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PART IV

Acts of Gujarat Legislature and Ordinance Promulgated
and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 31st March, 2006 is hereby published for general information.

S. S. PARMAR,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 18 OF 2006.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette", on the 31st March, 2006).

AN ACT

further to amend the Gujarat Infrastructure Development Act, 1999.

It is hereby enacted in the Fifty-seventh Year of the Republic of India as follows:-

- | | | |
|--------------------|--|--|
| 1. | (1) This Act may be called the Gujarat Infrastructure Development (Amendment) Act, 2006. | Short title and commencement. |
| | (2) It shall come into force on such date as the State Government may, by notification in the <i>Official Gazette</i> , appoint. | |
| Guj.11 of 1999. 2. | In the Gujarat Infrastructure Development Act, 1999 (hereinafter referred to as "the principal Act"), in section 2,- | Amendment of section 2 of Guj. 11 of 1999. |

- (1) after clause (a), the following clause shall be inserted, namely :-

“(aa) "concession" means grant of financial assistance or conferment of right on Government property and public assets to a person other than the State Government, Government agency or specified Government agency, as per the terms specified in the concession agreement ;”;

- (2) after clause (j), the following clause shall be inserted, namely :-

“(jj) "proposal" means a document which may include among others, details of the project, feasibility study or any other study, financial viability analysis and structuring of project and such other information as may be decided by the Board ;”;

- (3) clause (q) shall be deleted.

Amendment of
section 4 of Guj.
11 of 1999.

3. In the principal Act, in section 4, -

- (1) in sub-section (1), clause (b) shall be deleted ;
(2) to sub-section (3), the following proviso shall be added, namely :-

"Provided that if the State Government, Government agency or, as the case may be, specified Government agency, is satisfied with the performance of the developer during the concession period, it may by order, extend the concession period on such terms and conditions as may be mutually agreed.”;

- (3) in sub-section (4), for clause (a), the following clause shall be substituted, namely :-

“(a) The State Government may, by notification in *Official Gazette*, add to, amend or omit therefrom any other nature of agreement in Schedule II and on issue of such notification, the Schedule shall be deemed to have been amended accordingly.”.

Amendment
of section 5
of Guj. 11 of
1999

4. In the principal Act, in section 5,-

- (1) in sub-section (1), -

(a) for the words "as may be prescribed", the words "as may be provided by the regulations" shall be substituted ;

(b) for the word "prescribed", the word "provided" shall be substituted ;

(2) in sub-section (2), after the word and figures "section 10", the words, figures and letter "or section 10A" shall be inserted.

5. In the principal Act, in section 6, for clause (b), the following clause shall be substituted, namely: -

Amendment of section 6 of Guj. 11 of 1999.

" (b) financial assistance, either one time or in installments, not exceeding twenty per cent. of the cost of the project ;".

6. In the principal Act, in section 7, for the words " No concession agreement ", the words, figures and letter "Subject to the provisions of section 10A, no concession agreement " shall be substituted.

Amendment of section 7 of Guj. 11 of 1999.

7. In the principal Act, in the section 8,-

Amendment of section 8 of Guj. 11 of 1999.

(1) in sub-section (1), for the words and figures "direct negotiation as provided in section 10", the words, figures and letter "inviting comparative bids as provided in section 10 or by direct negotiation as provided in section 10A" shall be substituted;

(2) in sub-section (2), for the words " competitive bidding ", the words "competitive bidding, inviting comparative bids " shall be substituted.

8. In the principal Act, for section 9, the following section shall be substituted, namely :-

Substitution of section 9 of Guj. 11 of 1999.

Selection of person by competitive public bidding.

" 9. On the acceptance of the recommendation of the Board made under sub-section (2) of section 5, the State Government, the Government agency or, as the case may be, the specified Government agency shall select a developer for the project through competitive public bidding in the manner as may be prescribed."

