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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 the 10th March, 2016 by Manibhai Vaghela M.L.A. is Published under rule 127A of the Gujarat Legislative Assembly Rules for general information.

**Gujarat Bill No. 20 of 2016**

### THE GUJARAT PUBLIC ENTERPRISES

*to provide for the constitution of a Commission for the selection of staff for appointment to posts in public enterprises and for matters connected therewith and incidental thereto.*

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

1. (1) This Act may be called the Gujarat Public Enterprises Service Commission Act, 2016.

short title  
and  
Commence-  
ment.

(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.

(a) "chairman" means the Chairman of the Commission.

(b) "commission" means the Gujarat Public Enterprises Service Commission constituted under sub-section (1) of section 3;

(c) "Government" means the Government of Gujarat;

(d) "notification" means notification published in the *Official Gazette* and the word "notified" shall be construed accordingly;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "public enterprises" means a public enterprise of the State of Gujarat whether created by law or registered under any law for the time being in force.

**Constitution of the Gujarat Public Enterprises Service Commission**

3. (1) The State Government may, by notification, constitute a Commission by the name of the Gujarat Public Enterprises Service Commission.

(2) The Commission shall be a body corporate having perpetual succession and a common seal, shall sue and shall be sued by the said corporate name.

(3) The Headquarters of the Commission shall be located at such place as may be prescribed by the Government.

**Constitution of the Commission.**

4. (1) The Commission shall consist of not less than three and not more than nine members of whom one shall be the Chairman, to be appointed by the State Government.

(2) The Chairman and Members shall be persons who, in the opinion of the Government are man of ability, integrity and understanding and have special knowledge of or practical experience in the public administration or personnel management or industrial management.

**Terms and conditions of service of Chairman and members.**

5. (1) The Chairman or any other member of the Commission shall hold office for a term of three years from the date on which he enters upon his office;

Provided that a person who has held office as Chairman or other member shall, on the expiration of his term of office, be eligible for appointment for another term of three years only:

Provided further that no person who has attained the age of sixty two years shall be eligible to hold office in any capacity, whether as Chairman or other member.

(2) If the office of the Chairman or any other member becomes vacant by resignation or otherwise or if the Chairman is by reason of absence or for any other reason unable to perform the duties of his office, those duties shall until some person is appointed to the vacant office, or, as the case may be, until the Chairman has assumed his duties, be performed by such one of the other members as the Government may appoint for the purpose.

(3) The Chairman or any other member may resign his office, by writing under his hand, addressed to the Government but he shall continue in office, until his resignation is accepted by the Government.

(4) The salary of the Chairman and other members shall be such as may be prescribed by the Government and the other terms and conditions of service shall be such as may be prescribed.

**Removal of Chairman or members.**

6. The Government may, after making an inquiry in such manner as may be prescribed, remove the Chairman or any other member from his office on any one of the following grounds: -

- (a) misconduct involving moral turpitude;
- (b) insolvency;
- (c) infirmity of mind or body or
- (d) engages during his term of office in any paid employment outside the duties of his office.

7. (1) The Staff of the Commission shall consist of:-

**Staff of the  
Commission.**

(a) Secretary, who shall be appointed by the Government; and

(b) Such other employees as the Commission may, with the previous approval of the Government, appoint from time to time.

(2) The salary of the Secretary and other employees of the Commission shall be such as may be prescribed.

(3) The other terms and conditions of service of the Secretary and employees of the commission shall be such as may be prescribed.

8. (1) Notwithstanding anything contained in any other law for the time being in force or in any contract, custom or usage to the contrary, it shall be the duty of the Commission to select persons for appointment to the posts in the public enterprises.

**Functions of  
the  
Commission.**

(2) It shall be the duty of the Commission to advise the public

~~It shall be the duty of every public enterprise to communicate~~ to the Commission the vacancies existing at the commencement of this Act and estimated total number of vacancies in the public enterprises and such communication shall be sent in respect of all such existing and estimated total number of various vacancies and which are likely to occur during the unexpired portion of the year, within one month after such commencement and in respect of all vacancies such as are likely to occur during each subsequent year within one month after the commencement of such year

**Duty of Public  
Enterprises to  
Communicate  
to Commission.**

10. (1) The manner of selection of the persons for the appointment to the public enterprise shall be such as may be provided for by regulations.

**Manner of  
selection of the  
persons and  
procedure for  
the conduct of  
the business of  
the  
Commission.**

(2) The procedure for the conduct of business of the Commission shall be such as may be provided for by regulations.

11. It shall be the duty of the Commission to make recommendations to each of the public enterprises in such manner as may be specified by regulations for appointments to fill the vacancies, communicated to it by such public enterprises.

**Duty of  
Commission to  
make  
recommendation.**

Communicated vacancies to be filled only on the recommendation of Commission

12. (1) Appointments to all the vacancies required to be communicated to the Commission under section 9 shall, on or from such date as the Commission may notify in respect of each public enterprises be made by such public enterprise only on the recommendations of the Commission.

