-
ment of
Schedule
I of
Bom. XL
of 1958.

Bom. XL
of 1958

5. Bidi work including tobacco blending and cutting of tobacco leaves;
6. Craft work such as making flowers, toys, idols, paper biers, etc.
7. Carding work including making of quilts, mattresses, cushions etc;
8. Cobbling work including shoe making etc.
9. Carpentry.
10. Pottery work including making of idols, toys, pots etc, out of clay.
11. Preparing thread, cord, rope, kathi, vaan etc.
12. Ivory and lac works ;
13. Manufacturing of puttha box.
14. Preparing farsan, sweetmeat etc ;
15. Bamboo work i. e. making of baskets etc ;
16. Coir work i. e. making of mat, broom etc.
17. Spinning and rolling work of handloom and Khadi cloth;
18. Type-writing work ;
19. Painting work,
20. Book-keeping work ;
21. Any manual or job work or self employed activity not falling under any of the entries above.

(8) For energy consumed in respect of premises used as religious and sacred places, namely :—

1. Temple, Mosque, Church, Gurudwara, Derasar, Agiyari etc., where Pooja, Namaz, Prayer etc. is carried out ;
2. Pathshala, Madrasa, Ishwar Vidya Shala etc. where hymns from sacred Books such as Geeta, Quoran, Bible etc. are recited and/or religious education is imparted ;
3. Deri, Samadhi, Dargah, Tomb, Monument, Smashangrih, kabrastan etc

(9) For energy consumed by the following Charitable institutions, whose aim is not to make profit, namely:—

1. Hospital, dispensary, maternity home, pathological laboratory, sanitorium etc.
2. School, College, Balmandir, Gymnasium etc.
3. Library, Club, reading room, etc.
4. Orphanage, Dharamshala, Musafarkhana, Upashraya, Parent home etc.
5. Swimming pool, auditorium hall etc.

(10) For energy consumed in respect of any premises not falling under any of the items (1) to (9) above."

10 per-
cent of
Consum-
ption
charges.

10 per-
cent of
consum-
ption
charges.

60 per-
cent of
consum-
ption
charges.

STATEMENT OF OBJECTS AND REASONS:

According to the existing provisions of the Bombay Electricity Duty Act, 1958, the energy consumed by residential premises where some self-employed activities and/or manual works are carried out, without any use of motive power by the consumers and their family members to make both ends meet, is charged at the highest rate of electricity duty i.e. 60 percent. The energy consumed in religious places and charitable institutions also is charged at the highest rate of 60 percent of consumption charges. The levy of the duty on energy, consumed by these religious and charitable institutions at this highest rate is not justifiable in light of the fact that the general tax thereon is also exempted by the Municipal Corporations, Municipalities, Local Boards and Panchayats.

With a view to give some justice and relief to self-employed down troddens, religious places and charitable institutions, the Bill seeks to amend the Bombay Electricity Duty Act, 1958 so as to charge the electricity duty for the above purposes at the rate applicable to residential premises.

Hence this Bill.

Dated the 14th June, 1994.

HARJIVANDAS PATEL,"
M. L. A.

Gandhinagar,
Dated the 15th July, 1994.

N. K. KATHIRIA,
Secretary,
Gujarat Legislative Assembly.



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PART V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 14th July, 1994 by Shri Atmaram Parmar, M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information :—

“GUJARAT BILL NO. 27 OF 1994.

THE GUJARAT AGRICULTURE WORKERS BILL, 1994.

A BILL

to provide for the welfare of the Agriculture workers in the State of Gujarat, to regulate their employment and conditions of service and for matters connected therewith.

It is hereby enacted in the Forty-fifth year of the Republic of India as follows;—

CHAPTER—I

PRELIMINARY

1. (1) This Act may be called the Gujarat Agriculture workers Act, 1994.
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.
2. In this Act, unless the context otherwise requires:—
 - (1) “Board” means an Employment Guarantee Board constituted by the State Government under section 14 of this Act.
 - (2) “Conciliation Officer”, “Registering Officer” and “Inspector” mean the Officers appointed under section 7 of this Act.

Short
title,
extent
and
commen-
cement,

Defini-
tion.

(3) The words "employment" "dispute" shall have the same meaning as are assigned to them in the labours laws.

(4) "employer" means a person who personally cultivates his own land or who cultivates land as tenant or in any other case a person in actual possession of a land his heirs, assignees and legal representatives.

(5) "Fund" means the Agriculture Workers Welfare Fund established under section 13 of this Act.

(6) "prescribed" means prescribed by the State Government by rules made under this Act.

(7) "Tribunal" means the Agriculture Workers Tribunal constituted under section 3 of this Act.

(8) "Worker" means a person who, in consideration of the wages payable to him, works on or does any other agricultural operation in relation to the agricultural land of the employer.

CHAPTER-II

AGRICULTURE WORKERS' TRIBUNAL AND OFFICERS

Constitution of Agriculture workers' Tribunal.

3. For the purpose of securing the Welfare of Agriculture Workers, the State Government shall, by notification in the Official Gazette, constitute the Agriculture Workers' Tribunal consisting of a sole member, who shall be representing the agriculture workers.

Term of office and conditions of service of member of Tribunal.

4. The term for which the member of the Tribunal shall hold office and other conditions of service shall be such as may be prescribed.

Power of State Government to terminate appointment before expiry of term.

5. The State Government may terminate the services of a member of the Tribunal before the expiry of the term of his office if such member:—

- (1) is adjudged an insolvent, or
- (2) engages himself during his term of office, in any paid employment,
- (3) is, in the opinion of the State Government, unfit to continue in office by reason of infirmity of mind or body, or
- (4) is convicted of an offence involving moral turpitude.

Filling of vacancy.

6. The vacancy in the membership of the Tribunal shall be filled by the State Government as soon as practicable and in the manner as may be prescribed.

7. The State Government shall, by notification in the Official Gazette, appoint Registering Officers, Conciliation Officers and Inspectors whose powers, functions and conditions of service shall be such as may be prescribed.

Appoint-
ment of
Register-
ing
Officers,
Concilia-
tion
Officers
and
Inspe-
ctors.

8. The headquarter of the Tribunal shall be at such place as the State Govern-
ment may, by Notification in the Official Gazette, determine.

Head
Quarter
of
Tribunal.

CHAPTER--III

SECURITY OF EMPLOYMENT AND WELFARE

9. The employer shall engage the Agriculture Workers from the following cate-
gories:—

Prefer-
ence for
employ-
ment as
Agri-
culture
Workers.

(1) Agriculture Workers who have worked as such for at-least 240 days or
more at any time during last seven years or a part thereof either continuously or
with a break;

(2) Other workers of the same village;

(3) Workers of outside areas:

Provided that the workers of the succeeding categories shall not be employed so
long as the workers of prior categories are available and in the event of employment
of the workers of succeeding categories, specific approval of the State Government
shall be obtained.

10. The payment of minimum wages to an illiterate worker shall be made in
the presence of a literate Agriculture Worker of the same village as nominated by
the Agriculture Worker concerned. The employer shall obtain signature of the wit-
ness certifying such payment.

Payment
of
minimum
wages.

11. The rates of wages for Agriculture Workers shall be revised atleast once in
every two years in such manner as may be prescribed.

Revision of
rates of
minimum
wages.

12. No employer shall reduce, directly or indirectly the wages of Agriculture
Workers for whatsoever reason.

Employers
not
to reduce
wages.

13. (1) The State Government shall establish a fund to be called "The Agri-
culture Workers' Welfare Fund" for the Welfare of Agriculture Workers. This fund
shall consist of an Employee's Provident Fund to be deposited by an employer and
any default in depositing the contribution less than 10% of the wages paid shall be
a cognizable offence.

Estab-
lishment
of Agri-
culture
Workers'
Welfare
Fund.

(2) The fund shall, vest in and be administered by a committee constituted by
the State Government consisting of a Chairman who shall be representative of the
Agriculture Workers and the member each of the Government and the employer.

(3) The rates of the contribution to be made by the State Government and the employer to this Fund shall be such as may be prescribed but shall not be less than ten percent of the wages paid.

Constitution of
Employment
Guarantee
Board.

14. (1) The State Government shall constitute a Board to be called "The Employment Guarantee Board" which shall consist of Chairman who shall be a representative of the Agriculture Workers and one member each of the Government and the employer.

(2) The term of office, conditions of service, powers and functions of the Board shall be such as may be prescribed.

Guarantee
of
Employment.

15. The Board shall endeavour to give employment to atleast one member of a family of the Agriculture Workers. If such employment is not provided within 15 days from the date of registration of the name of the Agriculture worker with the Registering Officer, he shall be given an unemployment allowance at the rate of minimum wages per day for the period he remains unemployed.

CHAPTER IV

DISPUTES

Settlement
of
employment
disputes.

16. (1) When an Employment dispute between employer and Agriculture Workers exists or is apprehended, the Conciliation Officer may hold conciliation proceedings.

(2) If a settlement of the dispute is arrived at in the course of conciliation proceedings, the Conciliation Officer shall send a report thereof to the Labour Commissioner and the Secretary, Agriculture, Co-operation and Rural Development Department of the State Government.

(3) If no such settlement is arrived at, the Conciliation Officer shall refer the dispute to the Agriculture Workers Tribunal which shall conclude its proceedings within thirty days from the date of the receipt of the reference and issue its award.

