

PUNJAB VIDHAN SABHA

Bill No. 49-PLA-2016

**THE PUNJAB BUREAU OF INVESTMENT
PROMOTION BILL, 2016**

A

BILL

to provide for expeditious clearance of investment proposals (both regulatory and fiscal) in the State of Punjab and to implement investment promotion policies that may be announced by the State Government from time to time and for the matters connected therewith or incidental thereto.

BE it enacted by the Legislature of the State of Punjab in the Sixty-Seventh Year of the Republic of India as follows :—

1. (1) This Act may be called the Punjab Bureau of Investment Promotion Act, 2016.

Short title and commencement.

(2) It shall come into force on and with effect from the date of its publication in the Official Gazette.

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

Definitions.

(a) “Board of Governors” or “BoG” means the Board of Governors of the Bureau;

(b) “Bureau” means the Punjab Bureau of Investment Promotion;

(c) “Chief Executive Officer” means the Chief Executive Officer of the Bureau;

(d) “entrepreneur” means an entity who decides to set up an enterprise and includes,—

(i) an individual;

(ii) a Hindu Undivided Family;

(iii) a company;

(iv) a registered firm;

(v) a Limited Liability Partnership as per the Limited Liability Partnership Act, 2008 (Central Act 6 of 2009);

(vi) an association of persons or a body of individuals, whether incorporated or not, in India or outside India;

(vii) any corporation established by or under any Central or State Act or a Government Company as defined under clause (45) of section 2 of the Companies Act, 2013 (Central Act, 18 of 2013);

(viii) any body corporate incorporated by or under the laws of a country outside India; and

(ix) a co-operative society registered under any law relating to a co-operative society;

(e) "Executive Committee" or "E.C." means the Executive Committee of the Bureau;

(f) "Government" means the Government of the State of Punjab in the Department of Investment Promotion;

(g) "policy" means any notified policy, regulation, package or programme of the Government;

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

(i) "section" means a section of this Act.

Establishment of
Bureau.

3. (1) There shall be established a Bureau to be known as the Punjab Bureau of Investment Promotion.

(2) The Bureau shall be a body corporate as well as an authority, having perpetual succession and a common seal. It shall have the power to acquire, hold and sell the property, both moveable and immovable, and shall by the said name sue or be sued.

Board of
Governors.

4. (1) There shall be a Board of Governors of the Bureau which shall be the apex governing body for all matters of the Bureau. The constitution of the Board of Governors shall be as follows, namely :—

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|---|----------------------------|
| (i) Chief Minister; | : Chairman |
| (ii) Minister-in-Charge, Department of Investment Promotion; | : Senior Vice- Chairman |
| (iii) Industries Minister; | : Vice-Chairman |
| (iv) Finance Minister; | : Member |
| (v) Agriculture Minister; | : Member |
| (vi) Health and Family Welfare Minister; | : Member |
| (vii) Tourism Minister; | : Member |
| (viii) Labour Minister; | : Member |

- (ix) Food Processing Minister; : Member
- (x) Information Technology Minister; : Member
- (xi) Housing and Urban Development Minister; : Member
- (xii) Local Government Minister; : Member
- (xiii) Science, Technology and Environment Minister; : Member
- (xiv) Chief Secretary to Government of Punjab; : Member
- (xv) Financial Commissioner, Revenue; : Member
- (xvi) Financial Commissioner, Development; : Member
- (xvii) Principal Secretary, Finance; : Member
- (xviii) Financial Commissioner, Forests; : Member
- (xix) Principal Secretary to Chief Minister; : Member
- (xx) Principal Secretary, Health and Family Welfare; : Member
- (xxi) Principal Secretary, Tourism; : Member
- (xxii) Principal Secretary, Housing and Urban Development; : Member
- (xxiii) Financial Commissioner, Taxation; : Member
- (xxiv) Principal Secretary, Labour; : Member
- (xxv) Principal Secretary, Information Technology; : Member
- (xxvi) Principal Secretary, Power; : Member
- (xxvii) Principal Secretary, Industries and Commerce; : Member
- (xxviii) Principal Secretary, Local Government; : Member
- (xxix) Principal Secretary, Science, Technology and Environment; : Member
- (xxx) Principal Secretary, Investment Promotion; : Member
- (xxxi) Three technical experts to be nominated by the Government; : Members
- (xxxii) Five representatives of trade, industry and commerce to be nominated by the Government; and : Members
- (xxxiii) Chief Executive Officer. : Member-Secretary

