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PART - V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 29th March, 2010 by Prof. Vasuben Trivedi M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

GUJARAT BILL No. 17 OF 2010.

THE GUJARAT SOCIAL SECURITY BILL, 2010

A BILL

to provide for the establishment of the Gujarat Social Security Fund with a view to render assistance in the form of pension to senior citizens, widows and destitute women, dependent children, disabled persons and to provide other similar social security measures and for the matter connected therewith.

It is hereby enacted in the Sixty one Year of the Republic of India as follows:—

- | | |
|---|---|
| <ol style="list-style-type: none"> 1. (1) This Act may be called the Gujarat Social Security Act, 2010. (2) It shall come into force at once. | Short title
and
Commencement |
| <ol style="list-style-type: none"> 2. (1) In this Act, unless the context otherwise requires,— <ol style="list-style-type: none"> (a) "collecting authority" means the authority as specified in sub-section (1) of section 6; (b) "fund" means the Gujarat Social Security Fund Constituted under section 4; (c) "Government" means the Government of the State of Gujarat; (d) "prescribed" means prescribed by rules made under this Act; (e) "scheduled bank" means a bank included in the Second schedule to the Reserve Bank of India Act, 1934; (f) "section" means the section of this Act; and | Definitions |

2nd of 1934.

(g) "social security measure" means pension for old persons financial assistance to widows and destitute women, dependent children and disabled persons.

- (2) The words and expressions used in this Act, but not defined shall have the same meaning as assigned to them in the Gujarat Value Added Act, 2003. **Guj. 1st of 2005**

Levy of Cess. 3. Notwithstanding anything contained in any other law for the time being in force and subject to the rules made under this Act, there shall be levied for the purposes of this Act, a cess on ad-valorem basis at the rate of ten percent on all the sales and purchases, of goods made under the Gujarat Value Added Tax Act, 2003 effected after coming into force of this Act except the goods declared to be of special importance in Inter State trade or commerce under section 14 of the Central Sales Tax Act, 1956. **74 of 1956**

Constitution of Fund. 4. (1) There shall be constituted a Fund to be called the Gujarat Social security Fund, in the manner as may be prescribed.

(2) The Fund shall vest with the Government.

Purpose for which the Fund may be utilized. 5. (1) The Fund shall be utilized for the purposes as may be prescribed.

(2) Without prejudice to the generality of the provisions of sub-section (1), the Fund shall be applied for the following purposes, namely:-

- (a) old age pension scheme;
- (b) financial assistance to the widows and destitute women
- (c) financial assistance to the dependent children;
- (d) financial assistance to the disabled persons; and
- (e) any other social security measures incidental to the above purposes as approved by the Government:

Provided that the Fund shall be utilized in order for the purposes specified in clause (a) to (e).

Manner collection of cess. 6. (1) The authorities empowered to assess, re-assess or collect tax under the Gujarat Value Added Tax Act, 2003 shall assess, re-assess or collect the cess levied under this Act from a dealer registered under the Gujarat Value Added Act, 2003. **Guj. 1st of 2005**

(2) The cess levied under sub-section (1), shall be collected in such manner, as may be prescribed.

(3) The authorities referred to in sub-section (1), shall deposit the proceeds of cess collected from a dealer either in cash or by cheque in a specified account to be opened in a Scheduled Bank and operated by the Government.

Procedure of maintenance of accounts and submission of returns. 7. The Procedure of maintenance of accounts and submission of returns of cess levied under this Act, shall be the same as has been prescribed in the Gujarat Value Added Tax Rules, 2006.

8. (1) The Proceeds of cess collected under sub-section (1) of section 6, shall be deposited in the Fund within such period from the date of collection of such cess, as may be prescribed.

(2) The Government shall open account in any of the Scheduled Banks for managing and carrying out the transactions with respect to the Fund. **Procedure for deposit of fund and meeting obligation.**

(3) The Government may,-

(i) After meeting their obligation as specified in sub-section (2) of section 5, invest the surplus Fund including the Government securities in such manner, as it may deem fit;

(ii) constitute one or more advisory committees or engage suitable advisors to advise the Government for the efficient utilisation of the Fund;

(iii) enter into and perform all such agreements, as it may think necessary or expedient for performing any of its functions; and

(iv) perform such other acts, as it may think necessary or expedient for the proper conduct of its functions and for carrying into effect the purposes of the Act.