(4) The award of the Agriculture Workers Tribunal shall be final.

CHAPTER V

PENALTIES AND PROCEDURE

Cognizable
Offences.

17. (1) Any offence committed under this Act shall be a cognizable offence.

(2) Any aggrieved employee or anybody on his behalf may file a criminal prosecution against the employer and the expenditure involved in such litigation shall be borne by the State Government.

Cognizance
of
offence.

18. No court inferior or subordinate to the Court of a Judicial Magistrate of the First Class, shall be competent to take cognizance of offence under this Act.

Penalty
for
nonpayment
of
wages.

19. Whoever commits an offence of non-payment or less payment or late payment of wages shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years or with fine of one thousand rupees or with both.

CHAPTER VI

MISCELLANEOUS

20. (1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

Power
to
make
rules.

(2) The power to make rules conferred by this section shall be subject to the condition of the rules being made after previous publication.

(3) All rules made under this section shall be laid before the State Legislature for not less than thirty days as soon as possible after they are made and shall be subject to such rescission or modification by the State Legislature as the State Legislature may make during the session in which they are so laid or the session immediately following.

(4) Any modification or rescission so made by the State Legislature shall be published in the Official Gazette and shall thereupon take effect.

STATEMENT OF OBJECTS AND REASONS

In Gujarat, the population of agriculture workeres are spread almost all over the State. They are in millions. The condition of the workeres are horrible. In most of the cases, they are not paid the minimum wages. Unemployment is the order of the day. Sometimes workers from outside areas are engaged at cheaper rates at the cost of the local labour and thus the local Agricultural economy and economic conditions of the Agriculture workers are dislocated. So as to give protection, safety and social security and to confer rights and privileges to millions of Agriculture workeres of the State of Gujarat, a comprehensive legislation for them is an over delayed necessity. By this piece of legislation an attempt is made in this direction.

ATMARAM PARMAR,

M. L. A.

FINANCIAL MEMORANDUM

As a comprehensive Bill for Agriculture Workers is to be introduced and it is going to cover the entire State, it will incur some financial liability to the State. But, looking to the complexities and intricacies it is very difficult to estimate the exact amount of anticipated expenditure to be involved from the Consolidated Fund of the State. However, it seems that at initial stage an amount of Rs. 50 lakhs would be sufficient to meet the purposes of implementing the provisions of this Bill.

ATMARAM PARMAR,

M. L. A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 1 :—Sub- clause (3) of Clause 1 empowers the State Government to appoint the date on which this Act shall come in to force.

Clause 3 :— This clause empowers the State Government to constitute by a notification in the Official Gazette the Agriculture Workers Tribunal.

Clause 4 :—This clause empowers the State Government to prescribe the term and other conditions of services of the member of the Tribunal.

Clause 6 :—This clause empowers the State Government to prescribe the manner to fill the vacancy in the membership of the Tribunal.

Clause 7 :—This clause empowers the State Government to appoint the Registering Officers, Conciliation officers and Inspectors and prescribe their powers, functions and conditions of services.

Clause 8 :— This clause empowers the State Government to determine the place for the Head Quarter of the Tribunal.

Clause 10 :—This clause empowers the State Government to prescribe the manner for revision of rates of minimum wages.

Clause 13 :—This clause empowers the state Government to establish an Agriculture workers welfare Fund and the rates of contribution of Government and the employer to the fund.

Clause 14 :—This clause empowers the State Government to constitute the employment Guarantee Board and to prescribe the term of office, conditions of service, the powers and functions of the Board.

Clause 20 :— This clause empowers the State Government to make rules to carry out the purposes of the Act.

The above are matters of an administrative or routine nature and therefore the delegation of Legislative power is of a normal character.

ATMARAM PARMAR,"
M. L. A.

Gandhinagar,
Dated the 15th July, 1994.

N. K. KATHIRIA,
Secretary,
Gujarat Legislative Assembly,



The Gujarat Government Gazette

EXTRAORDINARY

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V

Bill introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules.—

THE GUJARAT TOWN PLANNING AND URBAN DEVELOPMENT (AMENDMENT AND VALIDATION) BILL, 1994.

GUJARAT BILL NO. 28 OF 1994.

A BILL

further to amend the Gujarat Town Planning and Urban Development Act, 1976.

It is hereby enacted in the Forty-fifth Year of the Republic of India as follows:—

1. This Act may be called the Gujarat Town Planning and Urban Development (Amendment and Validation) Act, 1994.

2. In the Gujarat Town Planning and Urban Development Act, 1976 (hereinafter referred to as "the principal Act"), in section 7, in sub-section (1),—

(1) for the words "The functions of", the words "The powers and functions of" shall be substituted;

(2) after clause (iv), the following clause shall be and shall be deemed always to have been inserted, namely :—

"(iv-a) to levy and collect such scrutiny fees for scrutiny of documents submitted to the appropriate authority for permission for development as may be prescribed by regulations;"

(3) after clause (vii), the following clause shall be inserted, namely:—

"(vii-a) to levy and collect such fees for the execution of works referred to in Clause (vii) and for provision of other services and amenities as may be prescribed by regulations;"

3. In the principal Act, in section 9, in sub-section (1), after the words and figure "under section 5" the words, brackets and figures "or a local authority is designated as the area development authority under sub-section (1) of section 6," shall be inserted.

Short
title.

Amend-
ment of
section 7
of Presi-
dent's Act
No. 27
of 1976.

Amend-
ment of
section 9
of Presi-
dent's Act
No. 27
of 1976.

Amend-
ment of
section 23
of Presi-
dent's Act
No. 27
of 1976.

4. In the principal Act, in section 23, in sub-section (1),—

(1) for the words "The functions of", the words "The powers and functions of" shall be substituted;

(2) after clause (v), the following clause shall be and shall be deemed always to have been inserted, namely :—

"(v-a) to levy and collect such scrutiny fees for scrutiny of documents submitted to the appropriate authority for permission for development as may be prescribed by regulations;"

(3) after clause (vi), the following clause shall be inserted, namely :—

"(vi-a) to levy and collect such fees for the execution of works referred to in clause (vi) and for provision of other services and amenities as may be prescribed by the regulations;"

Amend-
ment of
section 26
of Presi-
dent's Act
No. 27 of
1976.

5. In the principal Act, in section 26, after the words "development charge", the words "and scrutiny fees" shall be inserted.

Amend-
ment of
section 91
of Presi-
dent's Act
No. 27
of 1976.

6. In the principal Act, in section 91, in sub-section (1), in clause (a), for the words "advances or otherwise", the words "advances, fees, development charges or otherwise" shall be substituted.

Amend-
ment of
section 119
of Presi-
dent's Act
No. 27 of
1976.

7. In the principal Act, in section 119, in sub-section (2),—

(1) after clause (c), the following clause shall be and shall be deemed always to have been inserted, namely :—

"(ci) regulations prescribing fees to be levied and collected under clause (iv-a) of sub-section (1) of section 7 ;";

(2) after clause (ci), as so inserted, the following clause shall be inserted, namely :—

"(cii) regulations prescribing fees to be levied and collected under clause (vii-a) of sub-section (1) of section 7 ;";

(3) after clause (cii), as so inserted, the following clause shall be and shall be deemed always to have been inserted, namely :—

"(ciii) regulations prescribing fees to be levied and collected under clause (v-a) of sub-section (1) of section 23 ;";

(4) after clause (ciii), as so inserted, the following clause shall be inserted, namely :—

"(c-iv) regulations prescribing fees to be levied and collected under clause (vi-a) of sub-section (1) of section 23 ;";

8. Notwithstanding anything contained in any judgement, decree or order of any court or any other authority—

Validation of levy and collection of scrutiny fees under principal Act.

(a) any regulation made or purported to have been made before the commencement of this Act by any appropriate authority under the principal Act for levy of scrutiny fee for scrutiny of documents submitted to the appropriate authority for permission for development shall be and shall be deemed always to have been validly made under the principal Act as amended by this Act as if the principal Act as amended by this Act had been in force at all material times when such regulation was made; and

(b) any scrutiny fees for scrutiny of documents submitted to the appropriate authority for permission for development, levied or levied and collected or purported to have been levied or levied and collected under any such regulation before the commencement of this Act shall be and shall be deemed always to have been validly levied or levied and collected; and

any such regulation made or purported to have been made or scrutiny fees levied or levied and collected or purported to have been levied or levied and collected under any such regulation shall not be called in question in any court or before any authority whatsoever merely on the ground that the making of such regulation or levy and collection of such scrutiny fees, by the appropriate authority, was not authorised under the principal Act and any such scrutiny fees levied before the commencement of this Act but not collected before such commencement, may be collected in accordance with provisions of the principal Act as amended by this Act and regulations made thereunder.

STATEMENT OF OBJECTS AND REASONS

The levy and collection of scrutiny fees (formerly known as development fees) by the Ahmedabad Urban Development Authority was declared as illegal in the judgement of the Supreme Court in Civil Appeal No. 10111 of 1983 (Ahmedabad Urban Development Authority vs Sharadkumar) reported in AIR 1992 SC 2038 on the ground that the regulations under which they were levied were *ultra vires* the provisions of the Gujarat Town Planning and Urban Development Act, 1976. It is considered necessary to amend the said Act to confer power on an area development authority or urban development authority to make regulations for levy and collection of scrutiny fees and to levy and collect the same according to the regulations so made and to validate the aforesaid levy and collection of scrutiny fees by an area development authority or an urban development authority under the regulations made by them. Opportunity is also taken—

(1) to confer power on the area development authority or urban development authority to levy and collect fees for execution of certain works and provisions of services and amenities and to make regulations therefore;

(2) to make provisions of section 9 applicable to cases where a local authority is designated as area development authority; and

(3) to amend section 26 with a view to prohibiting carrying out any development of a building or land without obtaining certificate from appropriate authority to the effect that scrutiny fees have been paid.