(2) If in any year, the Commission is unable to make recommendations for appointment to all the vacancies communicated to it by a public enterprise under section 9, or if the public enterprise is unable in any year to make appointments on the bases of the recommendations made by the Commission, the vacancies may be carried forward to the subsequent year.

Effect of recommendation of the Commission.

13. Notwithstanding anything contained in any other law for the time being in force, or in any contract, custom or usage to the contrary, appointments to the posts in public enterprises shall be made on the recommendations of the Commission.

Power to call for record.

14. The Commission may, call for any record, report or any other information from any public enterprises if in its opinion, such record, report or other information is necessary for the efficient discharge of its functions, and the public enterprise shall furnish such record, report or other information to the Commission.

Obligations as Secrecy.

15. The Chairman and members and the Secretary and other employees of the Commission shall maintain strictest secrecy regarding the affairs of the Commission and shall not divulge, directly or indirectly any information of a confidential nature to members of the public unless compelled to do so by any judicial or other authority or unless instructed to do so by superior officer in the discharge of his duties

Chairman, members etc. to be public servants under Act XLV of 1860.

16. The Chairman, members, the Secretary and other employees of Commission appointed under this Act, shall while acting or purporting to act under this Act be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Proceedings not to be invalidated by reasons of vacancies etc. in the commission or its committees.

17. No act or proceeding of the Commission or any of its committees shall be deemed to be invalid by reason or on the ground that the Chairman of the Commission or any member of the Commission or committee, as the case may be, was not entitled to hold or continue in such office, or by reason of such act or proceeding having been done or conducted during the period of any vacancy in office of the Chairman of the Commission or any of the members of the Commission or Committee, as the case may be.

Protection of action taken in good faith.

18. No suit, prosecution or other legal proceedings shall lie against any person for anything, which is in good faith done or intended to be done under this act..

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

Power of  
State  
Government  
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 for not less than thirty days before the State Legislature as soon as possible 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.

20. (1) The Commission may, by notification in the Official Gazette, make regulations with the previous approval of the State Government for carrying out the purposes of this Act.

Power of  
Commission  
to make  
Regulations.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:-

(a) the terms and conditions of services of the employees of the

(c) the procedure for the conduct of business of the Commission under sub-section (2) of section 10;

(d) the income and expenditure, budget accounts and audit and annual report of the Commission.

### STATEMENT OF OBJECTS AND REASONS

At present each public enterprise (*i.e.* Government Company, Corporation etc.) selects, its staff in its own ways. There are so many complaints regarding irregularities and malpractices in the selection of staff. Some times, method of Selection of Staff is also not scientific. With a view, therefore to avoiding complaints regarding irregularities and malpractices in the selection of the staff for the public enterprises it is considered necessary to establish a Gujarat Public Enterprises Service Commission. The following notes on clauses explain the important provisions of the Bill:-

*Clause 3.* - This clause provides for the constitution of the Gujarat Public Enterprises Service Commission, which shall be a body corporate having perpetual succession.

*Clause 4.* - This clause provides for the constitution of the Commission with members not less than three and not more than nine.

*Clause 5.*- This clause provides for terms and conditions of the Office of Chairman and Members.

*Clause 6.* - This clause provides for the removal of chairman or members on certain grounds.

*Clause 8.* - This clause provides for the functions of the Commission.

*Clause 9.* - This clause imposes the duty on the Gujarat Public Enterprises to communicate the vacancies in the Public Enterprises to the Commission.

*Clause 12.*- This clause provides that the vacancies in a public enterprise shall be filled only on the recommendation of the Commission.

*Clause 16.* - This clause provides that the chairman, members and other staffs shall be public servants within the meaning of the Indian Penal Code.

*Clause 18.*- This clause is immunity clause.

*Clause 19.* - This clause provides for the powers of the State Government to make rules for carrying out the purposes of this Act.

Dated 9<sup>th</sup> February, 2016  
Gandhinagar.

MANIBHAI VAGHELA  
M.L.A.

### FINANCIAL MEMORANDUM

*Sub-clause (4)* of Clause 5 provides for the salary and allowances and other conditions of service of the Chairman and other members of the Commission.

*Sub-clause (2) and (3)* of Clause 7 provide for the salary and other terms and conditions of services of the Secretary and other employees of the Commission.

These provisions if enacted and brought into operation would involve an estimated annual expenditure of about rupees twenty lakhs from the Consolidated Fund of the State out of which about rupees ten lakhs would be of a recurring nature and about rupees ten lakhs would be of a nonrecurring nature.

Dated 9<sup>th</sup> February, 2016  
Gandhinagar.

MANIBHAI VAGHELA  
M.L.A.

Gandhinagar.  
Dated 9<sup>th</sup> February, 2016

D. M. PATEL  
Secretary,  
Gujarat Legislative Assembly.