



KARNATAKA LEGISLATIVE ASSEMBLY
FOURTEENTH LEGISLATIVE ASSEMBLY
SIXTEENTH SESSION

**THE KARNATAKA TANK CONSERVATION AND DEVELOPMENT AUTHORITY
AND CERTAIN OTHER LAW (AMENDMENT) BILL, 2018
(L.A. Bill No. 60 of 2018)**

A Bill to amend the Karnataka Tank Conservation and Development Authority Act, 2014 (Karnataka Act 32 of 2014) and to repeal the Karnataka Lake Conservation and Development Authority Act, 2014 (Karnataka Act 10 of 2015);

Whereas it is expedient to amend the Karnataka Tank Conservation and Development Authority Act, 2014 (Karnataka Act 32 of 2014) and to repeal the Karnataka Lake Conservation and Development Authority Act, 2014 (Karnataka Act 10 of 2015) for the purposes hereinafter appearing;

Be it enacted by the Karnataka State Legislature in the sixty-ninth year of the Republic of India as follows:-

1. Short title and commencement.- (1) This Act may be called the Karnataka Tank Conservation and Development Authority and Certain Other Law (Amendment) Act, 2018

(2) It shall come into force at once.

2. Amendment of the Karnataka Act 32 of 2014.- In the Karnataka Tank Conservation and Development Authority Act, 2014 (Karnataka Act 32 of 2014) (hereinafter referred as the Principal Act), in the preamble after the words, "Forest Department" the words, "Urban Development Department" shall be inserted.

3. Amendment of section 1.- In section 1 of the Principal Act, in sub-section (3), the words, "located outside the limits of all Municipal Corporations and Bengaluru Development Authority" shall be omitted.

4. Amendment of section 2.- In section 2 of the Principal Act, in sub-section (1),-

- (i) in clause (d), after the words "Forest Department", the words "Urban Development Department" shall be inserted; and
- (ii) in clause (g), the words, "Medium Irrigation" shall be omitted.

5. Amendment of section 3.- In section 3 of the Principal Act, in sub-section (3) in the table,-

- (i) for item (a) and the entries relating thereto, the following shall be substituted, namely:-

"(a) The Chief Minister - Chairperson

(a-1) The Minister for Minor Irrigation

and Ground Water Development - Vice Chairperson"

- (ii) after clause (k) the following shall be inserted, namely:-

"

(ka) The Member Secretary, Karnataka State -Member
Pollution Control Board, Bengaluru;

(kb) The Chairman, Bengaluru Water Supply -Member
and Sewerage Board, Bengaluru;

(kc) The Commissioner, Bengaluru -Member
Development Authority, Bengaluru;

(kd) The Commissioner, Bruhath Bengaluru -Member
Mahanagara Palike, Bengaluru";

(ke) The Chairman, Karnataka Urban Water -Member
Supply and Sewerage Board

"

- (iii) sub-section (6) shall be omitted.

6. Amendment of section 4.- In section 4 of the Principal Act, in sub-section (2), after the words "any meeting" the words "the Vice Chairperson shall preside or if for any reason, he is also unable to attend such meeting then" shall be inserted.

7. Amendment of section 5.- In section 5 of the Principal Act,-

- (i) for sub-section (10) the following shall be substituted, namely:-

"(10) To facilitate for impounding water through storm water, draining system, reduce siltation of tanks by taking appropriate soil and water conservation measures."

(ii) for sub-section (12), the following shall be substituted, namely:-

"(12) To utilize or allow to utilize the tanks for the purpose of drinking water, irrigation, tourism or any other purpose as the authority may determine."

8. Amendment of section 6,- In section 6 of the Principal Act,-

(i) in sub-section (3), for the word, "approval", the word, "clearance" shall be substituted.

(ii) after sub-section (7), the following shall be inserted, namely:-

"(8) To call for any information from any department of the State Government or any local Authority or any other person which is required by it in the exercise of its powers and the performance of its functions under this Act or the rules or regulations made thereunder, and such department, Authority or person shall be bound to furnish such information.

(9) To alter, extend or abridge the purpose for which is established or merge or take over any other organization wholly or partially in furtherance of the objective of the Authority."