This Bill seeks to amend the said Act to carry out the aforesaid objects.

NARHARI AMIN,

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves delegation of legislative powers in the following respect :-

Clauses 2, 4 and 7.—Clauses (c-i) to (c-iv) proposed to be inserted in sub-section (2) of section 119 by this clause empower the appropriate authority to prescribe by regulations the fees to be levied and collected under clauses (vi-a) and (vii-a) of sub-section (1) of section 7 proposed to be inserted by clause 2 and fees to be levied and collected under clauses (v-a) and (vi-a) of the sub-section (1) of section 23 proposed to be inserted by clause 4.

The delegation of legislative powers as proposed is necessary and is of a normal character.

Dated the 16th December, 1994.

NARHARI AMIN,

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to the Government of Gujarat.
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated 17th December, 1994.

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PART V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules.—

THE BOMBAY LAND REVENUE (GUJARAT AMENDMENT) BILL, 1994.

GUJARAT BILL NO. 29 OF 1994.

A BILL

further to amend the Bombay Land Revenue Code, 1879.

It is hereby enacted in the Forty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Bombay Land Revenue (Gujarat Amendment) Act, 1994.

(2) This section shall come into force at once and the remaining provisions shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

2. In the Bombay Land Revenue Code, 1879 (hereinafter referred to as "the principal Act"), in Chapter XB, for the words "village accountant" wherever they occur, the words "competent authority" shall be substituted.

3. In the principal Act, in Chapter XB, after the heading "OF THE AGRICULTURIST PASS BOOK" but before section 135M, the following new section shall be inserted, namely:—

Short title and comment.

Amendment of Chapter XB of Bom. V of 1879.

Insertion of new section 135 LL in Bom. V of 1879.

Bom.
V of
1879.

Applica-
tion.

"135LL (1) This chapter shall apply to such taluka in a district as the State Government may, by notification in the *Official Gazette*, specify.

(2) This chapter shall cease to apply to such taluka in a district as the State Government may, by notification in the *Official Gazette*, specify.

(3) This chapter shall re-apply to such taluka in a district as the State Government may by notification in the *Official Gazette*, specify."

Amende-
ment of
section
135M of
Bom. V of
1879.

4. In the principal Act, in section 135M,—

(1) in sub-section (1), for the words "for which a village accountant is appointed", the words, brackets and figures "in a taluka to which this Chapter is applied under sub-section (1) or re-applied under sub-section (3) of section 135LL and for which a competent authority is appointed" shall be substituted;

(2) for sub-section (2), the following shall be substituted,—

"(2)(a) The agriculturist pass book shall be supplied to the agriculturist holding land in a taluka to which this Chapter is applied under sub-section (1) or re-applied under sub-section (3) of section 135LL.

(b) The pass book shall be supplied under clause (a)—

(i) within such period from the date on which this Chapter is applied to the taluka as the State Government may, by notification in the *Official Gazette*, specify; and

(ii) on payment of such fees as may be prescribed by rules made under this Act.

(c) The duplicate agriculturist pass book shall be retained by the competent authority."

Amende-
ment of
section
135N of
Bom. V of
1879.

5. In the principal Act, in section 135N, in the Explanation,—

(1) for the words, figures and letter "and section 135O", the words, figures and letters "and sections 135O and 135R" shall be substituted;

(2) in clause (iv), after the figures, "1970", the words, brackets and figures "or the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980" shall be inserted,

40 of
1980.

(3) after clause (ix), the following clauses shall be inserted, namely:—

"(ixa) a co-operative society registered under the Gujarat Co-operative Societies Act, 1961:

Guj. 10
of 1962.

(ixb) a panchayat constituted under the Gujarat Panchayats Act, 1993."

Guj. 18
of 1993.

Insertion
of new
section
135 OO
in Bom.
V of 1879.

6. In the principal Act, after section 135 O, the following new section shall be inserted, namely:—

"135.00 (1) No document of transfer of any agricultural land by sale, purchase, gift, mortgage whether with or without possession, exchange, partition, lease, surrender or otherwise shall be registered by any registering authority in a taluka to which this Chapter is applied under sub-section (1) or re-applied under sub-section (3) of section 135 LL unless such document is accompanied by the agriculturist pass-book relating to such land.

Document for registration of transfer of agricultural land to accompany the agriculturist pass-book.

(2) The registering authority shall after registering such document make necessary entries in the agriculturist pass-book of the agriculturist and thereafter return the pass-book to the agriculturist.

(3) The registering authority shall make a report in writing of such registration to the competent authority."

7. In the principal Act, for section 135P, the following shall be substituted, namely:—

Substitution of section 135P in Bom. V of 1879.

"135P. Whenever entries are transferred from the register of mutations to the record of rights under section 135D, the competent authority shall call for the agriculturist pass-book from the concerned agriculturist and thereupon the agriculturist shall produce the agriculturist pass-book before the competent authority within such period as may be prescribed by rules made under this Act and on such production of the pass-book the competent authority shall make entries therein, corresponding to those in the record of rights."

Agriculturists pass-book to be kept up-to-date

8. In the principal Act, for section 135R including the Explanation thereunder, the following shall be substituted, namely:—

Substitution of section 135R in Bom. V of 1879

"135R. A certified copy of any entry not being an entry made by a bank or registering authority in—

Mode of proof of entries in agriculturist pass-book.

(a) the duplicate agriculturist pass-book maintained by the competent authority, or

(b) the agriculturist pass-book of the agriculturist,

shall in all legal proceedings be received as *prima facie* evidence of the existence of such entry and shall be admitted as evidence of the matters, transactions and accounts therein recorded to the same extent as the original entry itself in the record of rights but not further or otherwise."

9. In the principal Act, in Chapter XB, after section 135R, as so substituted, the following sections and Explanation shall be added, namely:—

Addition of new sections and Explanation in Chapter XB of Bom. V of 1879.

Punish-
ment for
contraven-
tion of
section
135P.

"135S. Any agriculturist who contravenes the provision of section 135P shall be punished with fine which may extend to two hundred rupees.

Punish-
ment for
unauthori-
sed alter-
ation in
pass-
book or
furnish-
ing false
infor-
mation.

135T. Any person who unauthorisedly makes, alters or deletes any entry in the pass-book or furnishes false information to the competent authority in relation to the pass-book shall be punished with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees or with both.

Explanation.—For the purposes of this Chapter.—

(i) the expression 'agriculturist' means land holder who holds land for the purpose of agriculture;

(ii) the expression 'competent authority' means such revenue officer as the State Government may, by notification in the *Official Gazette*, appoint;

(iii) the expression 'registering authority' means the registering officer appointed under the Registration Act, 1908.

XVI
of 1908.

Amend-
ment of
section
214 of
Bom. V.
of 1879.

10. In the principal Act, in section 214, in sub-section (2), after clause (u), the following clause shall be added, namely:—

"(v) regulating the supply of agriculturist pass-book."

STATEMENT OF OBJECTS AND REASONS

This Bill seeks to amend Chapter XB of the Bombay Land Revenue Code, 1879 relating to the agriculturist pass-book with a view to—

- (1) providing for application of the Chapter gradually in the State, taluka wise.
- (2) providing for supply of pass-books to the agriculturists in a taluka within prescribed period from the date of application of the Chapter to a taluka.
- (3) providing for making necessary entries in agriculturist pass-book by the officer registering document of any transfer of land.
- (4) providing evidenciary value to the entries made by the competent authority in the agriculturist pass-book;
- (5) making unauthorised alteration in the pass-book and giving false information to competent authority as offences and prescribing penalties therefor.
- (6) to replacing the village accountant which is the implementing officer by the competent authority.

DALSUKHBHAI GODHANI.

FINANCIAL MEMORANDUM

New sub-section (2) of section 135M sought to be substituted by sub-clause (2) of clause 4 of the Bill provides for supply of agriculturist pass-book to an agriculturist holding agricultural land in a taluka to which Chapter XB is made applicable, on payment of such fees as may be prescribed by rules. It is intended to apply the provisions of chapter XB gradually in the State, taluka-wise. Initially it is intended to apply the provisions of Chapter XB to only three different talukas in the State. The provisions of the said sub-section (2) if enacted and brought into force initially in three different talukas would involve as estimated expenditure of one crore rupees from the Consolidated Fund of the State. The said expenditure would be of a non-recurring nature. The expenditure incurred for supplying the pass-books would be partially recovered from fees paid for supply of the agriculturists pass-books.

DALSUKHBHAI GODHANI,

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves delegation of legislative powers in the following respects :—

Clause 1.—Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the remaining provisions of the Act shall come into force.

Clause 3.—Sub-sections (1), (2) and (3) of new section 135LL sought to be inserted by this clause empowers the State Government to apply or to discontinue application or to re-apply by notification in the *Official Gazette*, Chapter XB to or in such taluka of a district as may be specified in such notification.