(2) Subject to the overall control and superintendence of the Government, the Board of Governors shall provide overall policy guidance and direction to the Bureau and shall be the apex body for all matters relating to the Bureau. It shall be responsible for,—

- (a) approving the regulations and procedures of the Bureau and allocating such functions to the Executive Committee and the Chief Executive Officer, which are not otherwise specified;
- (b) creation, sanction, abolition and re-designation of posts required for effective functioning of the Bureau;
- (c) approval of any borrowings or hypothecation of any assets of the Bureau, if required;
- (d) approval and sanction, on behalf of the Government, of any fiscal incentives or other benefits to an investment proposal or project, falling outside the policies of the Government of Punjab by way of amendment of, addition to or exception to such policy;
- (e) approval of the annual budget, accounts and reports, including the audit reports of the Bureau; and
- (f) making such rules and regulations under this Act, as it may consider necessary and proper to transact its business and that of the Bureau to achieve the assigned task, including matters concerning finance, accounts and personnel.

Executive
Committee.

5. (1) There shall be an Executive Committee which shall report to the Board of Governors.

(2) The constitution of the Executive Committee shall be as follows, namely :—

- (i) Chief Secretary, Punjab; : Chairman
- (ii) Principal Secretary, Finance; : Member
- (iii) Principal Secretary to Chief Minister; : Member
- (iv) Principal Secretary, Industries and Commerce; : Member
- (v) Principal Secretary, Investment Promotion; and : Member
- (vi) Chief Executive Officer. : Member-Secretary

(3) The Executive Committee may invite the concerned Administrative Secretary or any other officer of a Department as a special invitee to discuss and finalize any specific proposal or issue of such Department.

(4) The Executive Committee may co-opt any other member, if so required, for proper and effective discharge of its functions.

(5) The Executive Committee shall regularly guide, monitor, supervise and review the functioning of the Bureau.

(6) The Executive Committee shall be responsible for recommending to the Board of Governors regarding investment proposals that seek fiscal or other incentives outside the policies of the Government, notified or formulated from time to time.

(7) The Executive Committee shall carry out such other functions, as may be assigned to it by the Government or the Board of Governors.

(8) The Executive Committee may refer any matter or issue to the Government or to the Board of Governors with its recommendations or suggestions, if considered necessary; and

(9) The Executive Committee may delegate any of its powers to the Chief Executive Officer.

6. The Executive Committee may constitute from time to time, such Special Committee(s), as may be considered necessary to assist it in carrying out its functions and facilitate investments in the State.

Special Committee(s).

7. Functions of the Chief Executive Officer shall be,—

Functions of the Chief Executive Officer.

(a) to receive, process and approve all investment proposals in the State;

(b) to coordinate with the Government to encourage new investment and its actualization in the State in respect of all sectors of trade, commerce and industry;

(c) to grant requisite approvals if the proposal is covered under the Punjab Fiscal Industrial Incentives Package, 2013 or any such similar policy, package or programme of the Government, subject to the fulfilment of conditions specified for necessary statutory and other approvals;

(d) to grant approvals in cases where all necessary statutory and other approvals are received or deemed to have been received;

(e) to issue Certificate of Eligibility for incentives as per policy;

- (f) to refer cases which are not fully covered under the policy of Government to the Executive Committee;
- (g) to assist various administrative/line departments whose powers are devolved upon him under various Legislations/Acts/Rules/Regulations in evolving a procedure for carrying out annual audit of the proposals approved by the Bureau during a financial year;
- (h) to resolve inter-departmental matters and coordinate with the concerned departments, *qua* any investment proposal, through various officers of line departments working in the Bureau;
- (i) to guide a project proposer/applicant with regard to any investments in the State in such a manner, as he may consider appropriate to ensure that the investment is made at the earliest;
- (j) to authenticate all documents on behalf of the Bureau;
- (k) to make such procedures, as may be required for the efficient functioning of the Bureau. The Board of Governors shall be notified of such procedures as it deems fits from time to time; and
- (l) to discharge such other functions, as may be assigned to him by the Government or the Board of Governors or the Executive Committee from time to time.

Powers of the Bureau.