9. Insertion of 6A.- After section 6 of the Principal Act, the following new section shall be inserted, namely:-

"6A. Removal of a member.- The Government may remove from the Authority any non official member who, in its opinion has,-

- (1) been adjudged as an insolvent, or
- (2) been convicted of an offence which involves moral turpitude; or
- (3) become physical or mentally incapable of acting as a member;
or
- (4) so abused his position as to render his continuance in office detrimental to the public interest; or
- (5) acquired such financial or other interest as is likely to affect prejudicially his functions as a member."

10. Amendment of section 8.- In section 8 of the Principal Act, in sub-section (2), after clause (g), the following shall be inserted, namely:-

"(ga) seek funds for the rejuvenation or development or maintenance of tanks".

11. Amendment of section 9.- In section 9 of the Principal Act, after sub-section (2), the following shall be inserted, namely:-

"(3) The Authority may, with the prior approval of the State Government, create such number and category of post of officers and other employees in the Authority as it considers necessary to carry out its functions under this Act.

(4) The Authority may, also engage such experts and technical persons on contract basis as it considers necessary to carry out its functions under this Act."

12. Amendment of section 10.- In section 10 of the Principal Act, in sub-section (1), after the words, "any Officer of the Government" the words, "not below the rank of Assistant Executive Engineer" shall be inserted.

13. Amendment of section 11.- In section 11 of the Principal Act, for the words, "or any Executive Engineer of the concerned district of Irrigation Department", the words, "Group 'A' Senior Officer of Revenue Department" shall be substituted.

14. Amendment of section 12.- In section 12 of the Principal Act,-

(i) in clause (2), the words "without permission of the Government" shall be omitted;

(ii) for clause (3), the following shall be substituted, namely:-

"(3) make any construction or carry on any commercial or recreational or industrial activity within thirty meters from the outer boundary of the tanks". and

(iii) for clause (6), the following shall be substituted, namely:-

"(6) Construct roads, bridges and allied works within tank area including the tank bund. The Authority may grant permission for such works only after ensuring that the original capacity of the tanks is not reduced even after such work".

15. Amendment of section 13.- In section 13 of the Principal Act, after sub-section (3), the following shall be inserted, namely:-

"(4) the Authority may issue specific directions to any Officer of the Government or local bodies to assist the custodians of any tank in the protection of the tanks".

16. Amendment of section 14.- In section 14 of the Principal Act, -

(i) in sub-section (2) in the proviso for the words "the Government" the words "the State Government" shall be substituted;

(ii) after the proviso, the following shall be inserted, namely:-

“(3) The arrested persons shall be produced before the Magistrate having jurisdiction to try the offence on account of which the seizure has been made.”

17. Amendment of section 22.- In section 22 of the Principal Act, after sub-section (5), the following shall be inserted, namely:-

“(6) The Deputy Commissioner and the Superintendent of Police of the District shall render support as may be required by the Authority to remove the encroachment from any tank.”

18. Amendment of Section 35.- In section 35 of the Principal Act, sub-section (3), shall be omitted.

19. Repeal and Savings of the Karnataka Act 10 of 2015.- (1) The Karnataka Lake Conservation and Development Authority Act, 2014 (Karnataka Act No.10 of 2015) is hereby repealed.

Provided that such repeal shall not affect,-

(a) the previous operation of the Act so repealed, or anything duly done or suffered thereunder;

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the Act, so repealed;

(c) any penalty, forfeiture, or punishment incurred in respect of any offence committed under the Act so repealed; or

(d) any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture and punishment may be imposed, as if this Act had not been passed.

STATEMENT OF OBJECTS AND REASONS

It is considered necessary to amend the Karnataka Tank Conservation Development Authority Act, 2014 (Karnataka Act 32 of 2014) to strengthen the Tank Development Authority and repeal the Karnataka Lake Conservation and Development Act, 2014 (Karnataka Act 10 of 2015), to transfer all tanks located within the limits of Municipal Corporations including Bruhath Bengaluru Mahanagara Palike to the control of Minor Irrigation and Ground Water Development Department.

An opportunity is also taken to make certain consequential amendments also.

Hence, the Bill.

FINANCIAL MEMORANDUM

There is no extra expenditure involved in the proposed measures.

T.B.JAYACHANDRA

Minister for Law, Parliamentary Affairs and
Minor Irrigation

S. Murthy

Secretary (I/c)
Karnataka Legislative Assembly

ANNEXURE

Extract from the Karnataka Tank Conservation And Development Authority Act, 2014 (Karnataka Act 32 of 2014)

An Act to provide for establishment of a Tank Conservation and Development Authority and other matters connected therewith or incidental thereto;

Whereas, the Apex Court has already ruled that right to water is a part of right to life guaranteed by Article 21 of the Constitution of India.