Clause 4.—(i) Clause (b) of sub-section (2) proposed to be substituted by sub-clause (2) of this clause empowers the State Government to specify by notification in the *Official Gazette*, the period from the date of application of Chapter XB within which an agriculturist pass-book shall be supplied to the agriculturist.

(ii) Sub-clause (ii) of clause (b) of the said sub-section (2) empowers the State Government to prescribe by rules the fees to be paid by the agriculturist for the pass-book supplied to him.

Clause 7.—Section 135P sought to be substituted by this clause empowers the State Government to prescribe by rules the period within which the agriculturist shall produce the agriculturist pass-book before the competent authority.

Clause 9.—Clause (ii) of the Explanation sought to be inserted by this clause empowers the State Government to appoint, by notification in the *Official Gazette*, a revenue officer to be a competent authority.

Clause 10.—Clause (v) sought to be added in sub-section (2) of section 214 by this clause empowers the State Government to regulate by rules the supply of agriculturist pass-book.

The delegation of legislative powers as proposed is necessary and is of a normal character.

Dated the 16th December, 1994.

DALSUKHBHAI GODHANI,

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated 17th December, 1994.

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PART V

Bill introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:—

THE GUJARAT BASIC EDUCATION BOARD BILL, 1994.

GUJARAT BILL NO. 30 OF 1994.

A BILL

to provide for establishment of a Board for promoting and regulating basic educational institutions in the State of Gujarat and for matters connected therewith or incidental thereto.

It is hereby enacted in the Forty-fifth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY.

1. (1) This Act may be called the Gujarat Basic Education Board Act, 1994.

(2) It extends to the whole of the State of Gujarat.

(3) This section shall come into force at once; and the remaining provisions of this Act shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

2. In this Act, unless the context otherwise requires,—

(a) “basic education” means education imparted through productive work;

(b) “basic educational institutions” means institutions imparting to students residing in such institutions—

(i) basic education from first standard to seventh standard known as residential *Ashram* schools; or

Short
title,
extent
and
commence-
ment.

Defini-
tions.

(ii) post basic education from eight standard to the standard determined by the State Government under clause (u) of section 2 of the Gujarat Secondary Education Act, 1972; or

Guj. 18 of 1973.

(iii) higher post basic education from the standard next to that determined by the State Government under clause (u) of section 2 of the Gujarat Secondary Education Act, 1972 to twelfth standard; or

Guj. 18 of 1973.

(iv) higher rural education from thirteenth standard to fifteenth standard; or

(v) pre-primary teachers training or primary teachers training; or

(vi) graduate basic training College registered under the Gujarat Secondary Education Act, 1972, or as the case may be, recognised by the State Government;

Guj. 18 of 1973.

(a) "Board" means the Gujarat Basic Education Board established under section 3;

(d) "bye-laws" means bye-laws made by the Board under section 40;

(e) "Chairman" means the Chairman of the Board;

(f) "committee" means a committee appointed under section 18 ;

(g) "Deputy Chairman" means the Deputy Chairman of the Board;

(h) "head master" means the head of the teaching and non-teaching staff of any school imparting basic education by whatever style designated;

(i) "hostel" means a unit of residence of students maintained by any basic educational institution ;

(j) "manager" in relation to any post basic institution means person or a body of persons in charge of the control or management of the institution;

(k) "non-teaching staff" means such staff of a school imparting basic education as is appointed to perform any duty or function other than that of teaching;

(l) "post basic school" means a school imparting post basic education and registered under the Gujarat Secondary Education Act, 1972,

Guj. 18 of 1973.

(m) "prescribed" means prescribed by regulations made under this Act;

(n) "Secondary Education Act" means the Gujarat Secondary Education Act, 1972;

Guj. 18 of 1973.

(o) "teacher" means a teacher of any school imparting basic education but does not include a head master.

CHAPTER II

CONSTITUTION, INCORPORATION AND POWERS OF BOARD.

Establishment, incorporation and constitution of Board.

3. (1) With effect on and from such date as the State Government may, by notification in the *Official Gazette*, specify in this behalf, there shall be established for the purpose of this Act a Board to be called the Gujarat Basic Education Board.

(2) The Board shall be a body corporate and have perpetual succession and common seal and may by the said name sue or be sued and shall be competent to acquire, hold and dispose of property, both moveable and immoveable, and to contract and to do all things necessary for the purposes of this Act.

(3) The Board shall consist of a Chairman, a Deputy Chairman and following members, appointed by the State Government, namely:—

(i) One member from amongst the principals of basic educational institutions imparting higher rural education from thirteenth standard to fifteenth standard;

- (ii) one member from amongst the principals of graduate basic training colleges;
- (iii) one member from amongst the principals of pre-primary and primary teachers training colleges;
- (iv) three members from amongst the headmasters;
- (v) one member from amongst the teachers of basic educational institutions imparting higher rural education from thirteenth standard to fifteenth standard;
- (vi) one member from the teachers of pre-primary and primary teachers training colleges;
- (vii) two members from amongst the teachers;
- (viii) two members from amongst representatives of management of basic educational institutions;
- (ix) president of the Gujarat Nai Talim Sangh and two members from amongst members of its Executive Committee.
- (x) two members from amongst persons engaged in the promotion of basic education.
- (xi) two members from amongst eminent educationalists;
- (xii) The Commissioner of Higher Education, Gandhinagar.
- (xiii) The Director of Technical Education, Gandhinagar.
- (xiv) The Director of Primary Education, Gandhinagar.
- (xv) The Chairman, Gujarat Secondary Education Board, Gandhinagar.
- (xvi) The Director, Gujarat State Board of School Text Books, Gandhinagar.
- (xvii) The Director of Gujarat Council of Education Research and Training Ahmedabad.
- (xviii) The Chairman, Higher Secondary Education Board.
- (xix) The Chairman, Gujarat State Examination Board;
- (xx) One officer of the Government of Gujarat in the Education Department not below the rank of the Deputy Secretary;
- (xxi) one officer of the Government of Gujarat in the Finance Department not below the rank of Deputy Secretary;

4. The head quarter of the Board shall be at such place as may be determined by the State Government.

Head-
quarter
of
Board.

5. (1) The Chairman and the Deputy Chairman shall be appointed for such period not exceeding four years from the date of their appointment as the State Government may in each case determine.

(2) The State Government may from time to time extend the term of office of the Chairman or Deputy Chairman so however that the total period for which the Chairman or the Deputy Chairman may hold office shall not exceed eight years.

(3) The Chairman and the Deputy Chairman shall not be eligible for re-appointment.

(4) The salaries or, as the case may be, honoraria, allowances and other conditions of service of the Chairman, and the Deputy Chairman shall be such as may be determined by the State Government.

Term of
office
and
condition
of service
of
Chairman
and
Deputy
Chairman
of
Board.

(5) Notwithstanding anything contained in sub-sections (1) and (2), the State Government may, after giving him a reasonable opportunity of being heard, terminate the appointment of the Chairman or the Deputy Chairman at any time before the expiry of the period of appointment determined or extended under the said sub-sections and shall terminate his appointment if he becomes subject to any of the disqualifications specified in clause (a) or (c) of section 8.

Term of
office
of
members
of
Board.

6. The members of the Board shall hold office for a term of three years from the date on which their names are published in the *Official Gazette*.

Temporary
vacancy
of
Chairman
and
Deputy
Chairman.

7. When a temporary vacancy in the office of the Chairman or Deputy Chairman occurs, by reason of leave or illness of the incumbent of that office or due to any other cause; the State Government may appoint another person to be the Chairman or as the case may be, the Deputy Chairman during the period of such vacancy on such salary, or as the case may be, honorarium, allowances and other conditions of service as may be determined by the State Government.

Dis-
qualifi-
cation of
Chairman,
Deputy
Chairman
and
members
of
Board.

8. A person shall be disqualified for being appointed or for continuing as Chairman, Deputy Chairman or a member of the Board or of any Committee appointed under this Act,—

(a) if he directly or indirectly or his partner—

(i) has or had any share or interest in any guide book published in connection with any text book prescribed for the Secondary School Certificate Examination or any other examination as may be determined by the Gujarat Secondary Education Board or entrusted to that Board by the State Government; or for any examination in basic educational institution; or

(ii) has any share or interest in any work done by order of or in any contract entered into by or on behalf of the Board;

Provided that a person who had any share or interest in any guide book referred to in sub-clause (i) shall not be deemed to have incurred the disqualification under that sub-clause, if five years have elapsed from the date of publication of such guide book;

(b) if he is a person against whom an order of removal from office has been made under sub-section (I) of section 14 and five years have not elapsed from the date of the order of his removal from office;

(c) if he—

(i) has been adjudged by a Court of law to be of unsound mind;

(ii) is an undischarged insolvent;

(iii) has been convicted by a court of law for an offence involving moral turpitude.

Vacancy
of
member
owing
to dis-
qualifi-
cation.

9. If a member of the Board or any Committee becomes subject to any of the disqualifications mentioned in section 8, his office shall thereupon become vacant.

10. If a member of the Board remains absent without the permission of the Chairman from any three consecutive meetings thereof, his office shall thereupon become vacant.

Vacancy of member owing to absence without permission.