8. (1) Subject to the overall control and superintendence of the Government, the Bureau shall exercise powers of all the Departments of the Government of Punjab as devolved upon it under their respective rules or regulations or Acts or notifications, as the case may be, to carry out the objectives of this Act, including but not limited to the following :—

| Serial No. | Name of the Department | Regulatory Authority | Powers vested in the Bureau |
|------------|-------------------------------------|--------------------------------|--|
| 1 | Science, Technology and Environment | Punjab Pollution Control Board | (i) Consent to establish and consent to operate under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981. |

| Serial No. | Name of the Department | Regulatory Authority | Powers vested in the Bureau |
|------------|------------------------|--|--|
| | | | <ul style="list-style-type: none"> (ii) Authorization under the Hazardous Waste (Management and Transboundary Movement) Rules, 2016. (iii) Registration for Recycling under the Hazardous and Other Waste (Management and Transboundary Movement) Rules, 2016. (iv) Competent State Authority Clearance/ Site appraisals/ approvals (under the Factories Act, 1948). (v) Authorization under the E-waste (Management) Rules, 2016. (vi) Registration under the Plastic Waste Management Rules, 2016. (vii) Authorization for Bio-Medical Waste Management Rules, 2016. |
| 2. | Excise and Taxation | Excise and Taxation Commissioner | <ul style="list-style-type: none"> - VAT incentives. - Registration. - GST incentives. |
| 3. | Labour | <ul style="list-style-type: none"> (a) Director of Factories (b) Labour Commissioner | <ul style="list-style-type: none"> - Shop Registration. - Permission for engaging contractor for labour. - Annual returns under Labour Laws. - Factories License. - Annual Filing under the Factories Act, 1948. - Factory building Plan Approval. |

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| Serial No. | Name of the Department | Regulatory Authority | Powers vested in the Bureau |
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| 4. | Industries | Director of Boilers | - Registration under the Boilers Act, 1923. |
| 5. | Housing and Urban Development | Department of Housing and Urban Development | - Change of land use. - Approval of building plans. |
| 6. | Local Government | Regional Deputy Director and Commissioner, Urban Local Bodies | - Change of land use. - Approval of building plans and Completion Certificate. - Waiver of property and other local taxes. - NOC of Fire Services. |
| 7. | Forests and Wildlife | Principal Chief Conservator of Forests and Wildlife | - Grant of NOCs/ approvals. - Where approach/ entry/exit involves forest land. - Diversion of forest land (less than one hectare). |
| 8. | Power | The Punjab State Power Corporation Limited and the Punjab State Transmission Corporation Limited | - Load sanction and issue of new electricity connection. - Agreement for High Tension/Extra High Tension (above 100 KV) wires. |
| 9. | Power | Chief Electrical Inspector | - Certification of electrical infrastructure. - Electricity Duty exemption. |
| 10. | Revenue | Financial Commissioner, Revenue, District Collector, District Revenue Officer and Sub-Registrar. | - Stamp Duty exemption. |

(2) The Government may by notification devolve upon the Bureau such other powers, as may be required from time to time.

(3) These powers shall be exercised by the Chief Executive Officer on behalf of the Bureau till the commencement of production/operations of the project. Thereafter, all clearances shall be accorded by the concerned Department/Regulator/Agency, as the case may be.

(4) The Bureau shall be the nodal agency of the State to organize exhibitions, conventions, conferences and Investors' Summits for the investment promotion (both within and outside the State) in various sectors.

9. (1) The Head of the Department of Investment Promotion shall be the Chief Executive Officer of the Bureau. Such an officer shall not be below the rank of an IAS Officer in the Supertime scale.

Officers and employees of the Bureau.

(2) The Bureau may create such other posts and appoint such other officers and employees, as it may deem necessary for efficient discharge of its functions.

(3) As far as possible, the officers and employees of the Bureau, shall be drawn on deputation/secondment or recruited on contractual basis on such terms and conditions, as may be approved by the Board of Governors.

(4) The Chief Executive Officer shall exercise the power of supervision and control over all the officers and employees of the Bureau. He shall sign all the contracts for engaging the employees on contract basis. He shall also be the competent authority to sign all documents, approvals and sanctions granted or issued by the Bureau.

10. (1) The Board of Governors shall meet as often as required to carry out its functions.

Meetings.

(2) Likewise, the Executive Committee of the Bureau shall meet as often as may be required to carry out the task assigned to it.

11. (1) The Bureau shall be financed by the Government by way of an annual Grant-in-Aid.

Financing of the Bureau.