Whereas, due to rapid urbanization, industrialization and population explosion, water bodies like tanks and ponds are being converted into urban and industrial land use after breaking bund and draining water;

Whereas, in the State there are large number of tanks which are main source of the agriculture, drinking water and rural Industries. These tanks are managed, protected, conserved and rejuvenated by various Government Departments like Minor Irrigation, Rural Development and Panchayat Raj, Forest Department etc.,

Whereas, such destruction of water bodies leads to acute shortage of water and rapid depletion of ground water and thereby affecting availability of water for irrigation, drinking and consumption by live stock, besides affecting aquatic flora and fauna and accordingly there is an urgent need for protection, conservation and rejuvenation of water bodies by a Single Authority.

And now therefore, it is expedient to provide for establishment of a Tank Conservation and Development Authority having necessary powers and functions to achieve the object of protection, conservation and rejuvenation of water bodies, and for other matters connected therewith or incidental thereto.

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1. Short title, commencement and application. - (1) This Act may be called the Karnataka Tank Conservation and Development Authority Act, 2014. (2) It shall come into force on such date as the Government may, by notification, appoint and different dates may be appointed for different provisions of the Act.

(3) It applies to all the Tanks, ponds, lakes in the Karnataka State located outside the limits of all Municipal Corporations and Bangalore Development Authority or any other water bodies as may be notified by the Government.

2. Definitions. - (1) In this Act, unless the context otherwise requires,-

(d) "Designated Officer" means any officer who may belongs to any of the departments of Minor Irrigation or Rural Development and Panchayat Raj or Forest Department and appointed or designated as such by the Authority under section 10;

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(g) "Tank" or "Ponds" or "Lake" means an inland water-body irrespective of whether it contains water or not, but mentioned in revenue records as sarkari kere, kharab kere, kunte, katte or by any other name and includes the peripheral catchment areas (Rajakaluve) main feeder inlet and other inlets, bunds, weirs, sluices, draft channels, outlets and the main channels of drainages to and fro; but does not include,- Medium Irrigation tanks which has command area more than 2000 Hectors and above.

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3. Constitution of the Authority.- (1) As soon as may be after the date of commencement of this Act, the Government shall constitute an Authority to be called the Karnataka Tank Conservation and Development Authority.

(2) The Authority shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with power, subject to the provisions of this Act to hold property and shall by the said name sue or be sued.

(3) The Karnataka Tank Conservation and Development Authority shall consist of the following members, namely:-

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| (a) | The Minister for Minor Irrigation shall be the Chairperson of the Authority | |
| (b) | The Principal Secretary to Government, Finance Department. | Member |
| (c) | The Principal Secretary to Government, Department of Law or his nominee not less than the rank of Additional Secretary | Member |
| (d) | The Principal Secretary to Government, Forest, Ecology and Environment Department. | Member |
| (e) | The Principal Secretary to Government, Rural Development and Panchayat Raj Department. | Member |
| (f) | The Principal Secretary to Government, Revenue Department. | Member |
| (g) | The Principal Secretary to Government, Urban Development Department. | Member |
| (h) | The Principal Secretary to Government, Agriculture Department. | Member |
| (i) | The Principal Secretary to Government, Animal Husbandry and Fisheries Department. | Member |
| (j) | The Chief Engineer South, (Minor Irrigation), Bangalore | Member |
| (k) | Four non-official members nominated by the Government from amongst experts in the field of environment and ecology or tank or ponds or lake conservation, of whom at least one shall be a woman and one shall be a person belonging to the Scheduled Castes and one shall be a person belonging to the Scheduled Tribes. | Non Official Member |
| (l) | Principal Secretary/ Secretary to Government, Minor Irrigation | Member Secretary Ex-Officio, Chief Executive Officer of the Authority |

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(6) The district executive Authority shall implement the decision of the state Authority from time to time. The District executive Authority in each District shall consist of the following members, namely:-