11. If any question arises as to whether the office of any member has become vacant under section 9 or 10, the question shall be referred for the decision of the State Government, and the State Government shall, after giving reasonable opportunity to be heard to the member, decide the question and its decision shall be final.

Decision on question as to vacancy.

12. Any vacancy under section 9 or 10 shall be notified by the Board in the *Official Gazette*.

Vacancy to be notified.

13. A member of the Board not being an official member may resign his office at any time by tendering his resignation in writing to the Chairman of the Board.

Resignation of member.

14. (1) The State Government may, on its own motion or, on the recommendation of the Board and after making such inquiry, if any as it may think fit to make, by an order in writing remove any member of the Board from office, if such member has been guilty of any such misconduct as in the opinion of the State Government, renders him unfit to be continued as a member:

Removal of member.

Provided that, no such recommendation shall be made by the Board and no removal of the member shall be made by the State Government unless the member to whom it relates has been given reasonable opportunity of showing cause why such recommendation should not be made, or as the case may be, why he should not be removed.

(2) The name of any member who has been removed from office under sub-section (1) shall be published by the Board in the *Official Gazette*.

15. (1) The Board shall meet not less than three times in every year and ordinarily four months shall not intervene between any two successive meetings.

Meetings of Board.

(2) The Chairman may, at any time, and shall, upon the written request of not less than one-third of the total number of members of the Board, call a special meeting of the Board, on a date not later than twenty-one days after the receipt of such request by the Chairman.

16. (1) The Board may associate with itself in such manner and for such purposes, as may be provided by regulations any person whose assistance or advice it may desire in performing any of its duties under this Act.

Temporary association of persons with Board for particular purposes.

(2) Any person associated with it by the Board under sub-section (1) for any purpose shall have a right to take part in the discussions of the Board relevant to that purpose, but shall not have a right to vote at a meeting of the Board.

**Powers
and
duties of
Board.**

17. Subject to the provisions of this Act, the powers and duties of the Board shall be as follows, namely:—

(1) to advise to the State Government on a reference made to it or on its own motion on matters of policy relating to education in basic educational institutions in general, and on the following matters in particular, namely:—

(a) evolution of suitable pattern of basic education to be imparted by basic educational institutions; (hereinafter in this section referred to as "the institutions");

(b) prescription and maintenance of educational standards for such patterns of basic education,

(c) integration of national and State policy in respect of basic education,

(d) matters pertaining to planning, programme and organisation of basic education;

(2) to recommend to the State Government the curricula and detailed syllabi relating to basic education in the institutions and to approve and recommend to the State Government text books for use in such institutions;

(3) to prescribe measures for, promotion of, physical, moral and social welfare of, and for or induction of spirit of discipline among students in such institutions and to prescribe standards for, and conditions of, residence to be provided in hostels;

(4) to guide and help the institutions in their search for talent and their endeavour to lead them to peaks of excellence;

(5) to permit and encourage institutions to carry out useful educational experiments and research in basic education and to prescribe the conditions subject to which such experiments and research shall be carried out;

(6) to recommend an institution for being registered under the Secondary Education Act or, as the case may be, recognised by the State Government;

(7) to recommend removal of the name of a registered institution from the register under the Secondary Education Act or the derecognition of a recognised institution;

(8) to recommend to the State Government a cut in maintenance grant, if, after giving a reasonable opportunity of being heard to the management of the institution, the Board is of opinion that the institution is conducted in a manner prejudicial to the interests of basic education or has failed to carry out any instructions issued by the Board to ensure maintenance of academic standards in basic education;

(9) to conduct statistical and other research for the purpose of evolution and reform in the curricula, instruction and examination in relation to the institutions and to guide the institutions in conducting such research;

(10) to lay down standards for testing students, for conducting examinations and for promotion of students from one standard to the next higher standard in institutions imparting basic education from first standard to seventh standard and higher rural education from thirteenth standard to fifteen standard and institutions imparting graduate basic training (hereinafter referred to as the specified institutions);

(11) to prescribe the standards including qualifications for appointment of the staff of the specified institutions and the standard requirements in respect of building, laboratory, library, agricultural farm, animal husbandary shed, craft workshop, furniture, equipment, stationary and other articles for conducting such specified institutions; and in respect of agricultural farm, animal husbandary shed and craft workshop for conducting institutions imparting post basic and higher post basic education;

- (12) to recommend the institutions supplementary reading books and library books;
- (13) to lay down conditions for admission of students in specified institutions;
- (14) to prescribe the number of students to be admitted in a division of any standard in the specified institutions;
- (15) to lay down conditions for migration of students from one recognised institution to another recognised institution ;
- (16) to regulate the arrangements of terms, holidays and vacations in specified institutions ;
- (17) to regulate the method of preparing and keeping registers and other records in respect of academic matters, by the institutions ;
- (18) to cause academic inspection of the institutions by a person authorised by it and to take measures to ensure that proper standards of basic education are maintained therein and that adequate provisions are made for library, laboratory, boarding and lodging facilities and health services ;
- (19) to call for any report and information from any institution ;
- (20) to lay down qualifications, methods of selection and conditions of appointment, promotion and termination of employment and rules for conduct and discipline of the principal or, as the case may be, the headmaster and the teaching and non-teaching staff, of the specified institutions ;
- (21) to institute and award scholarships, stipends, medals, prizes and other rewards and to prescribe conditions thereof;
- (22) to administer its fund ;
- (23) to receive grants, bequests, donations, endowments, trusts and other transfers of any property or interest therein or right thereto ;
- (24) to hold any property, interest or right referred to in clause (23) and to manage and deal with the same;
- (25) to consider and approve the annual reports and to prepare financial estimates and to forward the same to the State Government for its sanction ;
- (26) to make regulations for carrying out the purposes of this Act ;
- (27) to make bye-laws relating to matters such as procedure to be followed by the Board and committees, travelling allowances to be drawn by members of the Board and committees and any other matter solely concerning the Board and its committees that are not provided for by this Act and the regulations made thereunder ;
- (28) to exercise such other powers and to perform such other duties as may be conferred or imposed upon it by or under this Act;
- (29) to do all other such acts and things as may be necessary to carry out the purposes of this Act.

18. (1) For the performance of its functions the Board shall appoint from amongst its members an Executive Committee and may appoint such other committees as it thinks necessary and it shall be lawful for the Board to appoint a person who is not a member of the Board as a member of any such committees:

Committees.

Provided that nothing in this sub-section shall be deemed to preclude the Chairman or the Deputy Chairman from being named by the Board as a member of any such committee :

Provided further that where the Chairman or the Deputy Chairman is named as member of any committee, the Chairman or, as the case may be, the Deputy Chairman shall be the Chairman of such committee.

(2) Subject to the provisions contained in sub-section (1), the constitution of every committee appointed by the Board under sub-section (1), the term of office of its members and the functions of the Board to be performed by it shall be such as may be prescribed.

Explanation.—For the purpose of this section the Chairman and the Deputy Chairman of the Board shall be deemed to be its members.

**Powers of
Chairman
and
Deputy
Chairman.**

19. (1) The Chairman shall, when present, preside at the meetings of the Board and in his absence the Deputy Chairman shall preside at such meeting :

Provided that if at any meeting of the Board the Chairman and the Deputy Chairman are both absent, the members present shall elect a member from amongst themselves to preside at that meeting.

(2) It shall be the duty of the Chairman to ensure that the provisions of this Act and the regulations and by-laws made thereunder are faithfully observed and he shall have all powers necessary for this purpose.

(3) In an emergency which, in the opinion of the Chairman, requires that immediate action should be taken, the Chairman shall take such action as he deems necessary and shall, thereafter, report his action to the Board at its next meeting.

(4) The Chairman shall have power to convene meetings of the Board as provided for in section 15 and stating the business to be brought before the meeting.

(5) The Chairman shall exercise such other powers and perform such other duties as may be prescribed.

(6) The Deputy Chairman shall perform such duties and functions as may be prescribed or as may be assigned to him by the Chairman from time to time.

(7) Subject to the provisions of section 7, the Deputy Chairman shall in the absence of the Chairman act as Chairman and shall, while so acting, exercise all powers and perform all duties and functions of the Chairman.

(8) The Chairman and the Deputy Chairman shall be entitled to take part in all proceedings of the Board and of any committee thereof of which they may be named as members, including the exercise of right to vote, but, save as otherwise provided they shall not be deemed to be the members of the Board.

**Appoint-
ment,
powers
and
duties of
Secretary,
Joint
and
Assistant
Secretaries
of the
Board.**

20. (1) The Board shall have a Secretary [who shall be appointed by the State Government.

(2) The Secretary shall, subject to the control of the Chairman, be the Executive Officer of the Board, and all other officers and servants for the time being serving under the Board shall be subordinate to him.

(3) He shall exercise such powers as may be prescribed.

(4) He shall be entitled to be present at the meetings of the Board and its committees but shall not be entitled to vote.

(5) The State Government may appoint one or more Joint Secretaries or Assistant Secretaries for the Board, as the State Government may, having regard to the requirements of the Board, think fit to appoint.

(6) A Joint Secretary or an Assistant Secretary shall exercise such powers and perform such duties of the Secretary as are respectively assigned to him by the Secretary under the general or special orders of the Chairman.

21. The State Government may appoint such other officers and servants as may be required to enable the Board to discharge its functions under this Act :

Provided that the State Government may by order delegate to the Chairman or to the Secretary, the powers of appointing such classes of servants as may be specified in the order.