(2) The Bureau shall receive such fee or charges on the proposals processed by it, as may be prescribed by the Board of Governors.

(3) The Bureau may maintain a separate bank account of its receipts and expenditure.

(4) The accounts of the Bureau shall be audited annually by the statutory and government auditors.

(5) The Bureau shall finalize its quarterly and annual receipts and expenditure accounts within thirty days and sixty days, respectively from the close of the relevant quarter/year.

(6) The delegation of financial powers shall be such, as may be approved by the Executive Committee from time to time.

Power to remove difficulties.

12. If any difficulty arises in proper discharge of functions, the Chief Executive Officer shall make a reference to the Executive Committee with suggestions/proposals to remove such difficulties and the decision of the Executive Committee in this regard shall be binding, subject to the ratification by the Board of Governors.

Power to issue directions.

13. The Government shall, if so required, have the power to issue policy directions to the Bureau on the matters assigned to it and all such directions shall be binding on the Bureau.

Power to delegate.

14. The Board of Governors may delegate any of its powers to the Executive Committee or the Chief Executive Officer, as the case may be.

Power to make rules.

15. (1) The Government may, by notification, make rules for carrying out the purposes of this Act.

(2) Every rule made under this section shall be laid, as soon as may be, after it is made, before the House of the State Legislature while it is in session for a total period of ten 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 so laid or the successive sessions as aforesaid, the House agrees in making any modification in the rule 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, however, any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

Merger of existing bodies.

16. On and with effect from the date of commencement of this Act, the Government may, by notification, merge any committee or board, functioning on the matters relating to industries with the Bureau. Upon such merger, the functions hitherto being performed and the powers being exercised by such committees or boards, as the case may be, shall vest in the Bureau.

17. No suit or legal proceedings shall lie against the Chairman or other members of the Board of Governors or the Executive Committee or any officer or employee of the Bureau in respect of anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or any rule made thereunder. Protection of action taken in good faith.

18. All actions taken under Notification No. 7/17/13AS1/1998, dated 5/12/2013 shall be deemed to have been taken under this Act. Saving.

19. (1) The Punjab Industrial Facilitation Act, 2005 (Punjab Act No. 23 of 2005), is hereby repealed. Repeal and saving.

(2) Notwithstanding such repeal, anything done or any action taken under the Act, referred to in sub-section (1), shall be deemed to have been done or taken under the corresponding provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

The Punjab Bureau of Investment Promotion Bill, 2016 is being enacted with a view to set up a Bureau that will exercise (concurrent/delegated) powers of various Departments of the Government, with respect to grant of regulatory approvals and fiscal incentives as per policy approved by the Government from time to time to attract new investment or expansion of existing investments in various sectors. The Punjab Bureau of Investment Promotion established has been functioning since, 2014.

2.0 In pursuance of the resolve of the Government to provide for One Stop Clearance of the proposals of new investments in the State, a Notification *vide* No. 7/17/13AS1/1998 of 5th December, 2013, the Governor of Punjab was pleased to establish the Punjab Bureau of Investment Promotion (PBIP) to *inter alia* carry out the objectives of the Package of Fiscal Incentives for Industrial Promotion 2013 or any such similar policy, package or program of Government. The aforesaid Notification is now being converted into an Act to give the Bureau legal and effective status.

SUKHBIR SINGH BADAL,
Deputy Chief Minister,
Punjab.

FINANCIAL MEMORANDUM

The Bureau shall be financed by the Government through provisioning in the State Government Budget.

The provisioning is for the salary, non-salary and creation of capital assets. The likely expenditure is Rs. 7 crores per annum.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Section 14 and 15 of the Punjab Bureau of Investment Promotion Bill, 2016 empowers to the State Government to make rules to carry out the purposes of this Act. The powers sought are necessary for the proper implementation of the provisions of the Act and are normal in nature.

The Governor has, in pursuance of clause (1) and (3) of Article 207 of the Constitution of India, recommended to the Punjab Legislative Assembly, the introduction and consideration of the Bill.

CHANDIGARH :
The 14th September, 2016.

SHASHI LAKHANPAL MISHRA,
Secretary.

N.B.— The above Bill was published in the *Punjab Government Gazette (Extraordinary)*, dated the 14th September, 2016 under the proviso to rule 121 of the Rules of Procedure and Conduct of Business in the Punjab Vidhan Sabha (Punjab Legislative Assembly).