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| (a) | The Deputy Commissioner of the concerned District | Chairman |
| (b) | The Chief Executive Officer of the Concerned Zilla Panchayath | Vice Chairman |
| (c) | The Superintendent of Police incharge of the concerned District | Member |
| (d) | The Joint Director, Department of Agriculture / Soil conservation | Member |
| (e) | The Deputy Director of the concerned District, Horticulture Department | Member |
| (f) | The Deputy Forest Conservator, Department of Forest. | Member |

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|-----|---|----------|
| (g) | Senior Geologist of the concerned District
Mines & Geology Department. | Member |
| (h) | The Deputy Director of Fisheries of the
concerned District. | Member |
| (i) | The Executive Engineer of Minor Irrigation
incharge of concerned District. | Convener |

4. Meetings of the Authority.- (1) The Authority shall meet at least once in three months.

(2) The Chairperson shall preside over the meeting of the Authority or if for any reason, he is unable to attend any meeting, any other member chosen by the members present at the meeting shall preside.

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5. Functions of the Authority.- Subject to the provisions of this Act and the rules made thereunder, the functions of the Authority shall be:-

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(10) to facilitate for impounding storm water drainage system, reduce of remove siltation of tanks by taking up appropriate soil and water conservation measures including afforestation and to augment recharge of ground water aquifers and revive borewells;

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(12) to utilize or allow to utilize the tanks for the purpose of drinking water, irrigation, education or tourism or any other purpose as the Authority may determine;

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6. Powers of the Authority.- Subject to the provisions of this Act and the rules made thereunder, powers of the Authority shall be,-

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(3) to grant approval to any project proposal made by any Government Department or organization or association or person interested in developing, maintaining, conserving or protecting a tank and also to take up such activities on its own which shall be approved by the Government;

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10. Designated officer.- (1) The Authority may designate or appoint any officer of the Government as designated officer to be in charge of one or more tanks, ponds, lakes of district wise to ensure their protection, conservation, development and for any other purpose.

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11. Authorized Officer.- The Government may appoint an officer of the Government not below the rank of a Group 'A' officer or any Executive Engineer of the concerned district of Irrigation Department of the State Civil Services as Authorised officer, who shall exercise powers under this Act and such other powers as may be specified by the Government from time to time.

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12. Acts prohibited in tanks.- Notwithstanding anything to the contrary contained in any law for the time being in force, no person or institution or organization (registered or unregistered) or company or firm or association, Government departments, corporation or any local or other authority and their agents or employees or any body on their behalf shall,-

(1) use the tank for any purpose other than storage or impounding of water or for the purpose mentioned in clause (9) of section 5;

(2) construct any structure on tank land, occupy any tank land or part there of or cause any obstruction at the natural or normal course of inflow or outflow of

water into, or from, the tanks on the upstream and or downstream without permission of the Government;

(3) make any irregular and unauthorized construction, any commercial, recreational or industrial complexes or houses or carry on any industrial activity within thirty meters from the outer boundary of the tank;

(4) dump debris, municipal solid wastes, mud or earth soil or liquid wastes or any pollutants, into the tank by using vehicle or otherwise;

(5) discharge untreated sewage into the tank directly or indirectly;

(6) construct roads, bridges and likewise other structures within the tank area including the tank bund without permission of the Government;

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14. Powers to Seize.- (1) When there is reason to believe that an offence punishable under section 12 has been committed, any instrument, implement, machinery, device, tool, boat, vehicle or any other material or object used in committing any such offence, may be seized by the Designated officer or any other officer empowered by the Authority in this behalf (hereinafter referred to as empowered officer)

(2) The Designated officer or empowered officer seizing any property, vehicle, material or object under sub-section (1) shall place on them a mark indicating that the same has been so seized and shall as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure is made. The procedure for seizures shall be as specified in the Code of Criminal Procedure, 1973:

Provided that where the seized property, vehicle, material or object is believed to belong to the Central or the Government or a local or other authority or if the offender is unknown, the Designated officer or empowered officer shall report to the Authorised officer.

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35. Fund of the Authority.- (1) The Authority shall have its own fund and the amount which may from time to time, be paid to it by the Government and all other receipts (by way of gifts, grant, penalties, fees, charges or otherwise) shall be carried to the fund of the Authority and all the payments for the Authority made there from. (2) The Authority may spend such sum as it deems fit for performing its duties and discharging its functions under this Act. Such sum shall be treated as expenditure payable out of the fund of the Authority. (3) The Authority may release funds to the District Executive Authority for implementation of the scheme or program in such manner as may be prescribed.

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