22. The Chairman, Deputy Chairman, Secretary, Joint and Assistant Secretaries and other officers and servants appointed under this Act shall be the servants of the State Government, and they shall draw their salaries or, as the case may be, honours and allowances from the Consolidated Fund of the State. The salaries and allowances and other conditions of service of these officers other than the Chairman and Deputy Chairman shall be such as may be determined by the State Government.

Other officers and servants of the Board.

Salaries and allowances and other conditions of service of Secretary, Joint and Assistant Secretaries and of officers and servants of Board.

CHAPTER III

FINANCE, ACCOUNTS AND AUDIT.

23. (1) The Board shall have its own Fund and the following moneys shall be credited thereto :—

Board's Fund, its custody and investment.

(a) grants, assignments, contributions and loans, if any, given to it by the State Government ;

(b) bequests, donations and endowments or other contributions, if any, given to it ;

(c) interest on, and sale proceeds of securities vested in it ;

(d) all rents and profits from the property vested in it ;

(e) other moneys received by it or on behalf of it.

(2) The Fund shall be kept in any Scheduled Bank as defined in the Reserve Bank of India Act, 1934, in the Postal Savings Bank or in a Co-operative Bank approved by the State Government under section 35 of the Bombay Public Trusts Act, 1950 or at the discretion of the Board be invested in public securities authorised by the Indian Trusts Act, 1882.

V-Ex.-30-3

II of
1934.
Bom.
XXIX of
1950.
II of
1882.

Board
to pay
from the
fund on
account of
salary,
pension,
etc.

24. The Board shall pay every year out of its own Fund to the State Government such amount as the State Government may determine on account of the salary or honorarium, pension, leave and other allowances of the Chairman, Deputy Chairman, Secretary, Joint Secretaries and Assistant Secretaries and other officers and staff of the Board.

Grants to
Board.

25. The State Government may, after due appropriation made by the State Legislature by law in this behalf, make such grants to the Board as the State Government may deem necessary for enabling the Board to discharge its functions under this Act.

Power of
Board to
borrow.

26. (1) The Board may, subject to such conditions as may be prescribed in this behalf, borrow money from the open market or otherwise with a view to providing itself with adequate resources.

(2) All moneys borrowed under sub-section (1) may be guaranteed by the State Government as to the repayment of principal and the payment of interest at such rates and on such conditions as the State Government may determine at the time the moneys are borrowed.

(3) The Board may also accept deposits from institutions or general public for the purpose of providing itself with adequate resources.

Applica-
tion of
Fund.

27. Subject to the provisions of this Act, the Fund of the Board shall be applied only towards the payment of charges and expenses incidental to the matters specified in this Act and for any other purpose for which by or under this Act, powers are conferred or duties are imposed, upon the Board.

How the
fund
shall be
drawn
against.

28. No moneys shall be withdrawn by the Board from a Bank except upon a cheque or letter of credit signed by two officers of the Board duly authorised by it in this behalf.

Prepara-
tion of
annual
budget
estimates.

29. The Board shall prepare before such date and in such manner as may be prescribed, the budget estimates of the income and expenditure of the Board for the next financial year and submit them to the State Government three months before the commencement of the financial year. The State Government may pass such orders with reference to the budget estimates of the Board as it thinks fit, and communicate the same to the Board, within a period of three months from the date they are submitted to it and the Board shall give effect to such orders.

Annual
accounts
and audit.

30. (1) The accounts of the Board shall be prepared and maintained in such form and manner as may be prescribed.

(2) The Board shall cause to be prepared for each financial year an annual statement of accounts in such form as may be prescribed.

(3) The accounts of the Board shall be audited by an auditor duly qualified to act as an auditor of companies under section 226 of the Companies Act, 1956.

1 of 1956.

(4) The said auditor shall be appointed by the State Government in consultation with the Comptroller and Auditor General of India.

(5) Every auditor appointed to audit the accounts of the Board under this Act shall have a right to demand the production of books of accounts, connected vouchers and other documents and papers, to inspect the offices of the Board and to require such information from the Board as he may think necessary for performance of his duty as an auditor.

(6) The auditor shall send a copy of his report together with an audited copy of accounts to the Board which shall as soon as may be after the receipt of the audit report forward the same to the State Government.

(7) The State Government shall, as soon as may be, after the receipt of the audit report under sub-section (6), cause the same to be laid before the State Legislature.

CHAPTER IV

MISCELLANEOUS

31. All casual vacancies among the members of the Board or of any Committee shall be filled, as soon as may be, by appointment and the person appointed in the casual vacancy shall hold office so long only as the member in whose place he is appointed would have held it, if the vacancy had not occurred.

Casual
vacancies.

32. Subject to the provisions contained in this Act, no act or proceeding of the Board or of any Committee shall be invalid merely by reason of any vacancy in or any defect in the constitution of, the Board or, as the case may be, the Committee.

Acts and
proceedings not
to be in-
valid by
reasons of
vacancies
or defects
in consti-
tutions.

33. The Board shall furnish to the State Government such reports, returns, and statements as may be required by the State Government and such further information relating to any matter connected with its work as the State Government may call for.

Informa-
tion,
returns,
etc. to be
furnished
by Board.

34. (1) The State Government shall have the power, after considering the views, if any, tendered by the Board, to issue to the Board such directions as it may consider necessary in regard to all or any of the matters specified in section 17, and the Board shall comply with such directions.

Powers
of State
Govern-
ment to
issue direc-
tions.

(2) The State Government shall also have the right to address the Board with reference to anything the Board has conducted or done, or is conducting or doing, or intends to conduct or do and to communicate to the Board its views in the matter.

(3) The Board shall report to the State Government such action, if any, as it proposes to take or has taken upon the communication, and shall furnish an explanation if it fails to take action.

(4) If the Board does not within a reasonable time take action to the satisfaction of the State Government, the State Government may, after considering any explanation furnished or representation made by the Board, issue such directions consistent with this Act, as it may think fit, and the Board shall comply with such directions.

(5) In any emergency which, in the opinion of the State Government, requires that immediate action be taken, the State Government may take such action consistent with this Act as it deems necessary, without previous consultation with the Board and shall forthwith inform it of the action taken.

(6) The State Government may by order in writing specifying the reasons thereof suspend the execution of any resolution or order of the Board and prohibit the doing of the action ordered to be of purporting to be ordered to be done by the Board, if it is of the opinion that such resolution, order or act is in excess of the powers conferred upon the Board by or under this Act.

Chairman,
Deputy
Chairman,
etc. to
be public
servants.

35. The Chairman, Deputy Chairman, members of the Board and all officers and servants referred to in sections 20 and 21 shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

XLV
of 1860.

Indemnity
for act
done in
good faith.

36. No suit, prosecution or other legal proceeding shall lie against the Chairman, Deputy Chairman or a member of the Board or against any officer or servant referred to in section 20 or 21 or against any other person in respect of anything in good faith done or intended to be done by him in the exercise of his powers or in discharge of his duties under this Act.

Dissolu-
tion or
superse-
ssion of
the Board
in certain
circums-
tances.

37. (1) If in the opinion of the State Government, the Board is not competent to perform or is not properly performing, or deliberately makes default in performing, the duties imposed on it by or under this Act or the regulations made thereunder or other wise by law or exceeds or abuses its powers or is acting or has acted contrary to the provisions of this Act or the regulations made thereunder, or fails to obey any direction issued to it under section 34, the State Government may after giving the Board an opportunity to render an explanation, by an order published, with the reasons therefor, in the *Official Gazette*, dissolve the Board or supersede it for such period not exceeding three years as may be specified in the order; and such period may extend beyond the term for which the members of the Board would have held office under section 6, if the Board had not been superseded under this section.

(2) When the Board is dissolved or superseded, the following consequences shall ensue:—

(a) all members of the Board shall, in the case of supersession, as from the date of the order of supersession, and in the case of dissolution as from the date specified in the order of dissolution, vacate their offices as such members;

(b) all powers, duties and functions of the Board and of its Committees shall, during the period of dissolution or supersession, be exercised and performed by such person or persons as the State Government may, from time to time, appoint in that behalf;

(c) all property vested in the Board shall during the period of dissolution or supersession vest in the State Government.

(3) After the dissolution of the Board, the Board shall be re-established and reconstituted in the manner provided in this Act on or before such date as may be specified by the State Government in the order of dissolution under sub-section (1).

(4) Where the Board is superseded, it shall be re-established and reconstituted in the manner provided in this Act on the expiration of the period of supersession.

Power of
Board
to make
regula-
tions.

38. (1) The Board may make regulations for the purpose of carrying into effect the provisions of this Act;

(2) In particular and without prejudice to the generality of the foregoing power such regulations may provide for all or any of the matters, namely:—

(a) the manner in which and purposes for which the Board may associate with itself any person under sub-section (1) of section 16;

(b) the educational standards for patterns of basic education under sub-clause (b) of clause (1) of section 17;

(c) the measures and the standards for matters referred to in clause (3) of section 17;

(d) the standards for matters referred to in clause (11) of section 17;

(e) the number of students to be admitted in a division of any standard in the specified institutions under clause (14) of section 17;

(f) the constitution of Committee, the term of office of its members and functions of the Board to be performed by such Committee, under sub-section (2) of section 18;

(g) other powers to be exercised and other duties to be performed by the Chairman and duties and functions to be performed by the Deputy Chairman under sub-sections (5) and (6) of section 19;

(h) the powers to be exercised by the Secretary as Executive Officer of the Board, under sub-section (3) of section 20;

(i) the conditions subject to which the Board may borrow money in the open market or otherwise under sub-section (1) of section 26;

(j) the date before which and the manner in which the Board shall frame the budget estimates, under section 29;

(k) the form and manner in which the accounts of the Board shall be prepared and maintained under sub-section (1) of section 30;

(l) the form in which, the Board shall cause to be prepared for each financial year an annual statement of accounts, under sub-section (2) of section 30;

(m) any other matter which is to be or may be prescribed under this Act.