9. In the principal Act, in section 10,-

Amendment of section 10 of Guj. 11 of 1999.

(1) for the existing marginal note, the following marginal note shall be substituted, namely:-

"Inviting comparative bids.";

(2) for sub-section (1), the following sub-section shall be substituted, namely :-

“(1) Where a proposal for undertaking a project and a proposed concession agreement prepared by a person are submitted to the State Government, the Government agency or a specified Government agency, it may,

(a) consider the proposal and the proposed concession agreement from all aspects (including technical and financial) and if necessary, modify the same in consultation with the person who has submitted the proposal and the proposed concession agreement; and

(b) submit the proposal and the proposed concession agreement to the Board, if –

(i) the cost of the project exceeds the limit provided by regulations under sub-section (1) of section 5, and

(ii) the undertaking of the project does not require financial assistance from the State Government, the Government agency or the specified Government agency.”;

(3) in sub-section (2), for the words "specified in", the words "prescribed under" shall be substituted.

Insertion of new section 10A in Guj. 11 of 1999.

10. After section 10, the following section shall be inserted, namely :-

Selection by direct negotiation.

“10A. (1) Notwithstanding anything contained in sections 9 and 10, a person other than the State Government, Government agency or specified Government agency, may submit a proposal and proposed concession agreement for direct negotiation to the State Government, Government agency or the specified Government agency for any of the project specified in Schedule III.

(2) If the State Government, Government agency, or, as the case may be, the specified Government agency is satisfied that the project is of a nature specified in Schedule III, it may,-

(a) consider the proposal from all aspects (including technical and financial) and if necessary modify the same in consultation with the person who has submitted the proposal and the proposed concession agreement, and

(b) submit the proposal and the proposed concession agreement to the Board, if the cost of the project exceeds the limit provided by the regulations.

- (3) On acceptance of the recommendation of the Board made under sub-section (2) of section 5, the State Government, Government agency or, as the case may be, the specified Government agency may enter into a concession agreement with a person who has submitted the proposal under sub-section (1)."

11. In the principal Act, in section 16,-

Amendment of
section 16 of Guj.
11 of 1999.

- (1) for sub-section (1), the following sub-section shall be substituted, namely :-

"(1) The State Government may, by notification in the *Official Gazette*, add to, amend or omit therefrom any project in Schedule I or Schedule III which falls within the executive power of the State and on issue of such notification, the Schedule I or, as the case may be, Schedule III shall be deemed to have been amended accordingly.";

- (2) for the marginal note, the following shall be substituted, namely :-

" Power to amend Schedules I and III. "

12. In the principal Act, in section 37, in sub-section (2) -

Amendment of
section 37 of Guj.
11 of 1999.

- (1) clauses (a) and (b) shall be deleted ;
- (2) for clause (c), the following clauses shall be substituted, namely :-

"(c) the matters relating to competitive public bidding, inviting comparative bids and direct negotiation under sub-section (2) of section 8;

(cc) the manner in which the developer for the project shall be selected under section 9;"

Amendment of
section 38 of Guj.
11 of 1999.

13. In the principal Act, in section 38, in sub-section (2), before clause (a), the following clause shall be inserted, namely :-

" (aa) the amount of cost of a project exceeding which a proposal shall be submitted to the Board under sub-section (1) of section 5 and different amounts of costs for different nature of projects; "

Insertion of
new Schedule
III in Guj. 11
of 1999.

14. In the principal Act, after Schedule II, the following Schedule shall be added, namely:-

" SCHEDULE III

(See sub-section (1) of section 10A)

PROJECTS OF SPECIAL NATURE

1. A project which is innovative or involves proprietary technology or franchise which is exclusively available with the person globally.
2. A project wherein competitive public bidding as provided in section 9 has failed to select a developer.
3. A project to provide social services to the people including community services and public utilities.
4. An infrastructure project which is an essential link for another bigger infrastructure project owned or operated by the same person. "