9. The Government may borrow and raise money in such manners as it thinks fit and secure the repayment of any money borrowed or raised, by mortgage, charge, standard security, lien or other security upon the whole or any part of Government assets (whether present or future), and also by a similar mortgage, charge, standard security, lien or security, guarantee for the performance of any obligation or liability, it may undertake or which may become binding on it. **Power of the Government to borrow and raise money.**

10. The accounts of the Fund shall be audited by the Local Fund Examiner, Gujarat. **Audit.**

11. No suit, prosecution or other legal proceeding shall lie against the Government or any other officer of the Government in respect of anything, which is done in good faith or intended to be done in pursuance of the provisions of the Act, rules made or any order issued thereunder. **Protection of action taken in good faith**

12. (1) The Government may, by notification, make rules for carrying out the purpose of this Act. **Power to make rules.**

(2) Without prejudice to the generality of the foregoing power, such rules may provide for,-

(a) constitution, powers, functions, objectives for utilisation of the fund under section, 4 and 5;

(b) the manner of collection of cess as provided in section 6;

(c) the period within which the amount is to be transferred to the fund under sub-section (1) of section 8; and

(d) any other matter which has to be or may be prescribed.

(3) Every rule made under this section, shall be laid as soon as may be, after it is made, before the State Legislature while it is in session for a total period of Thirty days, which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session in which, it is laid or of the successive sessions as aforesaid, the house agrees in making any modification in the rules or the house agrees that the rules should not be made, the rules shall thereafter have effect only in such modified form or be of no effect as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

13. If any difficulty arises in giving effect to the Provisions of this Act, the Government may, by order, make such provisions including any adaptation or modification of any provision of this Act, as appears to the Government to be necessary or expedient for the purpose of removing the difficulty: **Power to remove difficulties.**

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of the Act.

STATEMENT OF OBJECTS AND REASONS

Social Security should be a priority programme for the State and it should be determined to cater to the requirements of the aged, infirms, destitutes, widows, disabled and needy persons of the Society. The Government should grant old age pension, widow pension financial assistance to dependent children and disabled persons. But it is possible that the Government may experience financial problems in providing timely release of pension and other financial assistance to the beneficiaries which involved financial liability of about 100 crores. As such to ensure timely release of pension and other financial assistances to the beneficiaries, it is necessary to levy Social Security Cess and establish Social Security Fund. The objective and purpose of the Social Security Fund include the provision of pensions to the old age persons, financial assistance to dependent children, widows, destitute and disabled persons in the State.

Heance, this Bill

Gandhinagar.

Dated 16th March, 2010

Prof. VASUBEN TRIVEDI

M.L.A.

FINANCIAL MEMORANDUM

A cess, on advalorem basis on all sales and purchases of the goods except declared to be of special importance in inter-state trade or commerce by Section 14 of the Central Sales Tax Act, 1956, shall be levied. The cess shall be levied at the rate of 10% of the rate of sale/purchase tax applicable under the Gujarat value Added Tax Act, 2003 from time to time. This will be deposited in a fund to be called Social Security Fund which shall vest with the Government and it shall be utilized for the social security measures like old age pensions and other financial assistance schemes of the department. This will involve a financial liability of about Rs. 100 carores per annum.

The commercial tax authorities will assess, re-assess collect and enforce, payment of Social Security Cess under the Gujarat Value Added Tax Act, 2003. The Cess will be deposited in the Gujarat Social Security Fund which shall be utilized to grant pensions.

Gandhinagar.

Dated 16th March, 2010

Prof. VASUBEN TRIVEDI

M.L.A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of of the Bill empowers the State Government to prescribe the manner for constituting the Gujarat Social Security Fund.

Sub-clause (1) of clause 5 of the Bill empowers the State Government to prescribe the purposes for application of the Fund.

Sub-clause (2) of clause 6 empowers the State Government to prescribe the manner for collecting the cess levied under the Act.

Sub-clause (I) of clause 8 empowers the state Government to prescribe the period within which the proceeds of the cess collected under the Act shall be deposited in the Fund.

Clause 12 of the Bill empowers the State Government to make rules for carrying out the purposes of the Bill. The powers sought to be delegated are necessary for the proper implementation of the provisions of the Bill and are normal in nature.

Gandhinagar.

Dated 16th March, 2010

Prof. VASUBEN TRIVEDI

M.L.A.

Gandhinagar.

Dated the 29th March, 2010

D. M. PATEL

Secretary,

Gujarat Legislative Assembly