39. Notwithstanding anything contained in section 38 the first regulations shall be made by the State Government and they shall continue to be in force until new regulations are duly made and sanctioned under that section.

First
regula-
tions.

40. The Board may make bye-laws consistent with this Act and the regulations made thereunder to provide for all or any of the following matters, namely:—

Board
to make
bye-laws.

(a) the procedure to be followed at the meetings of the Board and the Committees appointed by it and the number of members required to form a quorum at such meetings;

(b) the travelling and daily allowances which may be drawn by members of the Board or any committee.

(c) any other matter solely concerning the Board and its Committees not provided for by this Act or the regulations made thereunder.

41. If any question arises regarding the interpretation of any provision of this Act or any regulation or by-law made thereunder, the matter may be referred for decision to the State Government and shall be so referred to the State Government, if not less than one-half members of the Board so requires. The decision of the State Government shall be final.

Interpra-
tion in
case of
doubts.

42. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by general or special order published in the *Official Gazette* make such provision not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for the purpose of removing the difficulty.

Power to
remove
difficul-
ties.

STATEMENT OF OBJECTS AND REASONS

The State Government has by its resolution in the Education Department dated the 8th October, 1990 set up the Gujarat Buniadi Education Board to advise the Government in matters relating to basic educational institutions in the State. It is considered necessary to replace the non statutory Board by a statutory Board and entrust the statutory Board the function of promoting and regulating the basic educational institutions in the State so as to bring about the concept of Mahatma Gandhi, of buniadi educational system in the State. The Bill seeks to carry out the aforesaid objects.

The following notes on clauses explain the important provisions of the Bill;

Clause 1.—This clause relates to short title, extent and commencement.

Clause 2.—This clause provides for definitions of words and expressions appearing in the Bill.

Clause 3.—This clause provides for establishment, incorporation and constitution of Gujarat Basic Education Board.

Clause 5.—This clause provides for term of office and conditions of service of Chairman and Deputy Chairman of the Board.

Clause 6.—This clause provides for term of office of the members of the Board.

Clause 8.—This clause provides for disqualifications of Chairman and Deputy Chairman and members of the Board.

Clause 13.—This clause provides for resignation of a member.

Clause 14.—This clause provides for removal of a member.

Clause 15.—This clause provides for meetings of the Board.

Clause 16.—This clause provides for temporary association of persons with the Board for particular purposes.

Clause 17.—This clause provides for powers and duties of the Board.

Clause 18.—This clause provides for committees of the Board.

Clause 19.—This clause provides for powers of Chairman and Deputy Chairman.

Clause 20.—This clause provides for appointment, powers and duties of Secretary, Joint and Assistant Secretary of the Board.

Clause 21.—This clause provides for appointment of other officers and servants of the Board.

Clause 22.—This clause provides for salaries and allowances and other conditions of service of Secretary, Joint and Assistant Secretaries and other officers and servants of the Board.

Clause 23.—This clause provides for Board's fund, its custody and investment.

Clause 25.—This clause provides for grants to Board.

Clause 26.—This clause provides for power of Board to borrow.

Clause 27.—This clause provides for application of Fund of Board.

Clause 29.—This clause provides for preparation of annual budget estimates.

Clause 30.—This clause provides for annual accounts and audit.

Clause 34.—This clause empowers the State Government to issue directions to the Board in regard to matters specified in clause 17.

Clause 37.—This clause provides for dissolution or supersession of the Board in certain circumstances.

Clause 38.—This clause empowers the Board to make regulations generally for the purpose of carrying into effect the provisions of the Act and particularly in respect of matters specified therein.

Clause 39.—This clause empowers the State Government to make first regulations.

Clause 40.—This clause empowers the Board to make bye-laws.

Clause 42.—This clause empowers the State Government to remove any difficulty which may arise in giving effect to the provisions of the Act.

NARHARI AMIN.

FINANCIAL MEMORANDUM

Clause 25 of the Bill provides for payment of grants to the Board by the State Government for enabling it to discharge its functions. This provision, if enacted and brought into operation, would involve an estimated annual recurring expenditure of rupees six lakhs from the Consolidated Fund of the State towards the grants to be paid to the Board.

The present staff of the Gujarat Basic Education Board and some of the officers and staff working in the offices under the administrative control of the Education Department would be placed at the disposal of the Board. Hence, at present, no additional expenditure would be incurred on account of the officers and staff for the Board.

NARHARI AMIN

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill provides for delegation of legislative powers in the following respects, namely:—

Clause 1.—Sub-clause (3) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the remaining provisions of the Act shall come into force.

Clause 3.—Sub-clause (1) of this clause empowers the State Government to specify, by notification in the *Official Gazette* the date with effect on and from which there shall be established the Gujarat Basic Education Board.

Clause 16.—Sub-clause (1) of this clause empowers the Board to provide by regulations the manner in which and purposes for which the Board may associate with itself persons whose assistance or advice it may desire.

Clause 17.—(i) Paragraph (b) of sub-clause (1) of this clause empowers the Board to prescribe by regulations educational standards for patterns of basic education evolved by it.

(ii) Sub-clause (3) of this clause empowers the Board to prescribe by regulations the measures for promotion of physical, moral and social welfare of and for inculcation of spirit of discipline amongst student in basic educational institutions and standards for, and conditions of, residence to be provided in hostels.

(iii) Sub-clause (11) of this clause empowers the Board to prescribe by regulations the standards of the staff of specified institutions and the standard requirement in respect of things specified therein.

(iv) Sub-clause (14) of this clause empowers the Board to prescribe by regulations the number of students to be admitted in a division of any standard in the specified institutions.

(v) Sub-clause (26) of this clause empowers the Board to make regulations for carrying out the purposes of the Act.

(vi) Sub-clause (27) of this clause empowers the Board to make bye-laws relating to matters specified therein.

Clause 18.—Sub-clause (2) of this clause empowers the Board to prescribe by regulations, the constitution of committee, the terms of office of its members, and functions of the Board to be performed by it.

Clause 19.—(i) Sub-clause (5) of this clause empowers the Board to prescribe by regulations the other powers to be exercised and other duties to be performed by the Chairman.

(ii) Sub-clause (6) of this clause empowers the Board to prescribe by regulations the duties and functions to be performed by the Deputy Chairman.

Clause 20.—Sub-clause (3) of this clause empowers the Board to prescribe by regulations the powers to be exercised by the Secretary of the Board.

Clause 26.—Sub-clause (1) of this clause empowers the Board to prescribe by regulations the conditions subject to which the Board may borrow money from the open market or otherwise.

Clause 29.—This clause empowers the Board to prescribe by regulations the date before which and the manner in which the budget estimates shall be prepared by the Board.

Clause 30.—(i) Sub-clause (1) of this clause empowers the Board to prescribe by regulations the form and manner in which the accounts of the Board shall be prepared and maintained.

(ii) Sub-clause (2) of this clause empowers the Board to prescribe by regulations the form in which an annual statement of accounts shall be prepared for each financial year.

Clause 37.—This clause empowers the State Government by notification in the Official Gazette to dissolve or supersede the Board.

Clause 38.—This clause empowers the Board to make regulations generally for the purpose of carrying into effect the provisions of the Act and particularly for matters specified in it.

Clause 39.--This clause empowers the State Government to make the first regulations.

Clause 40.--This clause empowers the Board to make bye-laws to provide for all or any of the matters specified therein.

Clause 42.--This clause empowers the State Government to make by an order published in the *Official Gazette* any provisions as may appear to it to be necessary or expedient for the purpose of removing any difficulty arising in giving effect to the provisions of the Act.

The delegation of legislative powers as aforesaid is necessary and is of normal character.

Dated the 16th December, 1994.

NARHARI AMIN.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 17th December, 1994.



The Gujarat Government Gazette
EXTRAORDINARY
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Vol. XXXV]

FRIDAY, DECEMBER 23, 1994/PAUSA 2, 1916

Separate paging is given to this Part in order that it
 may be filed as a separate compilation.

PART V**Bill introduced in the Gujarat Legislative Assembly.**

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*, The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules,—

**THE GUJARAT LEGISLATIVE ASSEMBLY MEMBERS (REMOVAL OF
 DISQUALIFICATIONS) (AMENDMENT) BILL, 1994.**

GUJARAT BILL NO. 31 OF 1994.

A BILL

*further to amend the Gujarat Legislative Assembly Members (Removal of Disqualifications)
 Act, 1960.*

It is hereby enacted in the Forty-fifth Year of the Republic of India as follows :—

1. This Act may be called the Gujarat Legislative Assembly Members (Removal of Disqualifications) (Amendment) Act, 1994.

Short title.

Guj. 1 of 1960.

2. In the Gujarat Legislative Assembly Members (Removal of Disqualifications) Act, 1960, in the Schedule, after entry 30, the following entries shall be added, namely:—

Amend-
ment of-
Sche-
dule to
Guj. 1 of
1960.

“31. The Office of Chairman or Director of the Gujarat Mineral Development Corporation Limited;

Guj. XX of 1964.

32. The Office of Chairman of the Gujarat State Agricultural Marketing Board established under the Gujarat Agricultural Produce Markets Act, 1963.”

31-1

V-Ex.-31-1

STATEMENT OF OBJECTS AND REASONS.

Some of the Boards and Corporations formed by the State Government require able hands experienced in the fields of trade, commerce, industry, finance, management or public life to man them efficiently. This is particularly so with regard to those bodies which deal directly with the public and social activities. Sometimes, some members of the Gujarat Legislative Assembly are found suitable for the purpose but on account of the provision of disqualification in clause (1) of article 191 of the Constitution of India, a doubt arises whether acceptance of the post of a Chairman, member or Director of such a body by a member of the Gujarat Legislative Assembly would disqualify him on the ground of holding an office of profit under the Government. It is, therefore, considered necessary to remove the disqualification that might be incurred by such members on being appointed as Chairman or Director of the Gujarat Mineral Development Corporation Limited or Chairman of the Gujarat State Agricultural Marketing Board by adding entries 31 and 32 in the Schedule to the Gujarat Legislative Assembly Members (Removal of Disqualifications) Act, 1960.

This Bill seeks to amend the said Schedule to achieve the aforesaid object.

Dated the 23rd December, 1994

DINSHA PATEL,

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 23rd December, 1994.

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PART V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated in to Gujarati and the translation to be published in the *Gujarat Government Gazette*, The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:—

THE GUJARAT MARITIME BOARD (AMENDMENT) BILL, 1994.

GUJARAT BILL NO. 32 OF 1994.

A Bill

to amend the *Gujarat Maritime Board Act, 1981.*

It is hereby enacted in the Forty-fifth Year of the Republic of India as follows:—

1. This Act may be called the Gujarat Maritime Board (Amendment) Act, 1994.

2. In the Gujarat Maritime Board Act, 1981 (hereinafter referred to as "the principal Act"), in section 3, for sub-section (4), the following shall be substituted, namely:—

"(4). The Board shall consist of such number of members, not being less than five and not more than twelve, who shall be appointed by the State Government as follows, namely:—

(a) three members appointed by virtue of their office from amongst officers of the State Government, of whom—

(i) one shall be a representative of the Department in-charge of the administration of minor ports in the State,

(ii) one shall be the Commissioner of Fisheries, and

(iii) one shall be a representative of the Finance Department,

Guj.30
of
1981.

Short
title.

Amend-
ment of
section 3
of Guj.
1981.

(b) the other members appointed from amongst persons who are, in the opinion of the State Government, capable of representing any one or more of the interests of shipping, navigation, ports, sailing vessels, fisheries, trade, commerce, industry, workers of minor ports and such other interests as, in the opinion of the State Government, ought to be represented on the Board."

Amend-
ment of
section 8
of Guj.30
of 1981.

3. In the principal Act, in section 8, in sub-section (1), for the word, brackets and figure "subsection (5)", the word, brackets and figure "sub-section (6)" shall be substituted.

Amend-
ment of
section 10
of Guj. 30
of 1981.

4. In the principal Act, in section 10, in sub-section (4), the portion beginning with the words "and no business" and ending with the words "such meeting" shall be deleted.

Substitu-
tion of
section 15
of Guj.30
of 1981.

5. In the principal Act, for section 15, the following shall be substituted, namely :—

Dele-
gation
of
pow-
ers.

"15. The Board may, with the approval of the State Government, direct that such of the powers and duties conferred or imposed upon the Board by or under this Act as may be specified in such direction, may also be exercised or performed by the Chief Executive Officer subject to such conditions and restrictions as may be specified in such direction:

Provided that the Chief Executive Officer shall exercise the powers and perform the duties specified in the direction subject to the supervision and the control of the Board."

Amend-
ment of
section 17
of Guj.30
of 1981.

6. In the principal Act, in section 17,—

(1) in sub-section (1), for clause (a), the following shall be substituted, namely:—

"(a) The State Government shall appoint such person as it may think fit to be the Chief Executive Officer of the Board."

(2) in sub-section (2), the proviso shall be deleted ;

(3) in sub-section (3),—

(a) in clause (a), for the words "two thousand rupees", the words "five thousand rupees" shall be substituted ;

(b) in clause (b), for the words "one thousand rupees", the words and brackets "two thousand five hundred rupees (exclusive of allowances)" shall be substituted;

Amend-
ment of
section 18
of Guj. 30
of 1981.

7. In the principal Act, in section 18, in sub-section (1), in clause (a), for the words "two thousand rupees", the words "five thousand rupees" shall be substituted.

8. In the principal Act, in section 19, in sub-section (1),-

(1) in clause (a), for the word "Chairman", the words "State Government" shall be substituted;

(2) the proviso shall be deleted;

Amend-
ment of
section 19
of Guj.30
of 1981.

9. In the principal Act, in section 24,—

(1) in clause (a), for the word "Chairman", the words "Chief Executive Officer" shall be substituted;

(2) in clause (b), for the words "thirty years", the words "one year" shall be substituted.

Amend-
ment of
section 24
of Guj.30
of 1981.

10. In the principal Act, in section 80, for the word "Chairman" where it occurs at two places, the words "Chief Executive Officer" shall be substituted.

Amend-
ment of
section 80
of Guj.30
of 1981.

11. In the principal Act, in section 82, in sub-section (2), for the word "Chairman" wherever it occurs, the words "Chief Executive Officer" shall be substituted.

Amend-
ment of
section 82
of Guj.30
of 1981.

12. In the principal Act, in section 87, in sub-section (2), for the word "Chairman" the words "Chief Executive Officer" shall be substituted.

Amend-
ment of
section 87
of Guj.30
of 1981.

13. In the principal Act, section 92 shall be renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, the following new sub-section shall be inserted, namely:—

"(2) The State Government shall cause every report of the administration of the ports to be laid for not less than thirty days before the State Legislature as soon as may be, after such report is received by the Government."

Amend-
ment of
section 92
of Guj.
30 of 1981.

STATEMENT OF OBJECTS AND REASONS

The existing provisions of sub-section (4) of section 3 of the Gujarat Maritime Board Act, 1981 are found, at times, to leave no room for flexibility in the matter of appointment of members on the Board from amongst persons who are specified in clauses (b) to (h) of the said sub-section (4). It is, therefore, considered necessary to amend the said sub-section (4) to provide that the Board shall consist of not less than five and not more than twelve members, as the State Government thinks fit to appoint and to take power to the Government to appoint members, other than *ex-officio* from amongst persons who are, in the opinion of the Government, capable of representing one or more of the interests of shipping, navigation, ports, sailing vessels, fisheries, trade, commerce, industry, workers of minor ports and such other interests as ought to be represented on the Board. Clause (a) of said sub-section (4) provides for appointment of two members from amongst officers one of whom is a representative of the Department of the State Government in-charge of the administration of minor ports and the other a representative of the Finance Department. It is, considered necessary also to have the commissioner of fisheries a member of the Board. Clause (a) of sub-section (4) of the said section 3 is proposed to be amended to provide accordingly.

As per existing provision of sub-section (4) of section 10, the business of meeting cannot be transacted for want of requisite quorum throughout the meeting. This requirement is proposed to do away with a view to transact business without quorum throughout, at a meeting.

In order to enable the Chairman to devote more time in framing the policy for the effective working of the Board, it is considered necessary to relieve him from the burden of the executive work of the Board and to entrust such work on the Chief Executive Officer. It is therefore, proposed to confer the powers of the Board on the Chief Executive Officer. Accordingly, the amendments are made in sections 15, 24, 80, 82 and 87 of the Act by replacing the word "Chairman" by words "Chief Executive Officer".

Under the existing section 17, a person having experience of civil works, operation and administration of ports can be appointed as a Chief Executive Officer of the Board. On gaining experience, it is found that suitable person of such experience is not available for being appointed as Chief Executive Officer. Hence it is proposed to do away with such requirement of experience.

The existing provisions of section 17 and 18 provide for creation of posts and appointment of the persons to the post of the pay scale of the limits specified therein by the State Government. It is proposed to enhance the said limit of the pay scale to the post.

The existing section 24 provides that where the term of contract exceeds thirty years, the approval of the State Government is required to be obtained before the contract is made by the Board. The said limit of the term of the contract is reduced to one year with a view to have a proper check and control over the Board in respect of the contracts to be executed by the Board.

There is no provision in section 92 for laying the report relating to the administration of the ports before the State Legislature. A provision to that effect is proposed in this section.

This Bill seeks to achieve the aforesaid objects.

MANOHARSINHJI JADEJA,

MEMORANDUM REGARDING DELEGATED LEGISLATION.

The Bill involves delegation of legislative power in the following respects:—

Clause 5;— This clause empowers the Board to delegate, with the approval of the State Government, its power and duties to the Chief Executive Officer.

The delegation of legislative power as aforesaid is necessary and is of a normal character.

Dated the 23rd December, 1994.

MANOHARSINHJI JADEJA,

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 23rd December, 1994.

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